



January 11, 2013

Mr. Wayne Chiu, P.E.
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego California 92123-4340

**SUBJECT: Comment – Tentative Order No.R9-2013-0001, Regional MS4 Permit,
Place ID: 786088Wchiu**

Dear Mr. Chui:

We are in receipt of the proposed Tentative Order No. R9-2013-0001, Regional MS4 Permit (“Tentative Order”). This letter is in response to your request for comments on the Tentative Order to be submitted by January 11, 2013.

National Enterprises, Inc. (“NEI”) manages approximately 2,200 acres within the City and County portions of Otay Mesa. We and other Otay Mesa stakeholders support improved water quality and environmentally healthy watersheds and the California Regional Water Quality Control Board’s (“Board”) goal of clean water for all users in the region.

However, after listening to public testimony at recent board workshops, and being briefed by co-permittees on the proposed Tentative Order, we are writing to express our significant reservations on the Tentative Order. In brief, our concerns fall into these broad categories:

1. Existing Tentative Order No. R9-2007-0001-- Over the last several years, local governments in San Diego have worked together with your staff and a host of technical experts to develop a Hydromodification Management Plan with reasonable and scientifically based standards. Your Board recently approved that Plan in July 2010. This draft permit ignores all of the good work invested in that Plan, which was developed at a significant cost to the public. The existing Plan has only been in effect for 2 years, with 3 years remaining prior to its expiration. Given the short timeframe that the existing Plan has been in practice, we do not yet have adequate data to determine if the measures within the existing Plan are sufficient. Pursuing a new tentative order at this time has not been scientifically validated and is premature.

NATIONAL ENTERPRISES INCORPORATED

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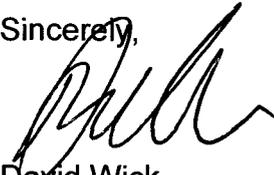
2. Legal Issues--The attempt by Board staff to mandate a proposed in lieu fee for watershed and hydrologic unit improvements to projects that have no impacts and therefore no nexus to watershed or unit improvements, appears to contradict CEQA.
3. Clarity on Pre-Development vs. Pre-Project Conditions--We are at a loss to find a definition of the term pre-development conditions in the Tentative Order. For such a significant determination and impact, the lack of clarity on this matter is concerning. In the most current public workshop on December 12, 2012, when a Board member pressed staff on this issue, the staff member was unable to clearly define what the term meant, the time element standard to be utilized to gauge pre-development conditions and when pressed about the source of a soils database found on the internet that would be used as a key determinant of compliance, staff was unable to describe the accuracy or source documents for the website's database.
4. Hydromodification--We disagree with the proposed deletion of the current exemption in the hydromodification permit approved by the Board in July of 2010 for projects that discharge stormwater into lined or engineered channels. Speaker after speaker in the public comment period of the December 12th workshop representing co-permittees and other stakeholders, gave numerous examples of the conflict they had with Board staff on this issue. Further, the potential waste of public and private dollars and man-hours spent on already approved permits under the current hydromod scheme would be excessive. And this leads to our next point.
5. Fiscal Impact--Why is there no credible economic analysis on the potential cost to the co-permittees and the public for the implementation of the Tentative Order? For a regulator, or staff, to propose such broad and sweeping changes to public policy, without any consequence to the cost does not make sense, particularly in today's economic environment.
6. Coordination with neighboring regional boards and publication of previous similar experiences--According to public testimony at the December 12th workshop, the neighboring regional water boards in North Orange County and the Inland Empire have already dealt with several of the issues contemplated in the San Diego Board's Tentative Order. Specific examples include pre-development vs. pre-project conditions. Why hasn't the experience of the neighboring boards on these critical issues been shared with the public so our decision could benefit from their experience?

SANDAG estimates that the industrial development of the East Otay Mesa sub-region can produce up to 42,000 well-paying jobs for San Diegans by 2020. When the total cost of environmental compliance from local, state and federal agencies is placed upon the backs of landowners in East Otay and other parts of our region with other habitat

and environmental mandates, the incentive for economic investment is severely impeded. Proposed projects will not develop, jobs will not be created, economies will not grow and the dream of an emerging economy will die hard. The cost of doing business in California has already pushed many businesses and developers out of the state. Further disincentives, such as this Tentative Order, would be but another catastrophic loss for California. If implemented as written, this Tentative Order, and the actions of the Board, will further degrade San Diego's economy.

Therefore, we urge the Board to delay implementation of the Proposed Order and revisit the parts of the Tentative Order detailed in our aforementioned comments. The Tentative Order is not ready for implementation and should not be considered until data from the existing 2010 Plan is fully understood.

Sincerely,



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cc: Assemblymember Ben Hueso
Mayor Bob Filner
Supervisor Greg Cox
Councilmember David Alvarez
Richard Crompton, County of San Diego
Stephanie Gaines, County of San Diego