



July 10, 2026

San Diego Regional Water Quality Control Board
Attn: Nicholas White or Ahlyssa Santillana
2375 Northside Drive, Suite 100
San Diego, CA 92108-2700

Via Email to SanDiego@waterboards.ca.gov

Re: Comment – WQIP Prohibitions and Limitations Compliance Option

To Chair Strawn and the Members of the San Diego Regional Water Quality Control Board:

On behalf of Coastal Environmental Right Foundation (CERF) and San Diego Coastkeeper (Coastkeeper), please accept these comments regarding the requests for “deemed compliance” status pursuant to Provision B.3.c. the Regional MS4 Permit¹ for the Spring Valley Special Drainage Area 1 (Spring Valley Watershed), and the San Luis Rey River Watershed Management Area.

CERF is a nonprofit environmental organization founded by surfers in 2008 for the protection and enhancement of California’s coastal resources. The purposes of CERF are to aid the enforcement of environmental laws, raise public awareness about coastal environmental issues, encourage environmental activism, and generally act to defend natural resources in coastal areas. Coastkeeper is likewise a nonprofit environmental organization dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of San Diego County watersheds. To further these goals, Coastkeeper and CERF actively seek federal and state agency implementation of the Clean Water Act, and, where necessary, directly initiate enforcement actions on behalf of themselves and their members.

As an initial matter, CERF and Coastkeeper have been deeply involved in the development of the hydrology, hydrography, and best management practices (BMP) modeling tools relied upon in these WQIPs updates, which lay foundation for this entire B.3.c effort. In September 2020, CERF and Coastkeeper sent a Notice of Intent to sue the County of San Diego (County) for violations of the Regional MS4 Permit. Fortunately, this resulted in a collaborative Memorandum of Agreement (MOA) between the County, CERF, and Coastkeeper in late 2021. The MOA called for the parties to jointly identify and agree upon various studies, monitoring,

¹ R9-2013-0001, NPDES No. CAS0109266, *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Order).

modeling, and research necessary to identify specific structural and programmatic BMP enhancements required to comply with the Regional MS4 Permit. The parties collaborated for over two years, resulting in the development of multiple modeling tools, which were used to identify an optimal suite of BMPs needed to address priority pollutants in the Spring Valley watershed, and ultimately a robust final report on the same: *Multi-benefit Stormwater management Planning Study for the Casa de Oro and Spring Valley Communities*.²

This report, and the models on which it is based, are novel tools which can be applied to watersheds throughout the County's jurisdiction. Prior to this effort, no Permittee within San Diego County had availed itself of the B.3.c "deemed compliance" provisions, in large part due to their robust requirements. Specifically, to meet B.3.c, a Permittee is required to include these *additional* components in its WQIP, among other:

1. A comprehensive set of numeric goals and schedules that will demonstrate the requirements of Provisions A.1.a, A.1.c, A.1.d, A.2, and A.3.b *will be* achieved within a specified period of time;
2. An analysis which demonstrates that implementation of the water quality improvement strategies required under Provision B.3.b *will achieve* the numeric goals within the established schedules required under Provisions B.3.a and B.3.c.(1), commonly referred to a "Reasonable Assurance Demonstration" (RAD); and
3. Specific monitoring and assessments that will be performed to confirm that implementation of the water quality improvement strategies are making progress toward achieving the numeric goals within the established schedules, and whether the interim and final numeric goals *have been achieved*.³

CERF and Coastkeeper generally agree with Regional Board's findings that the WQIP amendments for the San Luis Rey WMA and the Spring Valley Watershed, meet the basic requirements of Section B.3.c of the MS4 Permit.⁴ In particular, because CERF and Coastkeeper were deeply involved in the creation and vetting of the various models utilized in these B.3.c efforts, we are confident that these models have met Permittees' RAD burden at this juncture. The selected models effective tools for forecasting BMP effectiveness and identifying, prioritizing, and selecting projects for placement and implementation. As such, CERF and Coastkeeper agree that the models may be used to assist with the analysis required in Section II.B.3.c.(1)(b) to quantitatively demonstrate that the plan *will* achieve water quality standards.

However, CERF and Coastkeeper strongly disagree with the extremely lengthy time frames set forth in these B.3.c addendums, which would allow Permittees' pollutant

² County of San Diego (April 2024).

³ MS4 Fact Sheet at F-60 – F-61.

⁴ See Letter from Dave Gibson re the Spring Valley Special Drainage Area WQIP Addendum (May 12, 2026); Letter from Dave Gibson re the San Luis Rey River Watershed Management Area WQIP Addendum (June 2, 2026).

contributions to exceed currently applicable MS4 Permit limits for up to twenty years. The schedules established by the B.3.c Addendum for Spring Valley are:

- Wet Weather Conditions: By June 30, 2045
- Dry Weather Conditions: By June 30, 2040
- Trash/Physical Aesthetics: By December 2, 2030

The schedules established by the B.3.c Addendum for the San Luis Rey River are even longer:

- Wet Weather Conditions: By April 4, 2046
- Dry Weather Conditions: By September 30, 2043
- Trash/Physical Aesthetics: By December 2, 2030

The dry weather and wet weather deadlines range from fourteen to nearly twenty years out from the B.3.c authorization. CERF and Coastkeeper are deeply concerned that such extended deadlines fail to incentivize, and ensure, that Permittees fund and implement the water quality improvement strategies necessary to actually achieve the water quality goals identified in the B.3.c addendums within a meaningful time. **This, in turn, allows water quality, ecosystems, and public health to suffer for nearly two decades on!**

Moreover, CERF and Coastkeeper are concerned these deadlines allow Permittees to kick the can down the road, without meaningful investment and implementation in the immediate term, which will ultimately cause Permittees to fail to come into full compliance with the MS4 Permit by the deadlines set forth above. Indeed, this is precisely what occurred with the Twenty Beaches and Creeks bacteria TMDL as they apply to inland surface waters.

For a quick historical reference, the original wet weather TMDL compliance date was April 4, 2031; twenty years after the adoption of the revised TMDL. For dry weather, the Regional Board set a ten-year compliance deadline in 2021,⁵ **which all Permittees failed to meet, or even come close to meeting, by the deadline.** CERF and Coastkeeper opine that the lengthy deadlines incorporated into the TMDL played a significant role in the Permittees' failure to achieve the objectives of the TMDL. In addition to failing to comply lengthy deadlines, Permittees have a track record of investing resources in attempting to change the regulatory goalposts, instead of coming into compliance with clearly identified water quality standards. Examples include the Chollas Creek Water Exchange Ratios, and two separate attempts requesting this Board to adopt a Time Schedule Order for the Twenty Beaches and Creeks TMDL. As such, CERF and Coastkeeper have well founded fears that setting these B.3.c schedules 14 to 20 years into the future will fail to result in the investment and implementation of BMPs necessary to meet to the goals established in these B.3.c Addendums, and ultimately come into full compliance with the MS4 Permit.

Furthermore, due to the lack of existing water quality monitoring data, particularly in the Spring Valley watershed, CERF and Coastkeeper emphasize the need for robust water

⁵ This deadline was incorporated in to the Regional MS4 Permit. *See* Attachment E, Section 6.(b)(1), p. E-32.

quality monitoring in more locations and with more frequency than the monitoring plans. More real-world data will improve the accuracy of the models, as well as provide more accurate success metrics pre- and post-BMP implementation. CERF and Coastkeeper suggest the collection of quarterly water quality samples in multiple locations to capture at least two dry weather and two wet weather samples at the designated monitoring locations per year, for at least the first two years after the adoption and Regional Board approval of the updated WQIP. Practically speaking, obtaining more data now, while water quality conditions are likely at their low point before any further improvements are made, will only support the Permittees' demonstration of progress toward meeting its ultimate obligations.

CERF and Coastkeeper also strongly disagree that the Spring Valley B.3.c Monitoring Plan' refusal to conduct any stormwater outfall monitoring, reasoning that "receiving water quality will be considered the baseline stormwater quality at MS4 outfalls during wet weather." It is well-established that the water quality of MS4 outfalls is significantly worse than that of receiving waters. The Spring Valley B.3.c WQIP Addendum fails to provide any valid or defensible reasoning for this failure. The County must conduct sampling at certain MS4 outfalls to both receive B.3.c authorization, and to remain deemed in compliance each year.

Section B.3.c of the Permit requires the metrics for success to be tied to real world water quality and flow data, as opposed to the models which rely on assumptions and extrapolations. WQIPs "must be designed and adapted *to ultimately achieve compliance* with Provisions A.1.a, A.1.c and A.2.a."⁶ Further, B.3.c requires specific monitoring and assessments to confirm that implementation of the water quality improvement strategies are making progress toward achieving the numeric goals within the established schedules, and whether the interim and final numeric goals have been achieved.⁷ To remain deemed in compliance with the MS4 Permit via the B.3.c alternative compliance pathway, Permittees must annually show that they are meeting milestones that are consistent with the updated WQIP, interim numeric goals, and other metrics needed to help them achieve their final goals.⁸

Finally, CERF and Coastkeeper also emphasize that while B.3.c provides an alternative compliance pathway for Provisions II.A.1.a., A.1.c., and A.2.a., it does not provide a compliance option for Provision II.A.1.b. As such, the while CERF and Coastkeeper believe that the County's B.3.c approach may be used to demonstrate compliance with II.A.1.a., A.1.c., and A.2.a., for both dry weather and wet weather discharges, nothing in the County's approach would shield it from liability under II.A.1.b. This applies to both illicit dry weather discharges (*e.g.*, over-irrigation) and spring-fed dry weather discharges that enter, travel through, and/or are discharged by the County's MS4. As such, the County must independently demonstrate compliance with II.A.1.b outside of the B.3.c pathway.

⁶ Regional MS4 Permit § A.4 (emphasis added).

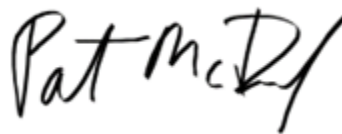
⁷ *Id.*, Fact Sheet at F-60–61.

⁸ *Id.* at F-60–62.

Sincerely,



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