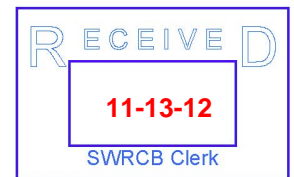




## A COOPERATIVE STRATEGY FOR RESOURCE MANAGEMENT & PROTECTION

November 13, 2012

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State Water Resources Control Board  
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**Subject: Comment Letter – Receiving Water Limitations Language Workshop**

The Stakeholders Implementing TMDLs in the Calleguas Creek Watershed (Stakeholders) would like the following comments on the Issue Paper to be considered at the Workshop for Receiving Water Limits Language. The Receiving Water Limitations Language in municipal stormwater agencies (MS4) permits is a critical issue for the Stakeholders in the Calleguas Creek Watershed.

Stakeholders in the Calleguas Creek Watershed initiated a cooperative effort to improve water quality and water supply sustainability in 1996 and have remained active, and increased efforts, in the years since. The Stakeholders developed stakeholder-driven TMDLs, developed watershed management plans, and coordinated implementation actions to meet TMDL and other regulatory requirements. Stakeholders are currently implementing the developed TMDLs, taking on programs, projects and associated monitoring and reporting to implement the TMDLs, significantly improving water quality. The water quality improvements include significant reductions in nitrogen loadings, reductions in observations of receiving water toxicity throughout the watershed, and compliance with metals TMDL targets. A regional salinity management pipeline is being constructed to assist all stakeholders comply with the salts TMDL.

The Stakeholders' foundation of the success is cooperation: the ability to productively work together to solve challenging issues. This cooperation relies upon permit and TMDL language that facilitates watershed level action to resolve a pollutant issue. The Stakeholders are concerned that in light of recent court decisions, the existing receiving water limitations (RWL) in MS4 permits may cause conflicts for the successful watershed process in the Calleguas Creek

watershed. These comments are intended to encourage the State Water Board to develop language that will continue to support the Stakeholder's proven success in improve water quality in a collaborative fashion.

The Stakeholders' primary concerns with the RWL are the liability MS4 permittees would be exposed to, the detrimental impact from the liability exposure to the cooperative efforts in the watershed, and the potential for shifting the watershed Stakeholders focus from TMDL implementation to pollutants of lesser concern to avoid permit liability. Because exceedances in receiving waters will put MS4 dischargers in potential violation of their permit, MS4 dischargers may be forced to "point fingers" at pollutant sources to avoid permit violations rather than work cooperatively with fellow stakeholders to find solutions to improve water quality. Additionally, TMDLs need to remain the top priority for watershed implementation: shifting attention from these beneficial use impacts to urgently address a receiving water limit exceedance is not the best use of scarce public resources. The Stakeholders main concern is for our cooperative, jointly funded implementation success – if the RWL causes some MS4s to address non-TMDL pollutants to assure permit compliance while the remainder of the watershed group focuses on the TMDL pollutants, parity will be threatened, and any cooperative effort cannot survive such a threat.

The SWRCB has the opportunity with the Workshop and resulting orders or guidance to facilitate the Calleguas Creek Watershed cooperative efforts to improve MS4 discharges and water quality in the region.

#### *Iterative Process*

The Stakeholders have found, through experience implementing Calleguas Creek Watershed programs, that an iterative process is essential to effectively addressing water quality issues, particularly for MS4 and agricultural dischargers. As we search for solutions, we identify issues and potential solutions, implement programs, monitor the results, evaluate program effectiveness, and maintain or modify the implementation action(s) to comply with our regulatory requirements. We continue to gain new information that improves our understanding of the watershed and allows improved implementation. At the same time, particularly in the urban areas, changes take place due to new products and changed practices, requiring the MS4 dischargers to adjust implementation actions in response.

The iterative process provides a means for municipalities to logically and progressively address exceedance findings while maintaining permit compliance. The iterative process encourages continuous improvement in meeting water quality standards in a manner consistent with Board policy, TMDL requirements and the local nature of the problem. The TMDLs in the Calleguas Creek Watershed recognize the need to progressively work towards solutions over time by establishing compliance schedules because creating solutions to water quality challenges require significant public investments and complex infrastructure additions and improvements that must be established and funded over time. The iterative approach allows MS4s the opportunity to comply with permit provisions and develop meaningful programs and projects to improve water

quality. In essence, the iterative process is a “best fit” permitting approach for a complex non-point source problem.

*Requested Principles of the RWL Provision*

The Calleguas Creek Watershed Stakeholders support receiving water limitations language that continues to support the iterative implementation process, which has proved so successful in our cooperative efforts. . The Stakeholders are requesting State Water Board consider a receiving water limitation provision that supports the key principles outlined by California Stormwater Quality Association (CASQA) in their comment letter and summarized below.

**The provision must identify an iterative process that:**

- provides enough specificity and accountability so municipalities understand their responsibility,
- acknowledges that all pollutants cannot be addressed equally,
  - Pollutants in stormwater discharges that are subject to TMDLs must be prioritized over pollutants that have sporadic and minimal impacts on receiving water. Similarly, the frequency and severity of the impact must be addressed in a prioritized manner.
  - Municipalities are under constant pressure to prioritize their resources, and to obtain the most “bang for the buck.” This pressure is evident in practically all aspects of public service, from police to fire to the environment. Thus, a city cannot afford, financially or politically, to address all stormwater issues simultaneously.
- guides Regional Water Board staff (and others) to assess whether the MS4s are in good faith implementing the iterative process, and
  - Given the wide diversity and complexity of pollutants, sources and BMPs, the process must provide a mechanism for the MS4 and the State to agree on a practical implementation plan to satisfy the permit provision.
- establishes enough rigor to assure that progress will be made in addressing problematic discharges and protecting water quality.

Likewise the MS4s must have assurances that good faith iterative process implementation processes are supported without threats of enforcement action and third party litigation.

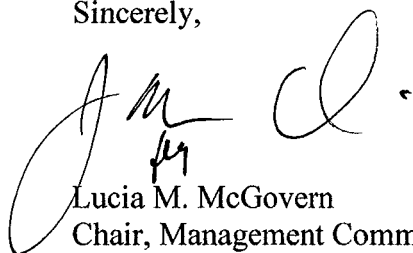
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In closing, the Stakeholders thank the State Water Board for considering this critical issue. We hope the State Water Board recognizes the opportunity to craft language that will provide the necessary rigor to ensure progress towards improving water quality while continuing to support cooperative watershed efforts and the prioritization of actions to address beneficial use impairments. If you have any questions you may contact me at by telephone at (805) 388-5334, or by e-mail at [lmcgovern@ci.camarillo.ca.us](mailto:lmcgovern@ci.camarillo.ca.us).

Sincerely,

A handwritten signature in black ink, appearing to read 'Lucia M. McGovern', with a large, stylized initial 'L' and 'M'.

Lucia M. McGovern

Chair, Management Committee

Parties Implementing TMDLs on the Calleguas Creek Watershed