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VIA ELECTRONIC MAIL dgibson@waterboards.ca.gov
AND REGULAR MAIL
David W. Gibson
Executive Officer
California Regional Water Quality Control Board
9174 Sky Park Court – Suite 100
San Diego, CA 92123

In reply refer to:
Reg. Measure ID 375971: MMATA
Place 656901

Re: Tentative Order No. R9-2010-0124, General Permit No. CAG99902
General Waste Discharge Requirements for the Public Display of Fireworks

Dear Mr. Gibson:

As you know, this law firm represents the National Fireworks Foundation (“NFA”), and we write to respectfully request that the scheduling of the workshop, the public comment period and the hearing relating to Tentative Order R9-2010-0124 and General Permit CAG99902 (“Tentative Order”) be held in abeyance until a proper and complete order has been duly issued and, further, that the Notice of Public Workshop, dated November 17, 2010 (the “Notice”), be withdrawn.

The NFA registers its objections to the unorthodox and unprecedented demands that the NFA undertake to prepare a proper and authoritative response relating to highly technical, scientific and environmental issues before the California Regional Water Quality Control Board (the “Board”) even issues a full and complete explanation of the underlying rules of the game.

By its own admission, the “Board is currently in the process of making modifications to the Tentative Order. Additional modifications include clarifying

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language, adding definitions, and modifying receiving water monitoring requirements...” are to come; these are not trivial matters. The stated need to clarify language implies that the current language is defective or inaccurate in some manner and, consequently, requires correction before the intended meaning and expression is accurate.

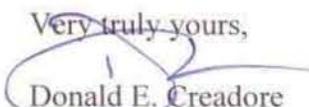
Similarly, while “adding definitions,” has many obvious benefits, at this late juncture it only throws into doubt the commonly-accepted definitions being used by the NFA and its retained experts and consultants, thereby compromising the reliability and accuracy of all work performed to date, causing it great prejudice.

Lastly, “modifying receiving water monitoring requirements” will undoubtedly have an impact upon recommended testing and monitoring protocol, and associated expenses. Surely, you can appreciate the fact that the NFA’s experts and consultants cannot perform a professional and reliable investigation, and make meaningful recommendations, without first knowing what the receiving water monitoring requirements are, for example. The Notice implies that the “receiving water monitoring requirements in the Monitoring and Reporting Program.” continues to be a work in progress; meaning that, presently, the NFA can only speak in the hypothetical with its experts and consultants regarding these matters, a highly unproductive process of questionable value. Simply stated, there is an inherent unfairness to demanding a person to respond to a set of requirements before they have even been issued and, seemingly, discourages participation.

To the extent that the Notice indicates that at some undetermined time in the future the Board will change the rules in the middle of the game, the workshop should be adjourned and the Notice withdrawn, even more so where no stated urgency is found and, here, none is stated. The NFA respects the fact that the San Diego Water Board is in the process of making modifications to the Tentative Order and awaits a final Tentative Order, and only asks that it and all other affected persons be afforded a reasonable opportunity to respond. In the interim, the Board is encouraged to remain sensitive to the fact that the NFA, and doubtless other persons, prefer to avoid incurring the time and expense of responding to one set of standards only to learn that they are subject to change by the Board.

In conclusion, we respectfully request that the scheduling of the workshop, the public comment period and the hearing relating to Tentative Order be held in abeyance until a proper and complete order has been duly issued and, further, that the Notice be withdrawn.

Thank you for your consideration of our requests.

Very truly yours,

Donald E. Creadore