

Congress of the United States
Washington, DC 20515

April 2, 2013

Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Jared Blumenfeld
Regional Administrator, EPA Region IX
75 Hawthorne Street
San Francisco, CA, 94105

Dear Administrator Perciasepe and Regional Administrator Blumenfeld:

As Members of Congress who represent San Diego County, California, we urge your immediate review of the San Diego region Municipal Separate Storm Sewer Systems Permit (Permit). The San Diego Regional Water Quality Control Board (RWQCB) has scheduled a Permit adoption hearing for April 10, 2013. Although this Permit will be issued by the State of California under its authority to regulate permit activity of the Clean Water Act (CWA), we request that the Environmental Protection Agency (EPA) review the Permit and its potential impact on local communities to ensure that compliance costs and schedules are sustainable and reasonable.

Achieving the common goal of clean water is dependent on cooperation with local governments, which bear the burden of implementing CWA obligations. Implementation costs and compliance schedules must be carefully reviewed and balanced with projected scientific benefits to ensure that the goals of the CWA are met. Specifically, stormwater regulations must to be reviewed with a cost-benefit analysis that adheres to the Maximum Extent Practicable (MEP) standard established by the CWA.¹

In January 2013, EPA released a memorandum to regional authorities and local governments to clarify how the financial capability of permittees will be considered when developing compliance schedules for municipal projects to meet CWA obligations.² In the memorandum, EPA states that it is “essential that long-term approaches to meeting CWA objectives are sustainable and within a community’s financial capability.” However, we are concerned that EPA is adhering to unfinalized guidance still under review by the Office of Management and Budget would require the draft Permit to exceed the MEP standard intended by Congress, particularly regarding the bacteria Total Maximum Daily Load (TDML) numeric

¹ Clean Water Act Section 402(p)(3)(B)(iii)

² U.S. Environmental Protection Agency Memorandum, January 2013, “Assessing Financial Capability for Municipal Clean Water Act Requirements.”

limit.³ Additionally, as the April 10 hearing approaches, numerous comments to the Permit from the last public review have yet to be released to ensure a fair and thorough process for the Permit adoption.

The County of San Diego has formed a coalition that includes representatives from six other southern California counties, businesses, and technical experts that have expressed concerns about the financial capability of the co-permittees and potential scientific deficiencies in the Permit's development. We are concerned that the high cost to the co-permittees, in the absence of a cost-benefit analysis, will strain public finances when the coalition is already facing difficult economic challenges. Together, the co-permittees for the Permit spend approximately \$100 million annually to comply with existing stormwater permit requirements. The regional cost of compliance for the new Permit, including the TMDL for bacteria, could exceed \$4.2 billion over the next 18 years, as projected by the RWQCB's TMDL documentation. We urge you to work with State and local government to use taxpayer dollars responsibly to achieve attainable water quality goals, including TMDL numeric limits, which should be based on sound science.

We would welcome a briefing on this issue from your staff before the Permit is adopted, and we appreciate your attention to this matter. As EPA reviews the Permit and continues to develop a financial capability framework for regions, we urge you to finalize guidance that does not exceed the MEP standard and will allow local, State, and Federal authorities to achieve mutually agreeable and scientifically based standards for clean water.

Sincerely,



Darrell Issa
Member of Congress



Juan Vargas
Member of Congress



Susan Davis
Member of Congress



Duncan Hunter
Member of Congress



Scott Peters
Member of Congress

³ U.S. Environmental Protection Agency Memorandum, November 12, 2010, "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.'"