

**SAMPLE Resolution No. XXXXX of the
City of _____
Urging the State Water Resources Control Board to
Suspend the Current MS4 Permit for Los Angeles County
Pending Revision of State-wide Receiving Water Limitation Language
and the Disposition of the Administrative Petition
Filed by Thirty-Six Municipal Permittees**

Whereas, on October 5, 2012, the California Regional Water Quality Control Board, Los Angeles Region (hereinafter "Regional Board") adopted Order No. R4-2012-0175, NPDES Permit No. CAS 004001, the Municipal Separate Storm Sewer Permit for Los Angeles County ("MS4 Permit");

Whereas, on or before December 5, 2012, thirty-six (36) Los Angeles County municipalities, including several south bay cities, filed administrative petitions with the State Water Resources Control Board ("State Board") challenging the MS4 permit;

Whereas, almost 30 of the petitioning cities challenged the MS4 on the grounds that:

1. it requires absolute compliance with numeric total maximum daily loads (TMDLs), contrary to State Board precedential orders and USEPA guidance (memoranda and guidelines)
2. it requires compliance with wet weather TMDL waste load allocations based on in-stream monitoring -- which is impossible to meet -- instead of determining compliance at the outfall, by measuring stormwater discharges therefrom against "ambient" (dry weather) standards, as required under federal stormwater regulations;
3. it requires compliance with TMDLs that are either not on the State's 303(d) list which identifies TMDLs for specific water bodies, or are non-point sources that have been incorrectly applied to MS4s because they are only required to comply with point-source TMDLs;
4. it denies the iterative process (also referred to as an adaptive management process) specified in USEPA's *Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits*, 61 Fed. Reg. 41697; and in State Board Water Quality Order 99-05 and affirmed in several succeeding water quality orders as a mandatory MS4 permit requirement;
5. requires implementation of an enhanced watershed management plan as an optional means of assuring compliance with TMDLs that failed to comply with Chapter 27, the California Watershed Improvement Act of 2009;
6. requires non-stormwater discharges to comply with TMDLs and other water quality standards contrary to federal law which only requires the prohibition of non-stormwater discharges to the MS4 or, if not feasible, coverage under a stormwater permit other than a permittee's MS4 permit;

Whereas, USEPA, Region 9, expressed concern in a letter to the State Board regarding the absence of an iterative process in the MS4 permit and that the permit improperly enables permittees to attain compliance with receiving water limitations by simply submitting a notice of intent to develop a watershed management plan or enhanced watershed management plan without having plan approval for several years.

Whereas, the cost of preparing an enhanced or non-enhanced watershed management plan (due by June of 2014), ranges from tens of thousands of dollars to hundreds of thousands of dollars without any assurance that the plans will be approved and without any criteria for determining the appropriateness of the plans;

Whereas, in light of the compelling arguments raised in the administrative petitions to the State Board calling for voiding the permit and returning it to the Regional Board for correction and USEPA's concerns regarding the MS4 permit's failure to abide by receiving water limitations, it seems likely that the State Board will be inclined to void the permit;

Whereas, given this very possible outcome, the City Council of the City of _____ does hereby resolve the following:

1. that a letter be sent to the State Board asking it to (1) void the Los Angeles MS4 permit as soon as possible, or (2) stay or take other action that would place the permit on hold pending the State Board's issuance of revised receiving water limitation language for inclusion in all MS4 permits issued in California and resolution of the administrative petitions; and
2. that this resolution be sent to the State Board, Los Angeles Regional Board and impacted state electeds.