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File No. W-410(a)

2012 MAY 15 P 2: 21
May 10, 2012

Doc Scanned On 5/16/12
R. Antonio Time: 8:25

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Catherine George Hagan
Senior Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Administrative Draft/Regional MS4 Permit (San Diego Region)

Dear Ms. Hagan:

I am writing you on behalf of the County of Orange and the Orange County Flood Control District (collectively, the "County") regarding the Administrative Draft of the new Regional MS4 Permit (posted April 9, 2012). The County is currently evaluating the Administrative Draft and is involved in discussions with Regional Board staff on the various technical aspects of the proposed permit. Although the County has not formulated a position on the concept of a regional permit, the proposed document raises several questions.

An initial issue is the authority of the Regional Board to impose a region-wide permit. The Administrative Draft does not analyze why the regional permit is now the preferred approach or what the procedural authority of the Regional Board is to adopt it. I am generally aware that federal regulations specify that MS4 permits can be adopted system-wide, jurisdiction-wide or by watershed. The Administrative Draft would regulate three large metropolitan counties that do not share an interconnected municipal storm sewer system, are not under common jurisdiction, and contain separate and distinct watersheds. Other than the regional MS4 permit that was adopted with the consensus of the co-permittees in the Bay Area, the County is unaware of any prior precedent to impose a regional MS4 permit. As a point of procedure, it is also unclear how the regional permit application process is consistent with federal law. The County is not yet required to file its Report of Waste Discharge under its current permit, so the individual permit application requirements may not be met through the regional permit process.

Regional Board staff has indicated that the Administrative Draft was released for fact finding purposes to provide for broader comment and discussion. The County also desires to use this time period as a fact finding tool to clarify certain issues so that the County and all permittees can properly evaluate the Administrative Draft and provide the Regional Board with appropriate input. As part of the current fact finding

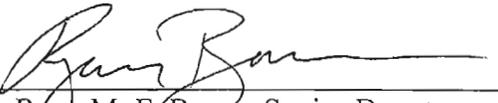
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State Water Resources Control Board
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process, I respectfully request an opinion from your office regarding the authority for the Regional Board to adopt a regional MS4 permit.

Please do not hesitate to contact me with any questions or comments. Thank you for your consideration of this request.

Very truly yours,

NICHOLAS S. CHRISOS
COUNTY COUNSEL

By 
Ryan M. F. Baron, Senior Deputy

RMFB

cc: Michael A. M. Lauffer, Chief Counsel
David Gibson, Executive Officer