Heal the Bay

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March 4, 2014

Chair Felicia Marcus
Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Via email: commentletters@waterboards.ca.gov

**Re: Comments on Final Draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water associated with Industrial Activities dated February 19, 2014**

Dear Chair Marcus,

On behalf of Heal the Bay, we submit the following comments to the State Water Resources Control Board ("State Board") on the Final Draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water associated with Industrial Activities ("Draft Permit" or "Permit"). Heal the Bay is an environmental organization with over 15,000 members dedicated to making Southern California coastal waters and watersheds safe, healthy, and clean for people and aquatic life.

We appreciate several of the changes made to the Draft Permit following our submitted comments on September 19, 2013; however, we still believe the Permit needs further revisions to ensure that industrial storm water sources are appropriately controlled and future water body impairments are avoided. We ask the State Board to address the outstanding issues in our previous comment letters and the below issues before Permit adoption:

- Total maximum daily loads ("TMDLs") numeric waste load allocations ("WLAs") that apply to dischargers covered by the Draft Permit must be directly incorporated into the permit as water quality-based effluent limitations ("WQBELs"). It is EPA's longstanding position that NPDES permits must contain effluent limits and conditions that are consistent with the requirements of WLAs in established TMDLs. The State Board is obligated to immediately incorporate existing, applicable WLAs as WQBELs into any adopted permit. Rather than deferring incorporation of WLAs to an unknown later day and allowing for a BMP-based approach for compliance when numeric WLAs are in-effect, the Board must revise the Final Draft Permit to incorporate all existing, applicable numeric WLAs as WQBELs prior to adoption.

- The Draft Permit has been revised to allow temporary suspended industrial activities to also suspend monitoring requirements. We have concerns that this suspension of monitoring requirements will not allow for discharges to be properly identified during storm events. The Permit states that once necessary BMPs have been implemented to stabilize a facility, the discharger is no longer required to (1) perform monthly visual observations and/or (2) monitor storm water flows when sampling and analysis is deemed infeasible. Monitoring requirements

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should not be suspended when facilities go temporarily offline. This provision would allow Industrial facilities to suspend monitoring requirements during qualified storm events, which is needed to ensure appropriate measures have indeed been taken, if not, to have comprehensive information to pursue enforcement. Furthermore, this provision can result in the collection of less storm water samples, contradicting the State Boards staff stated goal of generating ample amounts of high quality monitoring data. Industrial facilities should not be giving an opportunity to pick and choose which storm events to monitor and for this reason, the exemption in Section X.H.3. of the Final Draft Permit should be removed.

- The Draft Permit fails to meaningfully evaluate existing, readily available data to establish and include numeric limits for toxic chemicals associated with storm water runoff from the thousands of industrial facilities across California (despite demonstration that such limits are feasible and currently being attained by the majority of industrial sites). During the timeframe between the adoption of the Final Draft Permit and the implementation date of July 2015, we believe that the Board should develop a framework for assessing industrial data to ensure the Board will achieve the ability to determine the feasibility of numeric limits. The Board should make data collection to inform future numeric limits a priority, and put in place a framework for assessing the adequacy of data collection and monitoring parallel to permit implementation. This should include consideration of using the Permit's reopener clause to make revisions to the monitoring and reporting requirements as deemed necessary.

- The Draft Permit (section X.6) offers industrial facilities an exception to design storm standards for treatment control BMPs if an alternative will achieve compliance with the effluent limitations outlined in the Permit. All treatment control BMPs should be designed, at a minimum, to achieve all three volume based standards outlined in section X.6.a. No exceptions should be allowed in the permit, no matter when or scale of BMP implementation. Removing the exception ensures BMP treatment consistency for all industrial storm water projects throughout the State.

We ask the State Board to address the issues discussed above. Thank you for your consideration of these comments. If you have any questions please feel free to contact use at (310) 451-1500.

Sincerely,

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