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# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

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August 18, 2016

IN REPLY PLEASE  
REFER TO FILE: WM-6

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Comment Letter # 11

Dear Ms. Townsend:

### **PROPOSED AMENDMENTS TO THE CALIFORNIA OCEAN PLAN AND INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA PLAN TO INCLUDE PROCEDURES FOR DISCHARGES OF DREDGED OR FILL MATERIALS TO WATERS OF THE STATE**

The County of Los Angeles and the Los Angeles County Flood Control District appreciate the opportunity to review the "Proposed Amendments to the California Ocean Plan and Inland Surface Waters, Enclosed Bays, and Estuaries of California Plan to include Procedures for Discharges or Fill Materials to Waters of the State" (Procedures), which contain a wetland definition and wetland delineation procedures as well as procedures for review and approval of activities that could result in the discharge to any waters of the State. Based upon our experience in implementing structural stormwater Best Management Practices to protect and improve water quality and our ongoing operations and maintenance to capture stormwater for increased local water supply reliability, the County and the District are submitting the following comments in an effort to avoid any unintended impact to low impact development and/or stormwater projects.

#### Wetland Definition

The "Wetland" definition, as currently proposed, is very broad and may include areas beyond what is generally considered a "water of the State" or "water of the US." Based on the proposed definition, newly constructed projects to enhance water quality and augment water supply may result in aquatic features that could potentially meet the definition of wetlands and qualify as a water of the State.

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The County and the District are also concerned that the proposed Procedures' application submittal and review process, which involves delineation of a wetland, preparation of an "alternatives analysis," field reviews, and other inquiries, could result in an unintended delay in

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schedules for these projects. These processes also take resources and funding away from implementing additional water quality and water supply projects that could have greater environmental benefits.

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For example, roadside ditches, green street projects, daylighting stormwater drainage, and the operation and maintenance of water supply and flood control facilities, such as groundwater recharge facilities, flood protection, and water supply retention/detention basins and reservoirs, and debris entrapment facilities that enable stormwater capture, prevent flooding, and lessen demand for imported water, should be excluded from the definition of a “wetland.”

In addition, the procedures currently exclude constructed treatment wetlands from the application procedures. This exclusion applies only to those constructed treatment wetlands that are located in an area that did not historically support wetlands or aquatic resources. Future stormwater treatment/capture projects may include constructed treatment wetlands along or over areas that historically supported wetlands or aquatic resources. In order to incentivize the creation of these wetlands, the exclusion should apply to all constructed treatment wetlands without exception.

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#### Additional Exemptions from Alternatives Analysis

The procedures exempt projects from an Alternatives Analysis if it would be conducted in accordance with a watershed plan that has been approved by a permitting authority and analyzed in an environmental document that includes a sufficient alternatives analysis, monitoring provisions, and guidance on compensatory mitigation opportunities. We recommend clarification of the types of existing watershed plans that would receive this exemption and would specifically request that the Enhanced Watershed Management Program plans and Watershed Management Program plans prepared under the Los Angeles County 2012 MS4 Permit receive this exemption.

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#### Compensatory Mitigation

The County and the District recommend that during routine and emergency situations, no additional compensatory mitigation or monetary compensation be required for any unavoidable impacts as part of maintenance and operations of stormwater and/or flood control facilities (i.e., flood channels, retention/detention basins, reservoirs, debris basins). In most situations, routine repair, operation, and maintenance activities have little or no net environmental impact and compensatory mitigation can impact local

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agencies' allocated budgets and resources to keep up with repair, operation, or maintenance of critical infrastructure and facilities.

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Moreover, in order to avoid conflicting mitigation requirements and delays, the Lake/Streambed Alteration Agreements from the California Department of Fish and Wildlife and compensatory mitigation requirements from these procedures should be consistent for a particular project.

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#### Existing Water Boards Orders

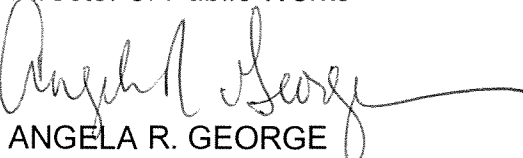
The procedures state that routine maintenance activities of stormwater facilities that are regulated under another Water Board order, such as Waste Discharge Requirements, are excluded from application procedures under this proposed regulation. The procedures are not clear on what would happen after the existing Water Board order expires. We recommend additional clarification as to whether routine maintenance activities of stormwater facilities would be regulated under the procedures if the existing Water Board order has not been renewed and extended.

11.7

If you have any questions about these comments, please call me at (626) 458-4300 or [ageorge@dpw.lacounty.gov](mailto:ageorge@dpw.lacounty.gov) or your staff may contact Mr. Russ Bryden at (626) 458-4334 or [rbryden@dpw.lacounty.gov](mailto:rbryden@dpw.lacounty.gov).

Very truly yours,

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Director of Public Works

  
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