



THE CITY OF SAN DIEGO

December 4, 2012

VIA EMAIL to: rb9agenda@waterboards.ca.gov

Mr. Gary Strawn
Acting Chair
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Subject: Tentative Order No. R9-2013-0001, December 12, 2012 Regional Board Meeting
Agenda Item No. 11

Dear Mr. Strawn:

Thank you for the opportunity to participate in the Regional Water Quality Control Board's (Regional Board) December 12, 2012 workshop regarding the Tentative Order No. R9-2013-0001 hereinafter referred to as the "Tentative Order." This letter is being submitted to communicate the City of San Diego's (City) concerns regarding the Tentative Order for discussion at the Regional Board's December 12th meeting. A summary of the key issues is provided below. In addition, the City participated with the Copermittees in the San Diego region to develop written responses to the questions raised by the Regional Board at the November 13, 2012 workshop. The City requests that the Regional Board direct staff to work with the Copermittees to address these remaining issues before considering approval of the Tentative Order.

- *Revise the Tentative Order to allow a Copermittee to achieve compliance with Receiving Water Limitations, Areas of Special Biological Significance (ASBS) and Total Maximum Daily Load (TMDL) requirements, if the Copermittee is implementing an approved Water Quality Improvement Plan.* The City is committed to protecting and improving water quality in the San Diego Region. To that end, it is the City's objective for the Tentative Order to allow for the City to efficiently integrate its TMDL, ASBS and Municipal Permit requirements into an adaptive management program that allows the City to achieve compliance through implementation and iterative improvement of programs designed to achieve water quality goals. The mechanics and structure of the Water Quality Improvement Plan developed by Regional Board staff provide an innovative, thoughtful, and strategic framework for such an approach. However, the Tentative Order still does not provide a pathway for the City to achieve compliance with ASBS and TMDL regulations and the



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Tentative Order's receiving water limitations while implementing the Water Quality Improvement Plans. Without these linkages, there remains little incentive for the City to undertake the significant increases in investments that would be required to implement the Water Quality Improvement Plans.

- *Revise the Bacteria TMDL requirements to allow for load- and BMP-based compliance, per the adopted Bacteria I TMDL.* The Bacteria I TMDL Basin Plan Amendment included options for concentration and load-based methods of calculating Waste Load Allocations. In addition, the Basin Plan Amendment allowed for the possibility of BMP-based compliance with the Bacteria I TMDL provided certain criteria and assurances were acceptable to Regional Board staff. These options should be included in the Tentative Order.
- *Revise the Tentative Order to uphold the previously adopted San Diego Hydromodification Management Plan (San Diego HMP), Resolution No. R9-2010-0066.* This plan has been in effect for less than two years. The San Diego HMP was developed by an expert consultant team that utilized extensive scientific studies, analysis and modeling to determine the appropriate hydromodification control criteria. Additionally, the San Diego Copermittees have embarked upon a \$1.5 million, 5 year monitoring plan to validate the parameters and design criteria. There have been no scientific advances in the last 2 years to justify revisions to the San Diego HMP, therefore we request allowing the Copermittees to continue implementation of the current San Diego HMP.
- *Replace the monitoring and assessment requirements in the Draft Permit (Provision D.4) with the strategic monitoring approach developed collectively by the Copermittees.* The Copermittees' approach will more efficiently and effectively address critical questions necessary to adaptively manage the City's programs and realize our storm water quality goals.

We appreciate this opportunity to share our comments and look forward to continued discussions in finding ways to improve and protect water quality. If you have any questions please contact Drew Kleis, Program Manager at (858) 541-4329.

Sincerely,



Kris McFadden
Deputy Director

KM:dk

cc: David Gibson, Executive Officer, San Diego Regional Water Quality Control Board
Heather Stroud, City Attorney's Office
Bill Harris, Transportation & Storm Water Department
Sumer Hasenin, Transportation & Storm Water Department
Ruth Kolb, Transportation & Storm Water Department
Andre Sonksen, Transportation & Storm Water Department