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VIA EMAIL – COMMENTLETTERS@WATERBOARDS.CA.GOV

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: **Comments to A-2236(a)-(kk) Los Angeles Municipal Separate Storm Sewer System Permit Draft Order**

Dear Ms. Townsend and Members of the State Water Resources Control Board:

On behalf of its stormwater clients, our firm previously sent a letter on this docket in August of 2013 and has been awaiting a final decision from the State Water Resources Control Board ("State Water Board") setting forth a precedential order on receiving water limitations for Municipal Separate Storm Sewer Systems ("MS4s"). On behalf of the Port of Stockton and the City of Tracy, we incorporate by reference the previous comments, and provide additional comments on the latest draft of the proposed order on the petitions for review of the Los Angeles County MS4 permit.

1. Receiving Water Limitations

While the Alternative Compliance Pathway provisions (such as the WMP/EWMP programs) are appreciated and appropriate, and provide incentives for advancing improvements in water quality, the draft order fails to recognize that MS4s statewide remain in legal jeopardy for the Water Boards' reinterpretation of the iterative process through recent years and orders.

The Water Board's initial interpretations of the 2001 Los Angeles MS4 Permit and other permits that included the Order 99-05 language were clear that the permittees were *not* in violation of the receiving water limitations and discharge prohibitions that were included within the iterative process. The Chair of the LA Regional Board, when interpreting the provisions of the 2001 MS4 permit wrote that:

> A violation of the permit would occur when a municipality fails to engage in a good faith effort to implement the iterative process to correct the harm. As long as the Permittee is engaged in a good faith effort, the specific language of the permit provides that the Permittee is in compliance. As discussed at the Regional Board's July 2001 workshop and the December 2001 board meeting, the presence of the iterative process language

> makes clear the Permittees' mechanism for compliance with receiving water language. Even if water quality does not improve as a result of the implementation efforts, there is no violation of the permit's receiving water provision as long as a good faith effort is underway to participate in the iterative process. The basic premise is that an incremental effort is appropriate to identify additional best management practices that will ultimately result in improved storm water quality.

See ***Attachment A*** - Memo from Chair Francine Diamond, Los Angeles Regional Water Quality Control Board (January 30, 2002), attached "Answers to Frequently Asked Questions about Storm Water and the Storm Water Permit" at p.7 (emphasis added).

A similar interpretation was given by the Central Valley Regional Water Quality Control Board in 2004, which stated:

> Receiving Water Limitation B.2 describes the process that the dischargers must follow to obtain compliance with water quality standards. Where the Permittee causes or contributes to violations of water quality standards, the Permittee must implement the iterative process specified. Specifically, where there are discharges of pollutants that cause or contribute to exceedances of water quality standards, the Permittee must submit a report that describes existing and additional best management practices that will be implemented to prevent or reduce any pollutants contributing to the exceedances of water quality standards. The Permittee must then incorporate new BMPs into its storm water management plan and implement the plan. The permit clarifies that if the Permittee complies with this procedure, the procedure does not have to be repeated for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.
>
> The Regional Board expects this iterative process to improve BMPs over time, and, therefore, the permit does not require strict compliance with WQS. If the Permittee complies with this iterative process, it would be considered to be in compliance with Discharge Prohibition A.1 and A.2 and Receiving Water Limitations B.1.and B.2. In the event that a Permittee has, in the judgment of the Regional Board, failed to properly implement the iterative process, the Regional Board may take appropriate enforcement action to address such failure and others. This letter is intended to clarify what constitutes compliance with Receiving Water Provision B.2. In the event of noncompliance with any provision of the permit, however, nothing stated in this letter is intended to limit the Regional Board's authority with respect to any regulatory or enforcement actions which it may undertake pursuant to its legal authority.

See ***Attachment B*** – Letter from Chair Robert Schneider, Central Valley Regional Board, to Cities of Sacramento, Folsom, and Elk Grove and County of Sacramento regarding "Receiving Water Limitations in Order R5-2002-0206" at p. 2 (emphasis added).

Footnote 44 of the draft order ignores this clear wording where permittees were expressly told that if they complied with the requirements for the iterative process, there would be *no violations* of the receiving water limitations. The cited "significant confusion within the regulated MS4 community" on page 13 of the draft order only arose when the Water Boards later changed their interpretations in later litigation over some MS4 permit language, and in amicus briefs arguing that violations of receiving water limitations could be sought in citizen suits under the Clean Water Act. All parties clearly and initially understood the requirements as interpreted in the above letters. Confusion only arose when those interpretations by the Water Boards changed.

The MS4 permittees in California for the most part do not and have not advocated for a "do nothing" safe harbor. The compromise could be better characterized as a "working harbor," which specifies that certain conduct will be deemed adequate to not to be found in violation and provides a finding of compliance with the receiving water limitations if the permittee committed to and implemented an iterative process that continually increased the type and effectiveness of BMPs being used to try to attain water quality standards.[1] The Water Boards and EPA's guidance have always recognized that these iterative improvements would take place "**over time**."[2] This is even recognized in the modifications on pages 14-15 of the draft order acknowledging "USEPA's general practice of requiring compliance with water quality standards over time through an iterative process." *See also* draft order at p. 27 ("the Order requires implementation of TMDL requirements to achieve water quality standards over time.")(emphasis added).

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[1] Similar requirements were included in the Trash TMDLs in the Los Angeles region, stating that the installation of full capture devices was deemed compliance with the "zero trash" requirement. Similarly, implementation of not only the numerous pages of prescriptive permit requirements, but also the iterative process in a timely and complete manner, were properly deemed compliance with the Receiving Water Limitations as is being done in this draft order for compliance with TMDL requirements and during WMP/EWMP planning and implementation. *See e.g.,* draft order at pp 51-53. No substantive difference exists.

[2] *See* State Board Order No. 2001-15 at p. 8 ("We will generally not require 'strict compliance' with water quality standards through numeric effluent limitations and will continue to follow an iterative approach, which seeks compliance over time. The iterative approach is protective of water quality, but at the same time considers the difficulties of achieving full compliance through BMPs that must be enforced throughout large and medium municipal storm sewer systems.")(emphasis added and footnotes omitted); Draft Order at pg. 24, fn 74 ("more than a decade of implementation of storm water requirements, as well as the development and implementation of TMDL requirements, since 2001, has, as a whole, fundamentally reshaped our understanding of the physical and time scale on which such measures must be implemented to bring MS4s into compliance with receiving water limitations."); USEPA Memorandum, "Revisions to the November 22, 2002 Memorandum 'Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs,' " http://www.epa.gov/npdes/pubs/establishingtmdlwla_revision.pdf (Nov. 12, 2010) (2010 USEPA Memorandum)("Section III of the 2002 memorandum "affirm[ed] the appropriateness of an iterative, adaptive management best management practices (BMP) approach" for improving stormwater management over time as permitting agencies, the regulated community, and other involved stakeholders gain more experience and knowledge.")(emphasis added); *Defenders of Wildlife v. Browner,* 191 F.3d. 1159 (9th Cir. 1999)("With the inclusion of those 'best management practices,' the EPA determined that the permits ensured compliance with state water quality standards.").

Thus, the draft order should be modified to make clear that the iterative process in the last round of permits adopted under 99-05 equated to a **compliance schedule** within the permit allowing time to take actions to come into compliance.[3] Where the iterative process was being timely and appropriately implemented, the final water quality standards should not be directly enforceable against the Permittee through the MS4 permit's Receiving Water Limitations provisions. If that is no longer the way Order No. 99-05 is being read,[4] that can change in permits going forward,[5] but permittees that relied on the previous interpretations and assurances by regional boards (Attachments A and B) should not be punished for trying to comply with the rules.

No one argues that the previous permits and the language in 99-05 did not require compliance with water quality standards, the question revolved around ***when*** compliance was required. Under the iterative approach, compliance was not supposed to be required immediately as is now being interpreted. *See accord Building Industry Ass'n of San Diego County v. SWRCB*, 124 Cal. App. 4th 866, 890 (4th Dt. 2004)("the regulations provide an affected party reasonable time to

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[3] This is consistent with the statement in the draft order at page 33: "The Environmental Petitioners concede that immediate compliance with receiving water limitations is not achievable in many instances and that some additional time to reach compliance is warranted." (Emphasis added) However, the Environmental Petitioners suggestion of an outside of the permit time schedule order does not alter the permit requirements, and would allow enforcement of the permit terms by third parties.

[4] EPA's historic objections to SWRCB Order No. 98-01, and the adoption of Order No. 99-05 were erroneously based on EPA's belief that municipal stormwater was subject to Clean Water Act section 301(b)(1)(C), which was overturned in *Defenders of Wildlife v. Browner,* 191 F.3d. 1159, 1165 (9th Cir. 1999)(Court held that the provisions of CWA Section 402(p) (B)(3) for municipal stormwater permits replaced the requirements under CWA Section 301). Nevertheless, Order 99-05 accepted EPA's language, which was based on this erroneous belief.

[5] Instead of continuing to rely on the historic and now outdated language of Order 99-05, that language should be jettisoned in favor of new language consistent with the approved WMP/EWMP approach, such as the following:

RECEIVING WATER LIMITATIONS

A. Receiving water limitations are site-specific interpretations of water quality standards from applicable water quality control plans. As such, they are required under state law to be addressed as part of the permit. However, a receiving water condition not in conformance with a receiving water limitation is not necessarily a violation of this Order, and may be better addressed through a Total Maximum Daily Load or other watershed planning process.

B. Through the proper planning and timely implementation of BMPs and other requirements of the SWMP/SWPPP, which may be done on a jurisdictional or watershed-wide basis, dischargers/permittees shall ensure that:

1. Storm water discharges and authorized non-storm water discharges do not cause or contribute to an in-stream exceedance of any applicable WQS in any affected receiving water.

2. Storm water discharges and authorized non-storm water discharges do not contain pollutants in quantities that cause a condition of pollution or a public nuisance.

C. If the discharger/permittee is found to have discharges notwithstanding the prohibitions in this permit, or discharges causing or contributing to an exceedance of an applicable water quality objective, waste/wasteload allocation, or receiving water limitation in Section B above, the discharger/permittee will not be determined to be in violation of this Order unless it fails to comply with the requirements to report such discharge(s), revise its BMPs/SWMP/SWPPP for the pollutant(s) at issue accompanied by a reasonable assurance analysis that the selected BMPs are anticipated to meet water quality standards once implemented, and timely implement additional and more effective BMPs under an express time schedule.

comply with new permit requirements under certain circumstances. (See 40 C.F.R. §122.47.) There is nothing in this record to show the Municipalities will be subject to immediate penalties for violation of water quality standards… it is not at all clear that a citizen would have standing to compel a municipality to comply with a water quality standard despite an ongoing iterative process. (See §1365(a)(1)(2).)")

Thus, the draft order should clarify that enforcement by citizens is not authorized under the Order 99-05 language, including for Phase II permittees as discussed in footnote 141, unless there is a demonstration that the required notification and exceedance reports were not submitted by the Permittee when exceedances were noted, or that there was no improvement in the BMPs being implemented under the required SWMP revisions. If the permittees were in good faith complying with this iterative approach, and demonstrably spending money and time and effort on continuing to find new BMPs that would be more and more effective at meeting water quality standards, these permittees should not suffer from an additional five years of fear of being sued and being subjected to up to $37,500 per day of non-compliance with the Receiving Water Limitations provisions of its current MS4 permit, in addition to substantial legal fees, none of which further direct improvement of water quality.

The following changes are recommended and requested to the draft order:

Pg. 11 – The imposition of numeric limits is not the only manner for imposing strict compliance with water quality standards. Thus, the following change should be made: "strict compliance with water quality standards (e.g., by imposing numeric effluent limitations or imposing BMPs in lieu of numeric limits as authorized by 40 C.F.R. §122.44(k))"

Pg. 13 – Footnote 44 should include the following at the end of the note: "However, the iterative process did authorize compliance with water quality standards 'over time,' similar to a compliance schedule, to allow MS4s to continue to install and implement ever improved BMPs to attain those standards."

Pg. 14 – Federal law does not require compliance with water quality standards for MS4s. The draft order discusses the discretion and potential authority provided by federal law to do so. The discussion on p. 14 needs to go back to the previously proposed wording, or include the following wording in the first sentence of the last paragraph: "As stated above, both the Clean Water Act and the Porter-Cologne Act afford ~~some~~ discretion to ~~whether and how to not~~ require compliance with water quality standards for MS4 discharges."

Pg. 15 – The Water Boards clearly have the discretion to not require compliance with water quality standards under federal law per the *Defenders of Wildlife* case, so the inclusion of the words "may even" at the top of this page should be removed from the recent changes.

Pg. 15 – Proposed new footnote 51 misconstrues the law as set forth in the *City of Burbank* case. Under that case, if the state exceeds the ***requirements*** of the federal Clean Water Act, then additional analysis is required under state law. Here, the State Board concedes that the Clean Water Act does not ***require*** that MS4s meet water quality standards (draft order at pp. 11-12); therefore, the State Board is using its discretion to require such compliance, and under the *Burbank* case, additional analysis is required. *City of Burbank v. SWRCB,* 35 Cal. 4th 613, 618 (2005) ("When… a regional board is considering whether to make the pollutant restrictions in a wastewater discharge permit *more stringent* than federal law requires, California law allows the board to take into account economic factors, including the wastewater discharger's cost of compliance.")(emphasis added). The proposed footnote appears to read this as "more stringent that federal law *authorizes*," which is a different standard and not applicable under the *Burbank* case. Footnote 51 should be modified as follows:

> [51] Several Permittee Petitioners argued in comments submitted on the first draft of this order that, because we find that we have some discretion under Clean Water Act section 401(p)(3) to not require compliance with receiving water limitations, the Los Angeles Water Board's action in requiring such compliance -- and our action in affirming it -- is pursuant to state authority. (See, e.g., Cities of Arcadia, Claremont, and Covina, Comment Letter, Jan. 21, 2015.) The Permittee Petitioners argue that the action is therefore subject to evaluation in light of the factors set out in Water Code section 13263 and 13241 pursuant to City of Burbank, supra, 35 Cal.4th 613. Under City of Burbank, a regional water board must consider the factors specified in section 13241 when issuing waste discharge requirements under section 13263, subdivision (a), ~~but only to the extent those~~ if the waste discharge requirements ~~exceed~~ are more stringent than the requirements of the federal Clean Water Act. (35 Cal.4th at 627.) Nowhere in our discussion in this section do we mean to disavow either that the Los Angeles Water Board acted under federal authority to impose "such other provisions as . . .determine[d] appropriate for the control of . . . pollutants" in adopting the receiving water limitations provisions of the Los Angeles MS4 Order in the first instance or that we are acting under federal authority in upholding those provisions. (33 U.S.C. § 1342(p)(3)(B)(iii).) However, t~~T~~he receiving water limitations provisions ~~do not exceed~~ are more stringent than the requirements of federal law since compliance with water quality standards is not required for MS4s. ~~We nevertheless also point out that t~~The Los Angeles Water Board engaged in an analysis of the factors under section 13241 when adopting the Order. (See Los Angeles MS4 Order, Att. F, Fact Sheet, pp. F-139 to F-155.)

Pg. 16 - "We will ~~not reverse~~ slightly modify our precedential determination in State Water Board Order WQ 99-05 that established the receiving water limitations provisions for MS4 permits statewide. ~~and reiterate that we will continue to read those provisions consistent with how the courts have: e~~Engagement in the iterative process ~~does not~~

may excuse exceedances of water quality standards if such a process fully and timely complied with all of the reporting and BMP funding and implementation requirements because compliance with water quality standards was allowed to be "over time."

Pg. 20 - "The 2001 Los Angeles MS4 Order required compliance with receiving water limitations, directed Permittees to achieve those limitations through the iterative process, but retained the Los Angeles Water Board's discretion to enforce compliance with the receiving water limitations at any time if the iterative process requirements were ignored or were not timely and completely implemented."

2. Antibacksliding

The proposed modifications to the draft order appropriately discuss that issue, but the order should be made clearer that antibacksliding only applies to the relaxation of "effluent limitations," which were not contained in the previous permit. 33 U.S.C. §1342(o). The discussion on the regulatory backsliding provisions in 40 C.F.R. §122.44(*l*) should recognize that those regulations came first and were not wholly incorporated in the statutory backsliding provisions, thereby allowing an argument that the regulatory provisions were superseded by statute.

3. TMDL-Related Requirements

Where water quality standards are routinely exceeded in a waterbody, the proper response is to list that waterway on the State's 303(d) List, adopt a Total Maximum Daily Load ("TMDL") for that pollutant, and impose Waste Load Allocations ("WLAs") on all dischargers demonstrated to have a reasonable potential to cause or contribute to that impairment (*see accord* 40 C.F.R. §122.44(d)(1)(i) and (vii)(B)). However, the draft order misconstrues the federal requirements for TMDL-based permit requirements.

Page 65 of the draft order presumes that reasonable potential was derived during TMDL development. Reasonable potential also cannot just be presumed where there is a TMDL. The steps set out in 40 C.F.R. §122.44(d) must still be followed to determine if reasonable potential exists before a Waste Load Allocation must be applied consistently in an effluent limitation. 40 C.F.R. §122.44(d)(1)(vii)("When developing water quality based effluent limits under this paragraph the permitting authority shall ensure that: (B) effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7.") "The requirements of paragraphs (iii), (iv), (v) or (vi) apply after the permitting authority has determined that water quality based effluent limits are necessary under paragraph (ii)." 54 Fed. Reg. 23868, at 23873 and 23878 (emphasis added). "If the permitting authority, after applying the principles in paragraph (ii), determines that a pollutant or pollutant parameter is exceeding or is expected to exceed a water quality criterion, then the permitting authority uses one or more of paragraphs

(iii), (iv), (v) or (vi) to determine the appropriate controls for the pollutant or pollutant parameter." Id. "[T]he permitting authority must satisfy the procedures in paragraph (ii) before establishing limits under paragraph (d)(1) (iii), (iv), (v) or (vi)." *Id.; see also* 40 C.F.R. §122.44(d)(1); 2010 USEPA Memorandum at p. 3 ("When the permitting authority determines, using the procedures specified at 40 CFR 122.44(d)(1)(ii) that the discharge causes or has the reasonable potential to cause or contribute to an in-stream excursion of the water quality standards, the permit must contain effluent limits for that pollutant.) The Water Boards cannot rely on the State Implementation Policy ("SIP") for this authority because, as the draft order recognizes on p. 35, in footnote 92, "the policy does not apply to storm water discharges."

In closing, the Port of Stockton and the City of Tracy would appreciate additional guidance being added into the draft order so that other Regional Boards creating or modifying proposals for alternative compliance pathways can make sure that these alternatives meet the requirements of this order. As the Port anticipates its permit coming up for renewal in the next year, and the City is deciding whether to sign on to a new MS4 permit for the Central Valley, such additional guidance would be appreciated.

Respectfully submitted,

DOWNEY BRAND LLP

Melissa A. Thorme

California Regional Water Quality Control Board

Los Angeles Region

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January 30, 2002

The Los Angeles Regional Water Quality Control Board is deeply concerned that storm water and urban runoff pollution continues to be the single greatest threat to our water quality in the Los Angeles region. To address this threat, this Regional Board, and indeed all Regional Boards throughout the State of California, are required by federal law to issue permits to municipalities so that, over time, this source of pollution is reduced to the maximum extent practicable. Last month, the Los Angeles Regional Board adopted an updated permit, the third issued in Los Angeles County since 1990, that includes updated measures intended to bring us closer to water quality that will meet our water quality standards.

Collectively, we are obligated by law to have a storm water permit that moves us forward in controlling this source of pollution. Federal law makes the cities and county responsible for what is discharged from their storm water collection system. Similarly, federal and state law make the Regional Board responsible for issuing permits that protect the waters of the Los Angeles region. There is no doubt that storm water pollution is a serious threat to our environment and economy and there is no doubt that "upstream communities" contribute significantly to the level of pollutants that find their way to our beaches. As each of you already know, the "Clean Beaches Program" is one of our highest environmental quality priorities.

The permit is very practical in its approach. The County of Los Angeles remains the lead Permittee and this arrangement allows individual cities to avoid many obligations and costs that they might otherwise incur. The permit adopted by the Regional Board was substantially modified from its first draft issued in April 2001. Three full drafts were prepared, each in turn, incorporating many of the comments offered by the cities as well as the county, who are together, responsible for permit implementation. In summary, the staff of the Regional Board expended enormous effort to meet with representatives of the Permittees over an eleven-month period, culminating in two mediation sessions facilitated by the United States Environmental Protection Agency and many changes made to the permit that reflected the preferences of the Permittees.

We understand that there are two principal areas of concern that have been raised during the development of the permit and which remain of concern. These are:

- Receiving water quality and the process to be used under the permit to address a lack of progress in meeting water quality standards and,

- A provision to shift from "site education visits" at pollution sources to "site inspections".

The former provision on receiving water language and what has come to be known as the "iterative" process, is language previously approved by the State Water Resources Control Board. This language has been contained in all municipal storm water permits in California since 1999. The State Board shaped the language as part of a precedential decision to address the concerns of dischargers and the environmental community, and to protect water quality. Because the language arises from a State Board

ATTACHMENT A

precedential decision, the Regional Board did not have the discretion to depart from its provisions in any significant way.

The receiving water compliance process outlined in the permit allows for each Permittee to work cooperatively with the Regional Board to identify additional measures, if required, to improve water quality to meet receiving water standards. If the measures adopted do not achieve that result, further measures can be developed. This iterative approach is intended to obtain progress over time. The provision is expressly intended to serve as the vehicle by which the Regional Board will obtain Permittee compliance with receiving water standards. To that end, the key aspect is that a good faith effort be pursued by Permittees to utilize this process.

The latter provision on inspections is a limited effort to identify and correct sources of pollution that represent a significant threat to water quality. As contained in the permit, the inspection obligation is limited in scope and represents a minimal level of effort from that already required in the existing educational site visit program. A number of changes in the provisions of the inspection program were made as a result of the mediation process. It must also be noted that the inspection provision allows a considerable period of time to the Permittees to complete the first round of inspections (two and a half years) and significantly limits the scope of the inspection to the barest of requirements.

The storm water permit adopted by the Regional Board is a carefully crafted response to the pollution caused by storm water and seeks to advance our efforts to control pollution at its source while limiting permit obligations on each city to the greatest possible degree. Yet, I am deeply concerned that the story of this permit has not been fully communicated to each leader in our community.

Enclosed with this letter is a Question and Answer document that is intended to respond to some of the most important points raised by those who dispute elements of this permit. Each of us has an obligation to fulfill our responsibilities in a reasonable manner. I believe that the Regional Board has pursued a fair and equitable process, affording everyone involved the utmost opportunity for participation and comment. To a very great degree the comments made by Permittees were incorporated in the final permit. Nevertheless, the Regional Board's Executive Officer will, in the near future, be meeting with city and county representatives to engage in a dialogue to ensure that the provisions of the permit are clearly understood and, that any uncertainty in how elements of the permit are to be implemented, are discussed.

In closing, I simply ask that you weigh the advantages of improved water quality with the very limited additional obligations that each city is asked to assume. After careful consideration, it is my hope that the distraction of appeals and potential litigation and its costs will give way to a renewed commitment to improving the quality of our shared environment to the benefit of our citizens today and for future generations.

Francine Diamond

Francine Diamond
Chair

enclosure

The New Los Angeles County Municipal Storm Water Permit

Answers to Frequently Asked Questions About Storm Water and the Storm Water Permit

How serious is storm water pollution in the Los Angeles area?

- Studies and research conducted by regional agencies, academic institutions, and universities have identified storm water and urban runoff as leading sources of pollutants to surface waters in Southern California. Water quality assessments conducted by the Regional Board identified impairment, or threatened impairment, of beneficial uses of water bodies in the Los Angeles region. Pollutants found in storm water can have damaging effects on both human health and aquatic ecosystems.

- Studies performed in the coastal waters of Santa Monica Bay document a clear relationship between gastrointestinal illness in swimmers and water quality. Water quality is compromised by polluted storm water discharges.

- The County of Los Angeles's Integrated Receiving Water Impacts Report (1994-2000) identified as a cause of impairments the pollutants of concern identified in municipal storm water discharges. These include toxic pollutants such as heavy metals, polycyclic aromatic hydrocarbons, pathogens, and pesticides. Large quantities of these pollutants are carried in storm water.

- The City of Long Beach is inundated with hundreds of tons of trash that flow down the Los Angeles River after storm events from upstream municipalities. The harbors of Los Angeles and Long Beach must contend with polluted sediments that require special and expensive handling to keep their harbors open.

What are the basic provisions of the Los Angeles County storm water permit?

The Permit requires that city departments coordinate and implement best management practices in several program areas including:

- Public Outreach and Education
- Planning and Construction
- Public Agency Activities
- Business Inspections, and
- Illicit Connection and Illicit Flows Detection and Elimination

The purpose of these programs is to implement pollution prevention programs that will, to the maximum extent practicable, reduce the discharge of pollutants from the storm drain system to protect receiving waters and their beneficial uses – in short, to achieve cleaner water - which now, is seriously polluted.

What are the benefits of cleaner storm water?

- Clean water not only provides aesthetic benefits, but it also helps generate jobs and economic growth. The recreation and tourism industry is the second largest employer in the nation, and is a particularly valuable component of the Los Angeles coastal economy.

- A significant portion of recreational spending comes from water-related activities, such as swimming, boating, sport fishing, and hunting. Activities related to the County's $2 billion per year tourist industry depend on the access and enjoyment of clean surface water bodies. Each year, Americans take more than 1.8 billion trips to water destinations, largely for recreation, spending money and creating jobs in the process.

- The commercial fish and shellfishing industry contributes to the U.S. economy. This industry also relies on clean water to sustain the fisheries and deliver products that are safe to eat.

- Los Angeles area depends and relies heavily on the groundwater resources to sustain its population and economic life. Recharge of the groundwater basins uses storm runoff as a source. The proposed Los Angeles Forebay recharge project will recharge storm runoff from the Los Angeles River into the Los Angeles Forebay to replenish the groundwater basins. This project once completed would offset the need for imported water use for basin replenishment, and creates yet another local water resource and provides ongoing annual savings up to $10 million per year. Groundwater is an important source of water in southern Los Angeles County, providing approximately 40% of the total demand.

What is the risk of polluted beaches to the Los Angeles area economy?

- Southern California's tourist economy depends on reliable, high quality water supplies and resources. Clean beaches are a necessary element of the Southern California image and the consequences of polluted beaches can be catastrophic to local beach communities and businesses. If the perception of Southern California's beaches were to develop into a negative stereotype, the broader implications for economic health and economic growth would be serious.

- In recent years, the economy of Huntington Beach was negatively impacted by the consequences of polluted urban runoff. Local businesses were nearly driven out of business and the community has experienced just how serious the threat of poor water quality can be (the Huntington Beach experience is reviewed in greater detail later in this report).

Does the storm water permit represent an unfunded state mandate?

- The permit requirements do not constitute an unfunded state mandate. The unfunded mandate restrictions pertain to the implementation of various state laws and not federal law. The State Board has already considered the matter and ruled that the State constitutional unfunded mandate prohibition does not apply to permits issued by the Regional Boards pursuant to the federal Clean Water Act. (*In Re*: San Diego Unified Port District, Board Order No. WQ 90-3; and *In re*: Bellflower *et al.*, Board Order No. WQ 2000-11.)

- The municipal storm water permit implements the federal Clean Water Act. As a duly authorized entity to implement the Clean Water Act on behalf of the US EPA, the action does not violate the California constitutional prohibition on unfunded mandates.

- Nonetheless, Regional Board staff carefully crafted a permit program that is both managable and cost effective, while still complying with Federal law and being protective of the environment.

Has sufficient time been provided to develop the dry weather flows diversion/ treatment plans required by the permit?

The permit, as adopted by the Regional Board, extended the timeline for completion of the dry weather flows diversion/treatment plans from six months to eighteen months in response to requests for the time extension from the County Sanitation Districts of Los Angeles County and the Coalition for Practical Regulation.

Why is an industrial/ commercial inspection program being required?

- Even though we are in the third five-year permit term, the active measures taken so far to control storm water pollution have been very limited in scope. Storm water quality is not improving and urbanization, industrialization, and population growth are contributing ever greater pollutant loads. To achieve improved storm water quality, more effective measures are required.

- The previous permit required that municipalities conduct educational site visits at industrial and commercial sites. In the new permit, these visits are now being upgraded to inspections that are intended to not require a substantial level of effort greater than that required for the site education visits that have been conducted to date. Actual inspection requirements are very limited. For those businesses operating under the State General Industrial Storm Water Permit, the only expectation is that the inspection confirm whether the site has filed for a state permit and whether they have a Storm Water Pollution Prevention Plan on site. There is no requirement for the municipalities to conduct a detailed analysis of any plans.

- The inspection program is based on the assumption that the Regional Board and each municipality will work in a partnership to ensure compliance. With inspections conducted by local governments, more businesses can be quickly assessed to determine if their site posses a disproportionate threat to water quality. The Regional Board can then pursue those sites that are not in compliance and ensure that water quality problems are addressed.

- The need for inspections is clear. Studies carried out by the Permittees have shown that specific business and commercial activities contribute significant amounts of conventional and toxic pollutants into storm water runoff discharged to the storm sewers.

- If the region is to make significant progress toward cleaning up waters impaired by storm water runoff, control of conventional and toxic pollutants from industrialized and commercial activities is critical. Federal regulations clearly acknowledge the significance of pollutants from heavy industry, and mandate that municipalities have

source control programs for facilities in specified industrial sectors. The significance of these industrial activities – plus commercial activities such as automotive repair – was underscored in a critical source identification program conducted by Los Angeles County in 1997.[i]

Where else are similar inspection programs being implemented?

Across the country numerous municipal storm water permits require implementation of programs to control the contribution of pollutants in storm water discharges from industrial and commercial facilities. Many jurisdictions currently implement programs to control the contribution of pollutants from industrial and commercial sites (including inspections) as part of their storm water permit. Communities implementing inspection programs under a municipal storm water permit include:

- Broward, Sarasota and Palm Beach counties in Florida,
- Cities of Tulsa and Oklahoma in Oklahoma,
- Cities of Corpus Christi and Forth Worth in Texas,
- City of Seattle in Washington State,
- City of Portland in Oregon, and
- Santa Clara County, Sacramento County, and Alameda County in Northern California.

In Southern California, San Diego County is in the process of developing and implementing a business inspection program to control storm water discharge quality.

How much will the inspection program cost?

- In developing the inspection program, the Regional Board listened carefully to the concerns expressed by the cities and the county and included permit language that significantly limits the obligations of the Permittees with respect to their obligations under the inspection program. For example, it is expected that inspections of restaurants will be a very minor additional task among many already conducted by the County and those few cities that perform restaurant inspections.

- As noted above, for those businesses operating under the State General Industrial Storm Water Permit, the only expectation is that the inspection confirm whether the site has filed for a state permit and whether they have a Storm Water Pollution Prevention Plan on site. There is no requirement for the municipalities to conduct a detailed analysis of any plans.

- The frequency of inspections will require only two inspections during the five year term of the permit. For facilities covered under the State General Industrial Storm Water Permit, many cities have relatively few of these in their city limits. Combined with the limited obligation to simply verify the existence of a Storm Water Pollution Prevention Plan (not to evaluate its sufficiency) and the limited number of inspections over five years (two inspections), it would appear that most cities have the ability to easily comply with this provision using existing staff resources.

- The County of Los Angeles has estimated the entire financial burden for all cities and the county to inspect the construction, commercial and industrial sites covered by this permit at $8 million over the five year permit term. This equates to $1.6 million per year and would

represent the level of effort associated with about 20 full time staff to cover this permit requirement over the entire county. In most cities, however, the level of effort is expected to be covered with existing staff who simply add a few tasks to inspection activities already being performed.

Is the Illicit Connection Program costly and unnecessary?

- Studies have demonstrated that swimming in contaminated water can cause gastrointestinal problems including nausea, vomiting, or diarrhea; infections of the eye, ear, nose, or throat; and viral diseases such as hepatitis. Dry weather flows in the storm drain system are a principal factor conveying contaminated water to our beaches. Illegal connections foster a continuation of a serious health problem if not corrected. Reducing the frequency of beach closures is also one of the Governor's and Cal/EPA's highest priority environmental programs.

- The Illicit Connection program is required under US EPA regulations. It provides the framework for assessing the existence of illegal connections into the storm drain system. Illegal connections permit untreated wastewater into the storm water system instead of the sanitary sewer system. Because discharges from the storm water system is not treated, illicit connections allow raw sewage to flow directly to the rivers, bays, and coastal waters of the region.

    - For example, the City of Santa Monica found an illegal cross connection on 20th Street and Colorado Avenue that may not have been detected if not for the requirement in the permit. The County of Los Angeles has also found such cross connections or improper connections that may not have been detected were it not for the permit requirements.

- The cost of not implementing pollution prevention programs, such as the illicit connection elimination program, contribute to continuated, frequent beach closures. Beach closures have the potential to severely jeopardize the Los Angeles County tourist economy.

Do the permit requirements infringe on local land-use planning?

- The permit places no constraints on what land uses a municipality may authorize or how a municipality may zone its jurisdiction.

- The permit requires cities to place certain conditions on projects for new and redevelopment to reduce pollutants from the storm drain system. However, these conditions do not constitute land use planning or zoning by the Regional Board and they do not invade the fundamental, municipal choice to make land use decisions and zone accordingly. The LA County MS4 permit does not impermissibly infringe on the ability of municipalities to carry out their land use planning authority and responsibilities.

Are permit time frames unrealistic?

- Throughout the permit renewal process, Regional Board staff was responsive to comments and worked with municipalities to develop reasonable requirements and time frames within the framework of state and federal regulations.

- In addition to the reasonable time frames that were agreed upon early in the process, at least eleven deadlines contained in the third draft were extended by a further 6 months to over one year as a result of discussions with municipalities before the December 13, 2001 Board Meeting.

- Municipalities have had more than two five-year permit terms to implement many of these requirements, and the changes made to the permit are incremental improvements. Whenever reasonable, staff did incorporate extended timelines for implementation.

What does to "reduce storm water discharges to the maximum extent practicable" (MEP Standard) mean?

Congress created the "maximum extent practicable" (MEP) standard to allow regulators the flexibility necessary to tailor programs to the site-specific nature of municipal storm water discharges. Regulations do not define what exactly constitutes the MEP standard:

- In general, MEP relies on best management practices (BMPs) that emphasize pollution prevention and source control (i.e. the first line of defense), with additional structural controls as needed (an additional line of defense).

- Municipalities are required to implement technically feasible BMPs to reduce storm water pollutants unless they can show locational impracticability or that the costs outweigh the water quality benefits to be derived. There must be a serious attempt to comply and practical solutions may not be lightly rejected.

- The permitting agency is the ultimate arbiter on whether there has been sufficient reduction of pollutants as a result of implementation of BMPs. This authority was upheld in a court decision by the U.S. Court of Appeals with jurisdiction over California, (*Defenders of Wildlife v. Browner* (9th Cir. 1999)).

Does the permit language put cities in violation of receiving water limitations immediately and open them to third party lawsuits?

- The LA County municipal storm water permit incorporates language that provides for protecting receiving waters and their beneficial uses as required by the federal Clean Water Act. The State Water Resources Control Board has previously disapproved less-restrictive language in municipal storm water permits. The language in the LA County municipal permit tracks language the State Water Resources Control Board has previously approved in precedential decisions in 1999 and again in 2001. Other municipal permits in the state contain the same language, and to the Regional Board's knowledge have not triggered citizen suits, as feared by some municipalities.

- The receiving water language states that if storm water flows from the storm drain system cause or contribute to continuing impairment of receiving waters, municipalities must implement control measures to eliminate the harm through the iterative implementation of best management practices in a timely manner. To invoke this provision, either the Permittee or the Regional Board must make a determination that water quality standards are being exceeded before the iterative process is activated.

- The first opportunity to make such a determination will occur after the submittal of the next Annual Report in October 2002. Assuming that a decision is made to invoke the iterative process, municipalities would be required to submit a corrective plan with the next Annual Report in October 2003, and submit a progress report every alternate year after that until the exceedences have been corrected.

- A violation of the permit would occur when a municipality fails to engage in a good faith effort to implement the iterative process to correct the harm. As long as the Permittee is engaged in a good faith effort, the specific language of the permit provides that the Permittee is in compliance. As discussed at the Regional Board's July 2001 workshop and the December 2001 board meeting, the presence of the iterative process language makes clear the Permittees' mechanism for compliance with receiving water language. Even if water quality does not improve as a result of the implementation efforts, there is no violation of the permit's receiving water provision as long as a good faith effort is underway to participate in the iterative process. The basic premise is that an incremental effort is appropriate to identify additional best management practices that will ultimately result in improved storm water quality.

Did the Regional Board discontinue the US EPA facilitation effort despite requests for continuation?

- The Regional Board Executive Officer and staff participated, during November and December 2002, in two US EPA facilitated sessions to consider, and possibly revise, the most contentious part of the permit – the requirement to inspect businesses for compliance with local storm water ordinances.

- Prior to the mediation session, Regional Board staff committed considerable time over the entire year to meeting with municipalities and interested parties, conducting workshops, responding to questions, providing updates, issuing three complete drafts, and making many revisions at the request of the Permittees.

- The facilitation effort was partially successful and resulted in many changes being made to a portion of the permit (the inspection program), changes that many of the cities wanted.

- Despite the improvements made to this portion of the permit during mediation, no final agreement was reached on the inspection program. Many of the municipalities continued to object to the inspection program despite the Regional Board's inclusion of many of the specific comments made at their request.

- As a result, the draft permit recommended to the Regional Board included provisions for a limited inspection program that incorporated many of the comments offered by those participating in the mediation sessions including the City of Signal Hill, the County of Los Angeles, the City of Los Angeles, and the City of Downey.

Is the cost of permit implementation really $54 billion?

- The quoted $54 billion cost of implementation for the Los Angeles area is taken from an analysis performed for the California Department of Transportation using assumptions that have been challenged. These assumptions include that, (i) 1.2 inches of rainfall would have to be captured and treated to remove all pollutants; and (ii) to achieve this level of pollution

reduction six treatment plants with the capacity to process 500 million gallons per day of storm water each would have to be constructed. The study's approach assumes a "Regional Solution" that is the opposite of the lower cost, solve the problem before it starts approach embodied in the adopted permit by using best management practices. The MS4 permit does not require treatment as described in the Caltrans study nor does it validate the assumptions that are made.

- The permit takes an iterative best management practices implementation approach to protecting receiving waters and their beneficial uses (try a solution, if it doesn't work, try some additional solutions). This approach explicitly takes into consideration the costs and appropriateness of implementation measures and places the responsibility for sound choices with the municipalities.

- The US EPA estimated in 1996 that the cost of implementation of the storm water program for all the medium and large municipalities in the United States combined would be about $50 billion over 20 years.

- Based on self-reported cost figures provided by the City of Los Angeles and other municipalities, the total cost estimate for permit implementation countywide is between $12 million and $145 million annually. The cost of implementation of revised provisions in the storm water permit is expected to represent a modest incremental increase over current costs.

How can a city better calculate the cost of implementing a program to satisfy the requirements of the permit?

The cost of implementing the permit will vary from city to city depending on the kind of services it already provides. The best measure of the cost of programs to improve storm water quality is to survey municipalities around the nation and in California who have instituted a special storm water utility fee. In Los Angeles County, the City of Los Angeles, the City of Long Beach, Santa Monica, Calabasas, and Santa Clarita have special storm water assessments, and may provide the best estimates of the true cost of program implementation in the area.

What is the runoff diversion experience of the City of Laguna Niguel?

Dry weather flow diversions are a method by which to mitigate or temporarily eliminate high bacteria levels in urban runoff from flowing onto local beaches and into the surfzone where there is human/water contact. The storm drain water is diverted to a sanitary sewer line for treatment.

- Aliso Creek drains to the City of Laguna Beach and to the beach. For several years, the Orange County Sanitation Districts (OCSD) has diverted dry weather flows within Aliso Creek to the sanitary sewer for treatment.

- A small tributary to Aliso Creek has been found to have bacteria levels that are excessive and a violation of the San Diego Region Basin Plan for bacteria. This condition occurs above the point of diversion.

- The San Diego Regional Board adopted a Cleanup and Abatement Order for the OCSD to begin an iterative process to determine the source(s) of the excessive bacteria counts and mitigate the problem.

- OCSD now diverts flows farther upstream during dry weather to capture in-flows from the tributary with high bacteria counts that drains to Aliso Creek.

- During wet weather the same tributary continues to have high bacteria counts but the flows are not diverted. Diversion to a wastewater tretment plant is not possible during wet weather because of high flows.

- The San Diego Regional Board through the iterative process, requires OCSD to investigate potential source of the high bacteria counts and eliminate the source or sources.

What is the experience of the City of Huntington Beach with beach closures?

The beaches along Huntington Beach have been plagued by many closures the past few years due to excessively high bacteria levels coming from the Talbert Marsh outlet into the south end of Huntington State Beach. The possibility of a single cause or multiple causes led muncipal agencies in Orange County to spend much time and money to determine the source(s) of the excessive bacteria.

- Onshore pipes and groundwater were investigated as possible sources as were the offshore sewer outfall and the storm drain system including Talbert Marsh itself.

- Dry weather diversion of the storm drain system to the sanitary sewer as a temporary solution measure has had immediate positive effects on coastal water quality.

- High bacteria counts may persist during during wet weather when diversions cannot take place.

- The municipalities still need to investigate the source(s) of the high bacteria and to reduce or eliminate those sources.

- When beaches are closed, tourism suffers and tourist dollars are spent elsewhere.

How can the public [residents in the municipality] become informed and educated about the impacts of storm water and how to prevent pollution?

- A mainstay of the storm water program in Los Angeles since 1990 has been activities to foster public education, participation, and involvement.

- On-going outreach efforts include radio public service announcements, television commercial spots, literature at public service counters, K-12 educational materials, flyers, and handouts at businesses which sell pesticides or motor oils.

- Residents may also call help lines such as 1(888) CLEAN LA or 1 (800) 974-9794 operated respectively by the County of Los Angeles and the City of Los Angeles. These numbers may be used to obtain information on household hazardous waste collection sites and oil recycling. The numbers can also be used to report incidents of illegal dumping or illegal discharges, clogged catch basins, and request information be mailed on storm water pollution in the Los Angeles area.

- Residents may obtain information and become better educated about the impacts of storm water pollution and prevention by visiting various web sites. To find your city's website, first visit the State of California's main home page at www.ca.gov and scroll down and click on the "City Websites" button (on the lower right) to find your specific city in the index.

- Environmental activities or environmental problem areas in your area, are posted on the following web site. Type in your Zip code:

  http://www.epa.gov/epahome/commsearch.htm

- For information on what you can do to prevent storm water pollution, see:

  http://www.swrcb.ca.gov/nps/lookwhatyoucando.html

- For information on water quality at the beach you want to visit, go to:

  http://www.healthebay.org/baymap/default.asp

- For a location to recycle used motor oil, go to:

  www.ciwmb.ca.gov/UsedOil/CrtCntrs.asp

More Information

Office of Wastewater Management U.S. EPA	http://cfpub1.epa.gov/npdes/stormwater/
Office of Wastewater Management - Storm Water Library	http://www.epa.gov/owm/swlib.htm
Virginia's Stormwater Management Program	http://www.dcr.state.va.us/sw/stormwat.htm
Palm Beach County NPDES Program	http://www.pbco-npdes.com/
Metropolitan Department of Public Works Nashville BMP Manual	http://www.nashville.org/pw/bmp_manual.html
Best Management Practices for Storm and Surface Water, Municipal Research & Services Center Serving Washington Cities and Counties	http://www.mrsc.org/environment/water/water-s/SW-BMP.htm
Quality of Our Nation's Water U.S. EPA	http://www.epa.gov/305b/
Idaho DEQ - Catalog of Stormwater Best Management Practices	http://www2.state.id.us/deq/water/stormwater_catalog/chapter1_3.asp
Library of Storm Water Resources	http://www.stormwater-resources.com/library.htm

MD Stormwater Management Program	http://www.mde.state.md.us/environment/wma/stormwatermanual/
Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual	http://www.broward.org/dni00835.htm
Dynamic Watershed Management Project City of Greensboro NC	http://www.ci.greensboro.nc.us/stormwater/index.htm
Ohio EPA, DSW Stormwater Program	http://www.epa.state.oh.us/dsw/storm/index.html
National Pollutant Discharge Elimination System Florida	http://www.dep.state.fl.us/water/stormwater/npdes/index.htm
BMP Manual New Jersey	http://www.state.nj.us/dep/watershedmgt/bmpmanual.htm
NonPoint Source Pointers (Factsheets) U.S. EPA	http://www.epa.gov/OWOW/NPS/facts/
Draft Stormwater Design Manual New York	http://www.dec.state.ny.us/website/dow/swmanual/
USGS Fact Sheets Home Page	http://water.usgs.gov/wid/indexlist.html
Washington State Stormwater Technical Manual	http://www.ecy.wa.gov/programs/wq/stormwater/manual.html
City of Monterey CA – Storm Water Program	http://www.monterey.org/publicworks/storminfo.html
U.S. EPA Urban Storm Water BMP Study	http://www.epa.gov/OST/stormwater/
Center for Watershed Protection	http://www.cwp.org/
Seattle Public Utilities Surface Water Pollution Prevention	http://www.cityofseattle.net/util/surfacewater/default.htm

[i] Critical Source Selection and Monitoring Report, County of Los Angeles Department of Public Works (September 3, 1996), in which the Principal Permittee identified high risk activities that pollute storm water in the County. Five of these activities – scrap metals, trucking, chemical, primary metal, metal fabricating – are partly regulated by the State's General Industrial Activities Storm Water Permit for Industrial Activities. The other activity – automotive services – is not subject to the State's General Industrial Activities Storm Water Permit or to USEPA Phase 1 regulations. Also, through industrial waste inspections conducted during the first permit term for sanitation departments, several Permittees identified two additional activities – retail gas outlets (RGOs) and restaurants – as high risk for storm water pollution.

Terry Tamminen
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Arnold Schwarzenegger
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June 25, 2004

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Dear Messrs. Busath, Lorenz, Storer and Ms. Schmitz:

RECEIVING WATER LIMITATIONS IN ORDER R5-2002-0206

You have requested that the Central Valley Regional Water Quality Control Board ("Regional Board") clarify its intent with regard to interpretation and enforcement of Receiving Water Limitation B.2 of Order No. R5-2002-0206 ("the Sacramento MS4 Permit"). Receiving Water Limitation B.2 states:

> "The Permittees shall comply with Discharge Prohibitions A.1 and A.2 and Receiving Water Limitations B.1 through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SQIP (or SQIPs) and other requirements of this Order, including any modifications. The SQIP shall be designed to achieve compliance with Receiving Water Limitation B.1. If exceedance(s) of water quality objectives or water quality standards (collectively, WQS) persist notwithstanding implementation of the SQIP and other requirements of this Order, the Permittees shall assure compliance with Discharge Prohibitions A.1 and A.2 and Receiving Water Limitations B.1 by complying with the following [iterative] procedure:" (emphasis added.)

Receiving Water Limitation B.1 states that the discharge from municipal stormwater systems shall not cause or contribute to exceedances of listed water quality objectives.

ATTACHMENT B

Specifically, you have asked how compliance with the permit's receiving water limitations will be determined. On behalf of the Regional Board, I am providing the following clarification.

Receiving Water Limitation B.2 describes the process that the dischargers must follow to obtain compliance with water quality standards. Where the Permittee causes or contributes to violations of water quality standards, the Permittee must implement the iterative process specified. Specifically, where there are discharges of pollutants that cause or contribute to exceedances of water quality standards, the Permittee must submit a report that describes existing and additional best management practices that will be implemented to prevent or reduce any pollutants contributing to the exceedances of water quality standards. The Permittee must then incorporate new BMPs into its storm water management plan and implement the plan. The permit clarifies that if the Permittee complies with this procedure, the procedure does not have to be repeated for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

The Regional Board expects this iterative process to improve BMPs over time, and, therefore, the permit does not require strict compliance with WQS. If the Permittee complies with this iterative process, it would be considered to be in compliance with Discharge Prohibition A.1 and A.2 and Receiving Water Limitations B.1 and B.2. In the event that a Permittee has, in the judgment of the Regional Board, failed to properly implement the iterative process, the Regional Board may take appropriate enforcement action to address such failure and others. This letter is intended to clarify what constitutes compliance with Receiving Water Provision B.2. In the event of noncompliance with any provision of the permit, however, nothing stated in this letter is intended to limit the Regional Board's authority with respect to any regulatory or enforcement actions which it may undertake pursuant to its legal authority.

We trust that this clarification is helpful to you.

Sincerely,

Original signed by

Robert Schneider, Chair
Central Valley Regional Water Quality Control Board

cc: See next page

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