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July 3, 2012

David Gibson
Executive Officer
California Regional Water Quality Control Board, San Diego region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Subject: Focused Meetings on Administrative Draft of Tentative Order No. R9-2012-0011

Dear Mr. Gibson:

The County of Orange, Orange County Flood Control District and cities of South Orange County (the Permittees) participated in the first Focused Meeting on June 27, 2012. The following suggestions are made in response to your staff's request for input on the content of the next meeting scheduled for July 11, 2012.

- The meeting on July 11 should be prefaced with a clarification as to the scope of the discussion. Your staff stated that the requirements of the Draft Tentative Order are fixed and the discussion is now simply limited to how compliance with the requirements is to be achieved. This stated position represents a significant departure from the June 20 notice of the meetings which indicates that the meetings are intended to be used to discuss the "...specific terms and conditions of the administrative draft permit."
- The June 20 notice also references the intention of your staff to use the meetings "...to gain a greater understanding of the constraints or limitations the administrative draft permit provisions present..." If this outcome is going to be realized, the meetings now need to start to focus on the details of the draft permit and specifically the provisions that are of paramount concern to the regulated community, notably the land development provisions, TMDL provisions, adaptive management requirements, performance standards and monitoring. If this shift does not occur, very little will be gleaned by any of the participants which will be of considerable detriment to the credibility of the focused meeting process.
- At the meeting on June 27, your staff explained that the anti-backsliding provisions of the Clean Water Act necessarily require the Regional Permit to contain all of the provisions of the Riverside MS4 permit irrespective of their merit. While the Permittees understand that this provision is one of the Clean Water Act's most challenging, its

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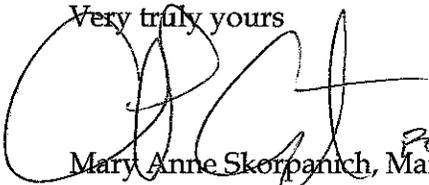
relevance and interpretation in this instance needs to be fully discussed and its applicability understood in the context of staff's assertions. Indeed, a separate meeting of legal counsel may be necessary to get the needed clarification in this key area.

- The discussion at the June 27 meeting was dominated by the staff that had prepared significant portions of the permit. Lacking was significant input from senior staff who are best able to balance the broader issues of water quality regulation. We would like to see greater involvement from them and, perhaps, yourself.

As corresponded previously, our participation in these focused meetings is set against a significant concern regarding the legal authority for the San Diego Regional Board to issue a Regional Permit that includes the Orange County Permittees. The letter, dated May 10, 2012, in which this concern was first raised, has not been responded to in almost 2 months and we would encourage a response from the Office of Chief Counsel at the earliest time.

Please direct any questions regarding this letter to Richard Boon at (714)955-0670.

Very truly yours



Mary Anne Skorpanich, Manager
OC Watersheds

CC: South Orange County Permittees
Technical Advisory Committee
County of San Diego
Riverside County Flood Control and Water Conservation District
City of San Diego
Regional Board: David Barker, Eric Becker, Wayne Chiu, Laurie Walsh, Christine Arias
Office of Chief Counsel: Catherine Hagan
Lewis Michaelson, Katz & Associates

Attachment: Regional Permit Alternate Timeline