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## Assembly California Legislature



**TONI ATKINS**  
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April 4, 2013

Chairman Tomas Morales  
California Region Water Quality Control Board  
San Diego – Region 9  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

Dear Chairman Morales:

On behalf of members of the California State Legislature who represent the San Diego Region, we are writing to encourage you and your colleagues on the San Diego Regional Water Quality Control Board to delay the hearing when you will consider adoption of Tentative Order No. R9-2013-0001, NPDES No. CAS0109266, *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (MS4 permit).

The adoption hearing is scheduled for April 10 and 11, 2013, but there are still important and outstanding issues that must be resolved. In particular, concerns have been raised about the receiving water limitations (RWL) language that was present in the most recent draft MS4 permit. A recent court decision has made the inclusion of this language highly problematic and will leave public entities under the permit vulnerable to excessive litigation. The State Water Resources Control Board (SWRCB) is reviewing the current situation and is considering whether to make changes to the RWL language, but has not yet come to any conclusions. It is expected that a decision on how to proceed with solving the problems with the current RWL language will be made in the next few months. Any adoption action should be postponed until this issue is settled.

Important concerns have also been raised by agencies that will be impacted by the prohibitive costs associated with the requirements imposed under the permit for the Bacteria TMDL, and your staff only released the new version of the draft MS4 permit language late in the day on March 27, 2013, which included the responses to the large volume of comment letters you received and concerns raised at previous hearings. This gives stakeholders less than two weeks to review the documents. Given the scope and impact of the new MS4 permit, it is important that your Board and the stakeholders covered by the permit all receive adequate time to review these documents.

A brief delay of your scheduled adoption hearing will allow the SWRCB to address the RWL language, while also allowing for complete and thoughtful review of the next draft version of the MS4 permit. Thank you for your consideration of this important issue.



Sincerely,

  
ASSEMBLY MAJORITY LEADER  
TONI ATKINS

  
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