June 18, 2018

Response to Supplemental Comments
Issuance of National Pollutant Discharge Elimination System (NPDES) Permit
No. GUR040000 for Discharges from the Municipal Separate Storm Sewer System (MS4)
Serving Department of the Navy Facilities on Guam

On June 27, 2017, Region 9 provided a tentative final MS4 permit to the Navy for review, along with an updated fact sheet and responses to the comments received on the original draft MS4 permit public noticed in September 2016. In late summer 2017, the Navy provided comments on its tentative final permit and Region 9's responses to the Navy's comments on its original draft permit. In several instances, the Navy acknowledged Region 9's responses, but did not recommend any further permit revisions. Two comments, however, did recommend changes to the permit. Region 9's responses to those comments follow below:

1) **Comment:** Region 9's response to the Navy's concern about potential overlap between the MS4 permit and the 2017 construction general permit (CGP) and the 2015 multi-sector general permit (MSGP) had noted that a combined MS4/industrial/construction permit could be issued for a permittee, provided the permit included the appropriate technology-related requirements of the Clean Water Act (CWA) applicable to the different categories of discharges. The Navy requested that such a permit be issued for the Navy. The Navy also provided a table showing areas where the Navy believed that overlap existed.

Response: As noted above, the CWA prescribes different technology-based discharge standards for MS4 discharges and industrial/construction stormwater discharges – control of pollutants to the maximum extent practicable (MEP) for MS4 discharges and application of best available treatment economically achievable (BAT)/best conventional pollutant control technology (BCT) for industrial/construction discharges. Although there are some similarities in the discharge requirements of the MS4 permit when compared to the MSGP and CGP, there are also some significant differences. For example, the requirements of the CGP (Parts 2.2 and 2.3) include significantly more detail than the MS4 permit. Further, some CGP requirements such as track-out minimization (Part 2.2.4), stockpile management (Part 2.2.5), dust control (Part 2.2.6), inlet protection (Part 2.2.10) and sediment basin design (Part 2.2.12) are not included in the MS4 permit. Likewise, the MSGP includes more detailed requirements than the MS4 permit (such as the sector-specific requirements in Part 8 of the MSGP) that are not included in the industrial/commercial section (Part 3.7) of MS4 permit. In addition, the CGP and MSGP are national permits and before issuance of a combined MS4/industrial/construction permit by Region 9, we believe the subject should be discussed further at the national level to ensure appropriate requirements are included in the permit. Nevertheless, Region 9 would be willing to consider such a permitting framework in the future.

In short, substantial revisions and/or additional review of the tentative final MS4 permit for the Navy would be necessary to ensure that the permit included appropriate requirements to

ensure consistency with the requirements of the CWA. Given the extent of the necessary revisions, the time required to develop appropriate permit revisions, and the resulting delay in permit issuance and implementation of permit requirements, Region 9 declines to modify the permit as requested.

2) **Comment:** The Navy noted that the CWA section 401 certification requirements from the Guam EPA had all been placed directly in the permit – in Part 4.5 that had been reserved for such requirements. The Navy requested that these requirements be incorporated by reference rather than included directly in the permit.

Response: Region 9 disagrees with the Navy on this matter. Placing the requirements directly in the permit will increase the visibility and accessibility of the requirements, thereby providing greater assurance of compliance with the requirements. As such, we decline the modify the permit as requested.