

April 19, 2011

Mr. Mark Smythe
Santa Ana Regional Water Quality Control Board
Attn: Coastal Storm Water Unit
3737 Main Street, Suite 500
Riverside, CA 92501

RE: Comments on Draft Model Water Quality Management Plan and Technical Guidance Document, Submitted by the County of Orange, Orange County Flood Control District and the Incorporated Cities of Orange County

Dear Mr. Smythe:

Orange County Business Council represents the largest, most diverse businesses dedicated to doing business in Southern California with over 2,000,000 employees worldwide. We advance Orange County's economic prosperity while protecting a high quality of life.

OCBC is supportive of the March 22, 2011 draft of the Model Water Quality Management Plan (MWQMP) and Technical Guidance Document (TGD) with minor amendments. Our support comes after an extended period of participation in the Technical Advisory Group formed by the County of Orange in which the various stakeholders discussed and formed the MWQMP and TGD. While all of our suggestions were not adopted, we do think the process was an open and robust one.

As the region and the state continue to experience an unprecedented economic contraction affecting both the private and public sectors, the new long-term economic reality must be acknowledged, which demands for public resources to be used as efficiently as possible. The Orange County Business Council believes that the protection of our waters can be accomplished, even in these challenging times, as long as the required investments of the regulated community are warranted by the progress to be achieved.

With that in mind, we would encourage the Board to allow for site-by-site low impact development requirements to be equally prioritized with regional and sub-regional solutions. At the very least, participation in a Board-Approved alternative regional program should be encouraged, and not only allowable after exhausting on site infiltration, capture and reuse.

We are unconvinced that requiring homeowners and small business owners to individually create and maintain infiltration facilities is in the community's best interests. There is a capacity for these facilities to be misused for pollutants (as sumps). Moreover, infiltration BMPs are ineffective if not regularly maintained—leading to further pollutant discharges. Frankly, depending on the will and financial capability of individuals to maintain facilities does not seem like a reasoned sustainable solution.

The more effective dollar is spent coordinating with water districts, landowners and public agencies to create a responsible entity that can leverage grant opportunities and handle the program on an appropriate scale. The SARWQCB should be encouraging a regional solution to a regional problem. There is no other agency that is better suited to do this. A regional program will provide greater long term and sustainable pollutant removal efficiency than would require new development only to use onsite LID.

Finally, as we are looking to regulate an area that is clearly urbanized and developed, new policies and procedures cannot be made in isolation of environmental goals. In particular, state law (SB 375) mandates regional reduction targets for greenhouse gas emissions (GHG) through “sustainable” land use planning, which includes higher density and more urbanized development. State law will make site-by-site containment solutions costly and impractical.

We have reviewed the April 15, 2010 letter of the Orange County Water District and we support their comments. Specifically, we believe the following are critical to a manageable regional program:

1. Participation in a Board-approved regional alternative compliance program should be permitted without requiring the applicant to exhaust the possibility of on-site infiltration.
2. Participation in a Board-approved regional program should be allowed if the net pollutant removal effectiveness in the watershed is the same or better than would be achieved with the on-site alternatives.
3. Projects downstream or upstream of the regional facility should be allowed to participate in a regional program when located in the same watershed if the net pollutant removal load is equivalent or greater than would be achieved on-site.
4. New development or significant redevelopment should be able to use credits created by the removal of the pollutant loads from existing development using regional facilities if the net pollutant removal load is equal to or greater than would be achieved on-site.
5. In-lieu payments for the support of the regional program from projects within the watershed should support the creation and maintenance of regional and sub-regional infiltration facilities.

We urge the Regional Board to encourage regional solutions at this critical juncture in the NPDES program. The Orange County Business Council remains committed to investing in water quality as a top priority in the County of Orange and we appreciate your willingness to consider our comments.

Sincerely,



Kate Klimow
Vice President, Government Affairs
ORANGE COUNTY BUSINESS COUNCIL