



City of Hidden Hills

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September 13, 2010

Mr. Sam Unger, Executive Director
Los Angeles Region Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, California 90013
Attention: Ms. Stephanie Hada (shada@waterboards.gov)

Re: City of Hidden Hills Comments to the Proposed Amendments to the Water Quality Control Plan – Santa Monica Bay Nearshore and Offshore Debris TMDL

Dear Mr. Unger:

The City of Hidden Hills (City) submits the following comments and request(s) for the proposed Basin Plan Amendments for the *Santa Monica Bay Nearshore and Offshore Debris Total Maximum Daily Load* ("SMB Marine Debris TMDL" or "TMDL") as is currently being considered by the California Regional Water Quality Control Board, Los Angeles Region (Regional Board). The Basin Plan Amendment (BPA) identifies the City as a "Point Source" and a responsible party for trash and plastic pellets WLAs.

The City hereby requests that it be removed as a Responsible Agency under this TMDL because:

- The City is already covered under the Los Angeles River and Malibu Creek Trash TMDLs;
- The City has no industrial or commercial plastic processing, handling, or transportation facilities; and
- The City has access restricted only to residents, owners, and approved visitors.

I. Coverage Under the Los Angeles and Malibu Creek Trash TMDLs

The City is located in the northwest corner of Los Angeles County and has storm drain outlets intermittently discharging to the Los Angeles River and the Malibu Creek Watersheds. As such, the City is currently subject to existing Trash TMDLs under each of these watersheds. In the Los Angeles River Watershed, the City must meet, and has met, TMDL Waste Load Allocations (WLAs) for the Los Angeles River Trash TMDL as adopted by the Regional Board on September 23, 2008 in Resolution No. 2007-012. Further, the City is subject to the WLAs of the Malibu Creek Trash TMDL as adopted by the Regional Board on July 7, 2009 in Resolution No. 2008-007. The City, along with other Responsible Agencies, recently submitted the *Malibu Creek Trash Point and Non-Point Source Trash TMDL, Trash Reporting and Monitoring Plan*.

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II. City Code Provisions Restricting Commercial Operations

The City requests removal from the SMB Marine Debris TMDL because 99.7 percent of all land use within its borders is limited to residential use, 1053.5 of 1056 acres. Only 2 ½ acres are zoned for restricted commercial operations – all of these are outside those found and contemplated in the SMB Marine Debris TMDL. The City hereby provides the following City code provisions (HHMC)¹ and Hidden Hills Community Association rules to demonstrate that all current and potential land use(s) will not permit plastic pellet handling, transport, or processing operations and the City is therefore justified in its request to be removed as a Responsible Agency or Party from the TMDL.

A. Existing Land Uses

The City is a gated (limited access) community comprised primarily of residential lots with the exception of one community association building, two horse riding arenas, one real estate office, and one elementary school located outside the City gates. The school is under the authority and control of the Las Virgenes School District that is subject to State issued permits. The City certifies that there are no businesses or commercial activity in the City that is within the stated Standard Industry Classification (SIC) codes associated with industrial activities involving plastic pellets – for example SICs including 282X, 305X, 308X, 39XX, 25XX, 3261, 3357, 373X, and 2893. Additionally, there are no industrial facilities with the term "plastic" in the facility or operator name located within the City's jurisdictional limits that might otherwise be subject to the WLA for plastic pellets.

B. Potential Land Uses

All future development in the City is limited to five (5) land use zones or types.² These include:

- RA-S Residential Agriculture Suburban³
- RA-S-2 Residential Agriculture Suburban-2⁴
- R-1 Residential⁵
- CR Restricted Commercial
- C-U Community Uses

All permitted residential homes, the principal land use and zoning, are restricted to non-industrial/processing activities.⁶ Where contemplated, commercial use properties are strictly limited.

¹ Available at <http://www.hiddenhillscity.org/municipalcode.html>.

² HHMC 5-2B-2 and 3 (1994).

³ HHMC 5-2C, provides that RA-S zones are limited to "single-family residence of a permanent character, placed in a permanent location, including the following accessory uses and buildings, which main and accessory buildings may not be used commercially."

⁴ RA-S-2 is similar to RA-S.

⁵ HHMC 5.2E – provides, R-1 zones as, "A single-family residence of a permanent character, placed in a permanent location, including the following accessory uses and buildings, which may not be used commercially."

⁶ HHMC 5-2C-1.

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Per HHMC §5-2F-1, the following uses may be permitted in the CR zoned properties, subject to development plan review and issuance of a City business license:

- A. Professional, executive, administrative and sales offices, not including medical or dental offices or clinics.
- B. Retail and service stores and businesses, not including food services or sale of alcoholic beverages. Such businesses shall not involve the manufacturing, processing, fabricating or treatment of any products, other than that which is clearly related, incidental and secondary to the primary business conducted on the premises.
- C. Accessory buildings and structures which are necessary to a permitted use, require no additional employee or customer parking and are located on the same lot as the related primary use.
- D. Freestanding and building-mounted signs, as described herein.
- E. Nonconforming structures and other improvements, lawfully in existence prior to April 1, 1985.

The City also requires that all commercial use of public property be permitted by the City Secretary.⁷ As of September 8, 2010 there has been no permitted or allowed commercial use of public property.

III. Hidden Hills Community Association Limits on Commercial Operations

In addition to City code limitations for commercial property use(s), the Hidden Hills Community Association (HHCA) also governs and limits all land use within the City.⁸ All land use must conform to the Declaration of Covenants, Conditions, and Restrictions of the HHCA as filed and County land records as dated December 5, 1950 and as amended thereafter.

The HHCA R/R provides that all lots, or "Building Sites," shall be used "solely for residential purposes. Use of a Building Site for commercial operations, including but not limited to manufacturing, warehousing, and renting rooms or guest houses, is not permitted."⁹ The HHCA R/R then provides that the "Board of Directors shall be the sole arbiter of whether a given activity has exceeded the limited business use or has an "excessive negative impact on the community" so as to be precluded. The Board's decision in this regard shall be final and binding."¹⁰ This section provides the Board of Directors great authority in determining whether a "Resident" has exceeded the limited business exception.¹¹

⁷ HHMC 5-11, 1-7.

⁸ HHCA Rules & Regulations, as adopted and effective November 15, 2005.

⁹ Section 1.9, HHCA R/R (emphasis added).

¹⁰ Id.

¹¹ HHCA R/R, 1.9. (a) (emphasis added).

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In addition to City restrictions and approval(s) for proposed land use(s), all property, building, and lot modifications are required to be reviewed and approved by the HHCA Architectural Committee.¹² The focus is to maintain the residential equestrian environment and use of the initial development.¹³ In fact, the City is one of the few incorporated areas where this remains true. Violations of the HHCA Rules and Regulations can subject the owner, tenant or resident to specific enforcement actions.¹⁴

IV. Restricted City Access

Additionally, the City is a private property-gated community that has no permitted through traffic. "Access to the City is limited only to residents, tenants, owners and their invited guest(s). Only these individuals are allowed within the City's gates."¹⁵ As stated in the HHCA's transportation policy and gate policy documents, "Hidden Hills is a private community, entrance by nonresidents is a privilege, not a right."¹⁶ Such access into and out of the City is constantly monitored around the clock by private security agents located at one of three HHCA access gates. Due to this strict entry and exit control into and out of the jurisdiction, there is no situation that could be envisioned or imagined that would allow a transportation vehicle to carry plastic pellets entrance into the City's jurisdictional boundaries.

V. Recommend Actions and Suggestions

The City, based on the foregoing reasons, believes that the Regional Board is warranted and justified in excluding and removing the City as a responsible party from the SMB Marine Debris TMDL. In summary the following reasons justify this exclusion:

- The City, by municipal code, limits all land use to residential lots, with only limited professional businesses authorized.
- There are no commercial or industrial operations within the City that resemble or meet the stated plastic pellet processing, handling, transport, or manufacturing TMDL descriptions.
- The HHCA also limits and controls all land use and development to residential lots via recorded property covenants, conditions, and restrictions.
- The HHCA's goal and purpose is to maintain the City as a residential community. All development must conform and seek approval from the HHCA Architectural Committee.
- The HHCA, by covenant, limits travel to only residential and ancillary type of use. All non-private traffic must obtain permission to gain access.
- To the extent that the proposed BPA lists Hidden Hills as a city responsible only for performing a Plastic Pellets Monitoring & Reporting Plan (PMRP), such a requirement is completely unnecessary given the lack of any substantial evidence that any industry exists within the City jurisdictional limits that would use, store, or transport plastic pellets.

¹² See generally the HHCA R/R Section 5 and HHCA website at <http://www.hiddenhills.org/generalrules.php>.

¹³ HHCA R/R Prologue.

¹⁴ HHCA R/R, Section 7.

¹⁵ HHCA C,C,R's and R/R, Section 2.

¹⁶ Article 1.1, *Gate Operations Manual*, HHCA Adopted November 16, 2004.

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The City therefore requests that the Regional Board and its staff approve this request to be removed from the SMB Marine Debris TMDL. To minimize the paper use in this submittal, the City code provisions and HHCA documents are not included but are available on the City and HHCA websites. The specific links to these sites and specific documents are provided in Appendix A.

If I can provide additional information, resolve questions, or provide additional clarification on this request, please contact me at (818) 888-9281, or Mr. Kevin Powers, our contract environmental consultant, at (310) 257-2000.

Sincerely,
City of Hidden Hills



Dirk Lovett
City Engineer

DL:kp

Enclosures

c: Cherie L. Paglia, City Manager
Kevin J. Powers, Charles Abbott Associates, Inc., Environmental Services Division
Roxanne Diaz, City Attorney

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Appendix A
City of Hidden Hills and Hidden Hills Community Association
Website Links to Documents

City of Hidden Hills - <http://www.hiddenhillscity.org/>

- **Municipal Code** - <http://www.hiddenhillscity.org/municipalcode.html>

Hidden Hills Community Association - <http://www.hiddenhills.org/>

- **C, C, & R's, Articles of Incorporation, By-Laws, Rules and Regulations, and Gate Operation Manual** - <http://www.hiddenhills.org/importantdocuments.php>
- **Building Rules & Regulations and Architectural Committee Information** - <http://www.hiddenhills.org/generalrules.php>