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City of Mission Viejo

Office of the City Manager

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December 1, 2010

Mr. David W. Gibson
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, California 92123

Subject: Tentative Order No. R9-2010-0124, General Waste Discharge Requirements for Discharges Associated with Public Displays of Fireworks to Surface Waters in the San Diego Region

Dear Mr. Gibson,

Thank you for the opportunity to comment on Tentative Order No. R9-2010-0124 regulating public fireworks displays that discharge pollutant wastes to surface waters in the San Diego Region.

We understand the issue of discharge of pollutants to surface waters of the State from fireworks displays originated from Sea World's daily summer-time fireworks displays over Mission Bay and the concerns raised over the impacts those pollutants may have on Mission Bay. While the Tentative Order proposes to address these issues by requiring a sediment sampling plan, a chemical analysis, and a benthic macro-invertebrate analysis of surface waters under any fireworks display to gauge the impacts fireworks fall-out have on surface waters, the Tentative Order's proposed requirements are unreasonable for single annual fireworks displays like on the Fourth of July paid for by non-profit organizations and municipalities as a show of patriotic support for our Country.

Fourth of July fireworks in Mission Viejo are primarily paid for by the Mission Viejo Activities Committee, a non-profit, volunteer, civic organization, which also holds a Fourth of July Street Faire on Olympiad Road in conjunction with this holiday. It is part of the community's tradition to hold a Fourth of July fireworks display hosted by the Mission Viejo Activities Committee. Therefore, the City agrees with the City of Santee's October 13, 2010, comments that the potential costs for complying with this Tentative Order for a single annual display of fireworks is overly costly and disproportionate to the cost of the display. Our own analysis suggests that the cost of compliance would easily reach \$10,000 plus the proposed Regional Board's Notice of Intent to Discharge (permit) fee of \$1,452.

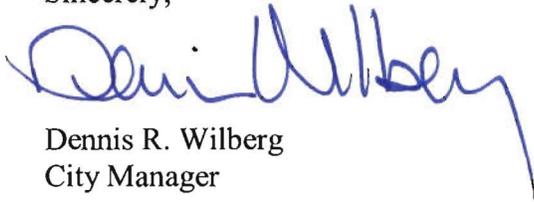


The City of Laguna Beach in its October 12, 2010 comment letter correctly implies that cities choose fireworks display locations primarily as a function of public safety. Fourth of July fireworks in Mission Viejo are fired off from the Marty Russo Youth Athletic Park adjacent to Olympiad Road under the auspices of the Orange County Fire Authority. This location provides one of the safest locations for the viewing of fireworks by Mission Viejo residents. The fireworks fall-out zone includes an open channel within the Youth Athletic Park. While the channel is a man-made channel, the Permit covers all "waters of the State," which is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state" per Water Code Section 13050(e). Therefore, because Mission Viejo's fireworks fall-out zone is over waters of the State, this channel would need to be monitored and a Notice of Intent to Discharge application would need to be made to the Regional Board. There is no evidence that aerial deposition of fireworks causes pollution in this narrow stretch of channel. If the Tentative Order is issued as-is, the Tentative Order assumes any single fireworks display will impact any water bodies of the State, like this channel, and will place the burden on municipalities and non-profit organizations to prove otherwise. This is not sound public policy.

Therefore, the City of Mission Viejo requests that the Regional Board exempt once-per-year fireworks displays from this Tentative Order, and revise the Tentative Order to exclude inland surface waters. Anything less would unnecessarily add burdensome costs to Fourth of July fireworks displays onto community organizations and municipalities, and may potentially cancel patriotic displays of celebration of our Country.

Questions on this letter may be addressed to Richard Schlesinger, City Engineer, at 949/470-3079 or rschlesinger@cityofmissionviejo.org.

Sincerely,



Dennis R. Wilberg
City Manager

cc: Mayor, Mayor Pro Tem, and City Council Members
Mission Viejo Activities Committee
Mark Chagnon, Director of Public Works
Rich Schlesinger, City Engineer