

August 18, 2016

Members of the Los Angeles Regional Water Quality Control Board
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

**Subject: Los Angeles County MS4 Permit – Response to Petition for Review of NSMBCW
EWMP Approval**

Dear Members of the Los Angeles Regional Water Quality Control Board:

Thank you for the opportunity to provide written comments on the *Petition for Review of the Los Angeles Regional Water Quality Control Board Executive Officer's Action to Approve the North Santa Monica Bay EWMP Pursuant to the L.A. County MS4 Permit* (Petition) filed on May 19, 2016 by Los Angeles Waterkeeper, Lawyers for Clean Water, and Natural Resources Defense Council. Geosyntec Consultants (Geosyntec) served as the technical consultant supporting the North Santa Monica Bay Coastal Watershed (NSMBCW) agencies in preparing the NSMBCW, or North Santa Monica Bay (excluding Malibu Creek Watershed), Enhanced Watershed Management Program (EWMP). The following provides information regarding the preparation of the North Santa Monica Bay EWMP for your consideration.

1. The Petition alleges that the Executive Officer improperly approved the NSMBCW EWMP despite a failure to comply with the relevant terms of the Los Angeles County MS4 Permit (MS4 Permit). In particular, the Petition argues that the EWMP failed to consider relevant, available ASBS stormwater and non-stormwater data. The MS4 Permit specifies that the “[Reasonable Assurance Analysis (RAA)] shall commence with assembly of all available, relevant sub-watershed data collected within the last 10 years, including land use and pollutant loading data, establishment of quality assurance/quality control (QA/QC) criteria, QA/QC checks of the data, and identification of the data set meeting the criteria for use in the analysis” (MS4 Permit, Section VI.C.5.b.iv(5)).

Comments:

Since the Regional Water Quality Control Board (Regional Board) authored both the MS4 Permit and RAA Guidance documents, a primary objective during EWMP development was to confirm, directly with Regional Board staff, that our technical approach met the letter and intent of both the MS4 Permit and RAA Guidance. Multiple meetings were held (both with Regional Board staff and in public presentations) in order to confirm EWMP and RAA conformance. Through the submittal of the required Work Plan, which included data sources, analysis regimes, model approaches, and input and output formats, our expectation is that the North Santa Monica Bay EWMP approach is consistent with Regional Board expectations. More specifically, data sets (including updated land

use and BMP performance datasets) and analysis approaches were explicitly presented in the Work Plan in order to confirm that all known and appropriate datasets were being utilized.

Data collection and EWMP development (initiated in October 2013) were also required to meet the MS4 Permit-defined submittal schedules. The first step in the development of the EWMP Work Plan (submitted in 2014) was to identify water body-pollutant combinations to be modeled in the RAA. Relevant information from Bight '08 was included in this assessment, as information from Bight '13 (referenced in the Petition) was not yet available.

It is our understanding, however, that as new data are collected through the Coordinated Integrated Monitoring Program (CIMP) or other studies, these data may be integrated and utilized in subsequent refinements and adaptations of the North Santa Monica Bay EWMP, per the Adaptive Management stipulations of the MS4 Permit.

The North Santa Monica Bay EWMP and RAA can be refined and adapted via:

- Utilization of the Structural BMP Prioritization and Analysis Tool (SBPAT), which allows new monitoring data to be transparently and easily incorporated to update and improve the model outcomes;
 - Updating the RAA conceptual model methodology developed for bacteria load estimates (which incorporated monitoring data collected over 10 years as part of the Santa Monica Bay Beaches Bacteria TMDL Coordinated Shoreline Monitoring Program) with new data;
 - Updating the RAA with other data, such as outfall data collected as part of the CIMP implementation.
2. The Petition alleges that the Executive Officer improperly approved the North Santa Monica Bay EWMP despite its failure to comply with the conditions of State Board Resolution No. 2012-0012 (“ASBS Exception”) (Ex F). In particular, it alleges that the North Santa Monica Bay EWMP fails to apply ASBS Exception standards to stormwater discharges to ASBS 24, and fails to apply the ASBS Exception’s prohibition against non-stormwater discharges.

Comments:

The ASBS 24 Compliance Plan for the County of Los Angeles and City of Malibu (September 2015), which was drafted to comply with State Board Resolution No. 2012-0012, was included in the North Santa Monica Bay EWMP and is considered an integral part of the watershed management program for the NSMBCW. Based on consultation with Regional Board staff, it was understood that inclusion of the 2015 Plan would satisfy the requirement to incorporate ASBS-specific activities into the North Santa Monica Bay EWMP. The North Santa Monica Bay EWMP

does not supersede or replace the Compliance Plan, but includes it as part of the overall approach to watershed management.

With respect to non-stormwater requirements, the Compliance Plan includes the non-stormwater discharge requirements of Resolution No. 2012-0012, which are thereby incorporated into the North Santa Monica Bay EWMP.

With respect to the ASBS related stormwater requirements, the RAA addresses those water body-pollutant combinations identified through the prioritization process as required in the MS4 Permit and as presented in section 4 of the Work Plan. For the water body-pollutant combinations modeled in the RAA, the Ocean Plan instantaneous maximum criteria were used, consistent with requirements of the ASBS Exception.

Finally, this approach satisfies the requirement to incorporate the most current data available at the time. It may be worth noting that the Petitioners may have commented on the attachments in the *draft* EWMP, which included the 2014 Compliance Plan, and not the Final EWMP, which included the 2015 Compliance Plan.

We hope this information provides clarifications to the issues raised by the Petitioners. Please call Mr. Chris Wessel at (310) 957-6117 with any questions you may have.

Sincerely,



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Senior Principal and Manager of Geosyntec Consultants Los Angeles Operations

cc: Deborah Brandes, Los Angeles Regional Water Quality Control Board
Rob DuBoux, City of Malibu
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