



County of San Diego

DEPARTMENT OF PUBLIC WORKS

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June 7, 2012

David Gibson
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-47340

Dear Mr. Gibson:

COPERMITTEE INPUT ON ADMINISTRATIVE DRAFT PERMIT WORKSHOPS

The Regional Water Quality Control Board staff has proposed that a series of stakeholder focused meetings be held to explore and consider the content of *Administrative Draft National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Tentative Order No. R9-2012-0011, NPDES No. CAS0109266)*. To this end, the Copermittees of San Diego County, South Orange County, and the Santa Margarita Region of Riverside County offer the following input on their expectations and preferences for the organization and conduct of the meetings.

I. Parties at the Table ("Table Parties") for Focused Meetings

Regional Board staff initially proposed that a total of eleven participants be included in the focused meetings. Since that time, Regional Board staff, after consulting with a professional facilitator, has indicated a willingness to allow up to 15-20 participants (excluding Regional Board and USEPA staff) to participate in each meeting. It is the Copermittees' position that increases in participation should be limited to Copermittees of the three regions only, i.e., NGO and industry / public representation should remain as originally proposed. Specifically, we propose that representation for each meeting be distributed as follows:

- San Diego County Copermittees: 5 people.
- Riverside County Copermittees: 4 people.
- Orange County Copermittees: 5 people.
- Industry / Public Representatives: 2 entities.
- Non-governmental Organizations (NGOs): 2 entities.
- U.S. EPA: 1 person.

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Given that the Copermittees are the only parties to be directly regulated under this proposed Order, they should have the greatest possible opportunities for productive input. While we agree that NGO and industry representation are also critical, we believe that the formal permit adoption process will allow sufficient opportunity for expanded input from these other parties. It is therefore appropriate to restrict their upfront involvement until many of the specifics of the draft Order are solidified.

Moreover, given the limited availability of total meeting seats, we believe that industry and/or public representation should vary as appropriate to the specific content of each meeting. We are interested in providing additional input on this representation once the meeting content is established, but will defer to Regional Board staff in deciding how best to fill each seat for the non-regulated parties.

II. Makeup of Table Parties

All participants should be free to designate any individual or individuals to serve in their table party for any focused meeting. Where the subject matter of a particular meeting warrants, Copermittees should be able to change representatives during the meeting.

III. Copermittee Attendance (Audience)

Contingent on seating availability, each Copermittee should have the right to send as many attendees as they deem appropriate to each meeting.

Sufficient breaks should be allowed during the sessions to allow Copermittees in the Audience to caucus with the table parties.

As time permits, each focused meeting should end with a time for Copermittees or other attendees who are not at the table to provide brief comments or to ask brief questions.

The focused meetings are not intended to be public workshops, and audience membership beyond the Copermittees should be appropriately limited. Regional Board staff, in consultation with the meeting facilitator, should determine how best to ensure appropriate attendance at each meeting.

IV. Meeting Schedule

Due to existing obligations, USEPA regulatory audits, and deliverables related to recently issued MS4 permits, the Orange and Riverside County Copermittees are constrained in their availability to participate in the proposed focused meetings with Regional Board staff and other stakeholders starting in June 2012. Although the San Diego County Copermittees are not subject to the same constraints in June and July, they support structuring the focused meeting process in a way that allows for full participation by the Orange and Riverside County Copermittees. This is key to ensuring a robust dialogue that involves all of the stakeholders and dischargers who will be significantly affected by the new requirements.

In particular, the San Diego County Copermittees concur that in order to accommodate the Riverside County Copermittees' ability both to fulfill their existing obligations, and to prepare for the meetings, no meeting should occur before the week of July 23, 2012. Moreover, as is stated in the Riverside County

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Flood Control and Conservation District's June 1, 2012 letter, meetings should not occur between September and mid-November 2012. This will allow representatives of all three permit regions to fulfill their annual reporting obligations.

V. Time between Meetings

The focused meetings should be scheduled such that there are 3 to 4 weeks between meetings. This will allow sufficient time for participants to adequately prepare for the next meeting topic.

VI. Record Keeping/Report Out

Notes or minutes should be taken at the meetings, and draft notes or minutes circulated within one week to the table parties for edits/concurrence. When concurrence on the notes/minutes is reached, they should be promptly distributed to the Copermittees and other participants to ensure continuity between and adequate preparation for each of the meetings. The Copermittees are able provide these services if desired.

VII. Meetings to be Focused on Technical, Not Legal, Issues

Ground rules should be established to ensure that the focus of the meetings will be on technical, not legal, issues. To the extent that table party members are lawyers, they must abide by these rules.

Issues relating to the legality/illegality of provisions in the Administrative Draft or proposals raised during the focused meetings should be referred to legal counsel for separate discussion and, as appropriate, reporting back to the table participants. Additionally, while Copermittees do not propose to have lawyers in their table parties, they should be allowed limited access to legal counsel for consultation during the meetings. Given that the technical and legal aspects of many issues under consideration are not wholly separable, some issues may arise where immediate input or clarification is needed.

In all cases, counsel should only participate in discussions in accordance with the ground rules established.

Please contact Todd Snyder at (858) 694-3482 if you have questions or would like to further discuss this letter. We look forward to meeting with Regional Board staff to finish preparing for the focused meetings, and are hopeful that they will provide the dialogue needed to craft a permitting approach that meets all of our expectations.

Sincerely,



CID TESORO, Manager
Department of Public Works

CT:js

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cc: Eric Becker, San Diego Regional Water Quality Control Board
David Barker, San Diego Regional Water Quality Control Board
Copermittees of Santa Margarita Region of Riverside County
South Orange County Copermittees
San Diego County Copermittees