

1 BECKY HAYAT, Bar No. 293986  
2 NATURAL RESOURCES DEFENSE COUNCIL, INC.  
3 1314 Second Street  
4 Santa Monica, CA 90401  
5 (310) 434-2300

6 Attorney for  
7 NATURAL RESOURCES DEFENSE COUNCIL, INC.  
8 AND HEAL THE BAY

9 ARTHUR PUGSLEY, Bar No. 252200  
10 LOS ANGELES WATERKEEPER  
11 120 Broadway, Suite 105  
12 Santa Monica, CA 90401  
13 (310) 394-6162

14 Attorney for  
15 LOS ANGELES WATERKEEPER  
16 AND HEAL THE BAY

17 DANIEL COOPER, Bar No. 153576  
18 LAWYERS FOR CLEAN WATER, INC.  
19 1004A O'Reilly Avenue  
20 San Francisco, CA 94129  
21 (415) 440-6520

22 Attorney for  
23 LOS ANGELES WATERKEEPER

24 STATE OF CALIFORNIA  
25 STATE WATER RESOURCES CONTROL BOARD

26 Petition of NRDC, Los Angeles Waterkeeper, and ) SWRCB/OCC FILE A-2386  
27 Heal the Bay, for Review by the State Water )  
28 Resources Control Board of the Regional Board ) **DECLARATION OF BECKY**  
Executive Officer's Action to Conditionally ) **HAYAT IN SUPPORT OF**  
Approve Nine Watershed Management Programs ) **PETITIONERS' OPPOSITION TO**  
Pursuant to the Los Angeles County Municipal ) **MOTION TO REJECT**  
Separate Stormwater National Pollutant ) **ADDENDUM AS UNTIMELY AND**  
Discharge Elimination System (NPDES) Permit, ) **TO DISMISS PETITION OF**  
Order No. R4-2012-0175, NPDES Permit No. ) **NATURAL RESOURCES DEFENSE**  
CAS004001 ) **COUNCIL, INC., LOS ANGELES**  
) **WATERKEEPER, AND HEAL THE**  
) **BAY FOR REVIEW OF**  
) **WATERSHED MANAGEMENT**  
) **PROGRAM APPROVALS AS**  
) **MOOT**

1 **DECLARATION OF BECKY HAYAT**

2 1. I am an attorney licensed to practice in the State of California and a Staff Attorney  
3 at the Natural Resources Defense Council (“NRDC”). I am counsel for Petitioners NRDC, Los  
4 Angeles Waterkeeper, and Heal the Bay (collectively, “Petitioners”) in the above-captioned  
5 Petition. I have personal knowledge of all relevant facts stated herein and if called upon, I could  
6 and would competently testify thereto.

7 2. On April 28, 2015, the Los Angeles Regional Water Quality Control Board  
8 (“Regional Board”) conditionally approved nine Watershed Management Programs (“WMPs”)  
9 pursuant to the 2012 Los Angeles MS4 Permit (“2012 Permit” or “Permit”).

10 3. On May 28, 2015, Petitioners petitioned the Regional Board and State Water  
11 Resources Control Board (“State Board”) to review the Executive Officer’s action in conditionally  
12 approving the nine WMPs. In July and August of 2015, the Executive Officer issued final approval  
13 letters for the nine WMPs he conditionally approved in April 2015.

14 4. On September 10, 2015, the Regional Board considered the Petition and upheld the  
15 Executive Officer’s final WMP approvals.

16 5. On September 22, 2015, I received a phone call from Emel Wadhvani, Senior Staff  
17 Counsel at the State Board, who wanted to discuss Petitioners’ plan moving forward given the  
18 Regional Board decision on September 10. Anticipating that Petitioners would challenge the  
19 Regional Board action on September 10, Emel told me she had spoken with Phil Wyels, Assistant  
20 Chief Counsel at the State Board, and they both concluded that instead of filing a new petition  
21 challenging the Regional Board action on September 10, Petitioners could submit an addendum to  
22 their petition that was held in abeyance until November 9, 2015, and that proceeding in such a  
23 manner was consistent with the California Porter-Cologne Water Quality Control Act and State  
24 Board regulations.

25 6. Two days later, on September 24, 2015, I sent a letter to Emel Wadhvani  
26 confirming our telephone conversation. Attached hereto as Exhibit A is a true and correct copy of  
27 the September 24, 2015 letter.  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

7. Four days after that, on September 28, 2015, I received an email from Emel Wadhvani, confirming receipt of the letter dated September 24, 2015 and its accuracy as to the procedure and timing for filing the Addendum with the State Board. Attached hereto as Exhibit B is a true and correct copy of the September 28, 2015 email.

8. After confirming that supplementing the Petition with an addendum is consistent with state law, Petitioners filed the Addendum on October 30, 2015.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 29, 2016, in Santa Monica, California.

Handwritten signature of Becky Hayat in black ink, written in a cursive style.

---

Becky Hayat

1 BECKY HAYAT, Bar No. 293986  
2 NATURAL RESOURCES DEFENSE COUNCIL, INC.  
3 1314 Second Street  
4 Santa Monica, CA 90401  
5 (310) 434-2300

6 Attorney for  
7 NATURAL RESOURCES DEFENSE COUNCIL, INC.  
8 AND HEAL THE BAY

9 ARTHUR PUGSLEY, Bar No. 252200  
10 LOS ANGELES WATERKEEPER  
11 120 Broadway, Suite 105  
12 Santa Monica, CA 90401  
13 (310) 394-6162

14 Attorney for  
15 LOS ANGELES WATERKEEPER  
16 AND HEAL THE BAY

17 DANIEL COOPER, Bar No. 153576  
18 LAWYERS FOR CLEAN WATER, INC.  
19 1004A O'Reilly Avenue  
20 San Francisco, CA 94129  
21 (415) 440-6520

22 Attorney for  
23 LOS ANGELES WATERKEEPER

24 STATE OF CALIFORNIA  
25 STATE WATER RESOURCES CONTROL BOARD

26 Petition of NRDC, Los Angeles Waterkeeper, and ) SWRCB/OCC FILE A-2386  
27 Heal the Bay, for Review by the State Water )  
28 Resources Control Board of the Regional Board ) **PETITIONERS' OPPOSITION TO**  
Executive Officer's Action to Conditionally ) **MOTION TO REJECT**  
Approve Nine Watershed Management Programs ) **ADDENDUM AS UNTIMELY AND**  
Pursuant to the Los Angeles County Municipal ) **TO DISMISS PETITION OF**  
Separate Stormwater National Pollutant ) **NATURAL RESOURCES DEFENSE**  
Discharge Elimination System (NPDES) Permit, ) **COUNCIL, INC., LOS ANGELES**  
Order No. R4-2012-0175, NPDES Permit No. ) **WATERKEEPER, AND HEAL THE**  
CAS004001 ) **BAY FOR REVIEW OF**  
 ) **WATERSHED MANAGEMENT**  
 ) **PROGRAM APPROVALS AS**  
 ) **MOOT**

1 **I. INTRODUCTION**

2 This opposition addresses an attempt to avoid review by the State Board of a central,  
3 substantive step in the regulation of municipal stormwater via the May 28, 2015 petition filed by  
4 the Natural Resources Defense Council, Los Angeles Waterkeeper, and Heal the Bay (collectively,  
5 “Petitioners”). Dischargers Artesia, La Mirada, Norwalk, Pico Rivera, City of Signal Hill, Bell  
6 Gardens, and Huntington Park (collectively, “Dischargers”) ask the State Board to reject  
7 Petitioners’ October 30 Addendum to the Petition as untimely and to dismiss the Petition as moot.<sup>1</sup>  
8 There is no basis to do so. The Addendum is timely because it was filed before the deadline set by  
9 the State Board, and is consistent with state law and the process requested by the Board. Further,  
10 the Petition is not moot because the State Board has not resolved the issues presented in the  
11 Petition, namely: (1) the legality of conditional approvals, and (2) the substantive inadequacies of  
12 the Watershed Management Programs (“WMPs”).

13 Even if the State Board were to accept Dischargers’ arguments, which it should not, the  
14 Board should still review, on its own motion, the Los Angeles Regional Water Quality Control  
15 Board’s (“Regional Board”) actions. Review of the adequacy of the WMPs, and the process by  
16 which they were approved is necessary and appropriate. The State Board has endorsed a “new  
17 paradigm” for MS4 permitting, subject to minimum standards of accountability and  
18 enforceability.<sup>2</sup> The WMPs at issue here are the first generated pursuant to the new scheme and  
19 will set the bar for urban stormwater pollution control statewide. Because Petitioners’ challenge  
20 was properly filed, and because the challenge represents the threshold opportunity for the State  
21 Board to apply the standards articulated in State Board Order WQ 2015-0075 and to provide  
22

23 \_\_\_\_\_  
24 <sup>1</sup> In addition to the motion filed by Dischargers on January 8, 2016, other parties have also tried to  
25 argue in their responses to the Petition that the Addendum is untimely and/or the Petition is moot.  
26 These parties include California Stormwater Quality Association, City of Signal Hill, City of  
27 Covina, City of Claremont, Cities of Artesia, Norwalk, and La Mirada, Los Angeles River Upper  
28 Reach 2 Watershed Management Area, Lower Los Angeles River Watershed, Lower San Gabriel  
River Watershed, and the Regional Board. For all the reasons set forth in this opposition, the State  
Board should reject those arguments as well.

<sup>2</sup> State Board Order WQ 2015-0075 at pp. 21-22; 37-38.

1 statewide guidance on the WMP and Enhanced Watershed Management Program (“EWMP”)  
2 model of municipal stormwater regulation, the Dischargers’ motion should be denied.

3 **II. PROCEDURAL HISTORY**

4 On May 28, 2015, Petitioners petitioned both the Regional and State Boards to review: (1)  
5 the legality of the Regional Board Executive Officer’s action in *conditionally* approving nine  
6 WMPs, and (2) the substantive deficiencies in the WMPs. On July 3, the Regional Board gave  
7 notice that it would review the Petition on September 10. Thus, on August 24, Petitioners  
8 requested that the State Board place the Petition in abeyance until November 9 to allow the  
9 Regional Board’s review of the Petition to proceed. The State Board granted Petitioners’ abeyance  
10 request. On September 10, the Regional Board ratified the Executive Officer’s final approval of  
11 the revised WMPs despite the significant deficiencies in the finally approved programs.

12 Anticipating that Petitioners would also challenge the September 10th decision, on  
13 September 22, the State Board contacted Petitioners and requested that rather than filing a new  
14 Cal. Water Code section 13320 petition regarding the Regional Board’s decision on September 10,  
15 Petitioners supplement their existing petition by filing an addendum. The State Board requested  
16 this approach because: (1) it would provide the Board with a more complete record on the issues  
17 raised by Petitioners in the Petition and of the procedural history at the Regional Board level, and  
18 (2) the additional information would aid the Board’s determination as whether or not to issue the  
19 30-day response letter by November 11, 2015, when the Petition otherwise would be dismissed by  
20 operation of law pursuant to the State Board regulations. (23 C.C.R. § 2050.5(e).)

21 After confirming that supplementing the Petition with an addendum is consistent with both  
22 the California Porter-Cologne Water Quality Control Act and the California Code of Regulations,  
23 Petitioners agreed to proceed in the manner requested by the State Board. The State Board and  
24 Petitioners agreed that the deadline to file the Addendum was November 9, and confirmed as much  
25 in writing.<sup>3,4</sup> Petitioners filed the Addendum on October 30, 2015, well before the November 9th  
26 deadline set by the State Board.

27 \_\_\_\_\_  
28 <sup>3</sup> Decl. of Becky Hayat, Exh. A.

1 On January 8, Dischargers filed the present motion to reject the Addendum as untimely and  
2 to dismiss the Petition as moot. (Motion and Supporting Memorandum to Reject as Untimely and  
3 Moot Challenge Filed by Natural Resources Defense Council, Inc., Los Angeles Waterkeeper, and  
4 Heal the Bay to LA Regional Board Decision on WMPs (hereafter “Dischargers’ Motion”).)

5 **III. ARGUMENT**

6 **A. The Addendum was timely filed, consistent with both state law and the process set**  
7 **forth by the State Board.**

8 **i. The Addendum was filed consistent with state law.**

9 Petitioners filed the Addendum consistent with the Porter-Cologne Act and State Board  
10 regulations. The Dischargers claim that Petitioners failed to comply with statutory and regulatory  
11 language by filing the Addendum more than 30 days after the Regional Board decision on  
12 September 10. However, the 30-day timeline to file a petition to the State Board under Cal. Water  
13 Code section 13320(a) and C.C.R. section 2050(a) applies only to *new* petitions that are filed  
14 regarding a regional board action.

15 Here, Petitioners’ Addendum is not a new section 13320 petition, but rather – as confirmed  
16 by the State Board itself – a necessary supplement providing the State Board additional  
17 information for deciding whether the Petition is complete and if a 30-day response letter should be  
18 issued. The underlying issue in the May 28th Petition was the approval of the WMPs by the  
19 Regional Board Executive Officer. The Regional Board decision on September 10 ratified the  
20 Executive Officer’s approvals. That action,<sup>5</sup> the final step in the multi-step process for approval by  
21 the Regional Board, is inherently tied to the action challenged in the Petition. The Petition raised  
22 concerns about the substantive inadequacies of the draft WMPs – inadequacies carried over to the  
23 final WMPs despite subsequent revisions made by Dischargers. Petitioners again identified the

24  
25 <sup>4</sup> *Id.*, Exh. B.

26 <sup>5</sup> It is immaterial that the Petition challenged the Executive Officer’s WMP approvals while the  
27 Addendum challenged the Regional Board’s illegal WMP approvals. Pursuant to Cal. Water Code  
28 § 13223(a), “[w]hensoever any reference is made in this [Porter-Cologne Water Quality Control Act]  
to any action that may be taken by a regional board, such reference includes such action by its  
executive officer pursuant to powers and duties delegated to him by the regional board.”

1 continuing WMP deficiencies for the Regional Board at the September 10th hearing. Such  
2 deficiencies included lack of commitment to meeting interim milestones and final compliance  
3 deadlines, no schedule to meet compliance “as soon as possible” as required by the 2012 Los  
4 Angeles MS4 Permit (“2012 Permit” or “Permit”), and unenforceable and contingent volumetric  
5 reduction targets, among others.<sup>6</sup> Despite these significant shortcomings, the Regional Board  
6 upheld the Executive Officer’s approvals.

7         Contrary to the Dischargers’ claim, the Regional Board action on September 10 was not “a  
8 wholly separate action” requiring a new petition. (Dischargers’ Motion at p. 6.) Instead, it was the  
9 final step in the approval process challenged in the Petition. The Addendum, therefore, updates the  
10 Petition to include Petitioners’ challenge to the Regional Board’s final approval and endorsement  
11 of the Executive Officer’s action. Further, the State Board must consider the full sequence of  
12 events at the Regional Board level not only to decide whether to mail the 30-day response letter,  
13 but also to ultimately review and act on the Petition. The 30-day rule pursuant to Cal. Water Code  
14 section 13320(a) and C.C.R. section 2050(a), therefore, is inapplicable.

15         Dischargers’ reliance on the State Board’s decision regarding the City of El Monte’s  
16 amended petition is misplaced. El Monte submitted an amended petition, which raised new issues  
17 based on information it asserted was not available at the time its original petition was filed. (State  
18 Board Order WQ 2015-0075 at p. 7.) The State Board rejected the city’s amended petition because  
19 it found that the additional arguments raised were *not* based on new information. (*Id.*) Here, the  
20 Addendum is a supplement that included the final step in the WMP approval process – the  
21 Regional Board’s ratification on September 10th – and that information was not available prior to  
22 the May 28, 2015 deadline for submitting the Petition. Indeed, there is nothing under the Porter-  
23 Cologne Act and State Board regulations that prohibits Petitioners from supplementing the Petition  
24 with new, additional information when that petition was timely filed pursuant to C.C.R section  
25 2050(a) and pending before the State Board.

26  
27  
28 <sup>6</sup> Certified Transcript for September 10, 2015 Meeting at pp. 217:4 – 231:22.



1                                    **ii. Filing the Addendum is consistent with the process set forth by the**  
2                                    **State Board.**

3                                    Following the September 10th Regional Board action, it was clear that the issues  
4                                    considered then and those raised in the Petition were inherently intertwined. Thus, the State Board  
5                                    contacted Petitioners and informed them that they may supplement their existing petition with an  
6                                    addendum. Petitioners followed the State Board’s request and timely filed the Addendum on  
7                                    October 30, 2015. Dischargers now ask that Petitioners be punished for working with the State  
8                                    Board and proceeding in a manner that not only is supported by the law, but also that ultimately  
9                                    allowed the parties to proceed in the most efficient manner.

10                                    The State Board should reject the Dischargers’ argument, which would have forced  
11                                    Petitioners to file two petitions on the same issues. That position lacks legal support and  
12                                    undermines administrative economy. Moreover, such a finding would discourage future petitioners  
13                                    from working together with the State Board to reach resolutions on procedural matters. The  
14                                    process set out by the State Board was lawful and appropriate. Petitioners followed that procedure  
15                                    and should not now be prejudiced by being denied the relief sought by the Petition and Addendum.

16                                    For the foregoing reasons, the Addendum was permitted by law, followed the proper  
17                                    procedure requested by the State Board, and was therefore timely.

18                                    **B. The Petition should not be dismissed as moot because the issues presented have**  
19                                    **not been decided and effective relief can still be granted.**

20                                    The Petition is not moot as the issues presented have not been decided and Petitioners can  
21                                    still be granted effective relief. To determine whether a case is moot, a judicial body asks  
22                                    ““whether there is a present controversy as to which effective relief can be granted.”” *Feldman v.*  
23                                    *Bomar*, 518 F.3d 637, 642 (9th Cir. 2008) (quoting *Nw. Env’tl. Def. Ctr. v. Gordon*, 849 F.2d 1241,  
24                                    1244 (9th Cir. 1988)). Here, there is a present controversy, and the State Board can provide  
25                                    Petitioners relief. The subject of the Petition was the legality of conditional WMP approvals, both  
26                                    procedurally and substantively.

27                                    The Executive Officer acted unlawfully by conditionally approving WMPs – a process  
28                                    nowhere provided for in the 2012 Permit. And this unlawful action is capable of repetition as the

1 Regional Board Executive Officer may well “conditionally approve” other non-compliant actions  
2 by dischargers, rendering the deadlines and conditions of the Permit effectively meaningless. A  
3 case is not moot if it is “capable of repetition, yet evading review.” *Turner v. Rogers*, 131 S.Ct.  
4 2507, 2515 (2011) (quoting *Southern Pacific Terminal Co. v. ICC*, 31 S.Ct. 279 (1911)). Further,  
5 the threat of repetition looms now; the deadline for submission of final draft EWMPs is in April  
6 2016 and the Executive Officer may again “conditionally approve” the EWMPs. Because the State  
7 Board has not resolved the legal question regarding conditional approvals and this unlawful action  
8 is capable of repetition, the Petition is not moot.

9 In any event, Petitioners’ *entire* petition cannot be moot because the State Board must  
10 resolve the third claim in the Petition – that the WMPs are inadequate. In addition to the legality of  
11 the conditional approval process, Petitioners challenged the *substance* of the decision to approve  
12 deficient WMPs. Petitioners claimed that the conditions failed to address all of the WMP  
13 inadequacies that continued to exist in the final drafts, such that the WMPs should have been  
14 denied. The State Board has yet to determine whether the terms of the conditional approvals – and  
15 the Regional Board’s subsequent approval – met or did not meet Permit requirements for full  
16 program development compliance. The Petition, therefore, should not be dismissed as moot.

17 **C. Given the statewide precedential impact of the Regional Board actions, the State**  
18 **Board should review the Regional Board actions on its own motion.**

19 Even if the State Board rejects Petitioners’ Addendum and dismisses the Petition, which it  
20 should not, the Board should, on its own motion, review the Regional Board actions that  
21 Petitioners have challenged. Stormwater runoff is the primary source of surface water pollution in  
22 Southern California. It is also the main contributor to California’s polluted beach problem. Instead  
23 of having to strictly comply with all numeric limits on stormwater discharges, the current 2012  
24 Permit allows WMPs and EWMPs as an alternative method of achieving Permit compliance for  
25 many pollutants. Although this is now viewed as the “new” MS4 permit structure, the ultimate  
26 goal of the WMP/EWMP alternative compliance approach as expressed by the Board is the same  
27  
28

1 as the goal of any MS4 permit – to achieve water quality standards.<sup>7</sup> Thus, if dischargers are going  
2 to be allowed to develop and implement WMPs in lieu of demonstrating strict compliance with  
3 numeric limits, the Regional Board must enforce the unambiguous WMP development  
4 requirements of the Permit. So far, the Regional Board has failed to do so. Furthermore, if the  
5 State Board is going to direct all regional boards to consider the WMP/EWMP approach when  
6 issuing Phase I MS4 permits going forward,<sup>8</sup> it must ensure that dischargers develop the WMPs  
7 consistent with the provisions of State Board Order WQ 2015-0075. The State Board, therefore,  
8 should exercise its authority to review these unlawful Regional Board actions – actions that will  
9 lead to serious human health and environmental harm – and issue an appropriate remedy.

10 Dischargers’ argument about how Petitioners have already “had a full and fair hearing”  
11 before the Regional Board misses the point. (Dischargers’ Motion at p. 9.) Although the Regional  
12 Board considered the Petition on September 10, 2015, the State Board has not acted on the Petition  
13 yet, and Petitioners filed their petition to both the Regional Board *and* the State Board. There is  
14 absolutely no authority for Dischargers’ claim that “[t]here is no need for the State Board to  
15 conduct a second review of the previously reviewed decision of the LA Board’s Executive  
16 Officer.” (Id.) Cal. Water Code section 13320 and C.C.R. section 2050 give Petitioners the right  
17 to petition the State Board for unlawful Executive Officer action, and this authority is independent  
18 from that of the Regional Board. The Dischargers’ claims are misguided, and do not outweigh the  
19 State Board’s interest in reviewing these improper Regional Board actions on its own initiative.

20 Furthermore, as discussed herein, Petitioners should not be punished for cooperating with  
21 and relying on the guidance of the State Board. Therefore, in the event the Addendum is rejected,  
22 the State Board should prevent such prejudice to Petitioners by considering the Regional Board  
23 actions on its own initiative with full participation of the Petitioners as interested parties.

24 ///

25 ///

---

27 <sup>7</sup> State Board Order WQ 2015-0075 at p. 14.

28 <sup>8</sup> *Id.* at p. 51.

1 **IV. CONCLUSION**

2 For the foregoing reasons, the State Board should deny the Dischargers' motion to reject  
3 the Petitioners' Addendum and dismiss the Petition.

4  
5 Respectfully submitted,

6 Dated: January 29, 2016

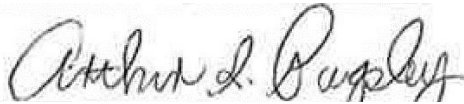
NATURAL RESOURCES DEFENSE COUNCIL, INC.

7  
8 

9  
10  
11 \_\_\_\_\_  
12 Becky Hayat  
13 Attorney for NATURAL RESOURCES  
DEFENSE COUNCIL, INC. & HEAL THE BAY

14 Dated: January 29, 2016

LOS ANGELES WATERKEEPER

15  
16 

17  
18 \_\_\_\_\_  
19 Arthur S. Pugsley  
20 Attorney for LOS ANGELES WATERKEEPER  
& HEAL THE BAY

21 Dated: January 29, 2016

LOS ANGELES WATERKEEPER

22  
23 

24  
25 \_\_\_\_\_  
26 Daniel Cooper  
27 Attorney for LOS ANGELES WATERKEEPER  
28

# EXHIBIT A



September 24, 2015

Dear. Ms. Wadhwani,

Thank you for our telephonic discussion on September 22, 2015. On that call, we discussed NRDC, Heal the Bay, and Los Angeles Waterkeeper's (Environmental Petitioners) pending petition before the State Water Resources Control Board (State Board or Board), which is currently in abeyance until November 9, 2015. You indicated to me that you spoke with Phil Wyels and you both agreed that there is nothing under the California Code of Regulations (C.C.R.) Title 23, Division 3, Chapter 6, section 2050.5 that prevents Environmental Petitioners from supplementing their current petition before the State Board in light of the Los Angeles Regional Water Quality Control Board's action on September 10, 2015.

You further stated that should Environmental Petitioners decide to supplement their current petition before the State Board, the Board would be required to issue a 30-day response letter to the dischargers and all interested persons within two days after November 9, 2015, or the petition would be deemed dismissed by operation of law. You also stated that while there is no format for how Environmental Petitioners may supplement their current petition, but something akin to an addendum would be appropriate. Finally, we agreed that the deadline to file such an addendum would be November 9, 2015.

Consistent with this guidance from your office, Environmental Petitioners intend to submit an addendum to its pending petition to address the Regional Board's action on September 10, 2015 on or before November 9, 2015. However, Environmental Petitioners will make best efforts to give the State Board at least two weeks to review the addendum before the Board has to issue the 30-day response letter.

Thank you for your cooperation on these issues. If anything in this letter is inconsistent with your understanding, please contact my office immediately.

My very best,

Becky Hayat

**NATURAL RESOURCES DEFENSE COUNCIL**

1314 2ND STREET | SANTA MONICA, CA | 90401 | T 310.434.2300 | F 310.434.2399 | NRDC.ORG

# EXHIBIT B

## Hayat, Becky

---

**From:** Wadhvani, Emel@Waterboards <Emel.Wadhvani@waterboards.ca.gov>  
**Sent:** Monday, September 28, 2015 11:15 AM  
**To:** Hayat, Becky  
**Cc:** 'daniel@lawyersforcleanwater.com'; Wyels, Philip@Waterboards  
**Subject:** FW: NRDC Letter re Petition Addendum  
**Attachments:** NRDC letter re Petition Addendum 9 24 15.pdf

Becky,

Thank you for your letter summarizing our phone conversation of September 22, 2015.

In general, your summary accurately reflects our discussion. One point of clarification: You state that “should Environmental Petitioners decide to supplement their current petition before the State Board, the Board would be required to issue a 30-day response letter to the dischargers and all interested persons within two days after November 9, 2015, or the petition would be deemed dismissed by operation of law.” It is accurate that the petition will be deemed dismissed by operation of law two days after November 9, 2015, if the State Water Board does not issue a 30-day letter, but this is true regardless of whether Environmental Petitioners decide to supplement their current petition. The supplement does not alter the time frame for action on the petition, but rather serves to provide the State Water Board with a more complete submission on the issues raised by the Environmental Petitioners and of the procedural history at the Regional Water Board level in addressing those issues, and thereby assists the State Water Board in making a determination as to whether to issue the 30-day letter.

Feel free to call me if you have any questions.

Emel

Emel G. Wadhvani  
Senior Staff Counsel  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814  
916-322-3622  
Fax: 916-341-5199

---

**From:** Hayat, Becky [<mailto:bhayat@nrdc.org>]  
**Sent:** Thursday, September 24, 2015 12:00 PM  
**To:** Wadhvani, Emel@Waterboards  
**Cc:** Daniel Cooper ([daniel@lawyersforcleanwater.com](mailto:daniel@lawyersforcleanwater.com))  
**Subject:** NRDC Letter re Petition Addendum

Hi Emel,

Please see attached letter regarding our conversation on Wednesday, Sept. 22, 2015, about our petition before the State Board that is currently in abeyance. If you have any questions or concerns, please do not hesitate to contact me.

My very best,  
Becky



BECKY HAYAT  
*Attorney\**  
*Water Program*

NATURAL RESOURCES  
DEFENSE COUNCIL  
1314 SECOND STREET  
SANTA MONICA, CA 90401  
T 310.434.2308  
BHAYAT@NRDC.ORG  
NRDC.ORG  
\*ADMITTED IN CALIFORNIA

Please save paper.  
Think before printing.