



# CITY OF SANTEE

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August 5, 2014

VIA E-MAIL COMMENTLETTERS@WATERBOARDS.CA.GOV

Ms. Jeanine Townsend  
State Water Resources Control Board  
1001 J street, 24th Floor  
Sacramento, CA 95814

**Re: Comments on Proposed Trash Amendments**

Dear Ms. Townsend:

The City of Santee ("City") shares the State Board's concern for trash in our waterways and appreciates the opportunity to provide comments on the Proposed Trash Amendments to the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays and Estuaries of California and the Water Quality Control Plan for Ocean Waters of California. A carefully crafted trash policy can play an important role in ensuring clean water for our communities. With this letter, the City submits its comments on the Proposed Trash Amendments.

## **1. Water Quality Objective and Prohibition of Discharge**

The City supports the use of the narrative water quality objective as proposed. This narrative objective provides a clear, concise definition from which the City can prioritize management decisions. As a Phase I MS4 permittee, the City also appreciates the two tracks for compliance with the Proposed Trash Amendments. As proposed, the Trash Amendments would consider the City to be in full compliance with the prohibition of trash discharge, as long as the City implements either Track 1 or Track 2. The Proposed Trash Amendments, however, do not clearly indicate that meeting the discharge prohibition requirements would also mean the City is in compliance with receiving water limitations (i.e., meeting the water quality objective). This lack of clarity could result in the City being subject to further regulation for the receiving water, even if it is in compliance with the Proposed Trash Amendments.

The Proposed Trash Amendments also identify, but do not address certain significant source categories and transport pathways for trash. These include wind, illegal littering, illegal encampments in riverbeds, and water recreation / cruise ships. It

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is unclear who is responsible for attaining the trash water quality objective for trash from sources and pathways unaddressed by the Proposed Trash Amendments.

**Recommendation 1.1:** The City requests the addition of language to the Proposed Trash Amendments indicating the MS4 permittees will be in compliance with receiving water limitations so long as they are fully implementing Track 1 or Track 2.

**Recommendation 1.2:** The City requests that language be included in the Proposed Trash Amendments stating that if the requirements in the Proposed Trash Amendments are being met, then no Trash TMDLs will be developed for those water bodies where the requirements are being fully implemented. Further, waters listed as impaired for trash should be removed from the 303d list because the Proposed Trash Amendments address the impairment.

## **2. Existing Watershed-Based Processes Overlooked**

A uniform statewide objective that prioritizes trash as a water quality concern above other sources of water quality impairment undermines carefully identified watershed-based priorities. In accordance with our MS4 permit, permittees in the San Diego region have shifted efforts to improve water quality to a collaborative, watershed based approach. This approach involves developing a water quality improvement plan ("WQIP") for each watershed. After extensive efforts by copermitees, input from the public and stakeholders, and approval from the Regional Board, each WQIP will identify the highest priority water quality conditions particular to each watershed. The Proposed Trash Amendments circumvent this work by making trash the highest priority water quality concern.

Trash may not be one of the priority water quality concerns for every watershed. By circumventing the WQIP process to make trash the highest priority water quality concern, the Proposed Trash Amendments create competing priorities. Further, in cases where a particular waterway is not impaired by trash, implementing the Proposed Trash Amendments will not realize any real water quality improvement.

**Recommendation 2.1:** The City requests that language be included in the Proposed Trash Amendments to accommodate local and regional processes for prioritizing pollutant issues for each watershed, such as the WQIP.

**Recommendation 2.2:** The City also requests language be included in the Proposed Trash Amendments that would provide a process to exclude from, modify, or delay implementation of the Proposed Trash Amendment requirements for those watersheds and subwatersheds where trash is not identified as a high priority water quality concern.

**Recommendation 2.3:** The City also requests language be included in the Proposed Trash Amendments that would allow agencies, such as MS4 permittees, to complete a watershed based trash assessment, confirm the applicability of the

Proposed Trash Amendments to each waterway, and allow time for industry to implement effective solutions to identified sources of trash.

### **3. Unfunded Mandate**

The Proposed Trash Amendments are being proposed without adequate consideration of the funding sources for implementing the amendments' requirements. Los Angeles and San Francisco are held up as examples of municipalities implementing water quality objectives similar to those in the Proposed Trash Amendments. The infrastructure required by these cities was funded through one-time grant opportunities which are not currently available to agencies, such as the City, which are subject to the Proposed Trash Amendments.

The City estimates installation costs to attain the water quality objective at \$1,000,000.00 and operation and maintenance costs to be \$130,000 per year. The economic analysis estimates that between \$2.93 and \$7.77 more per resident may be needed per year for the next ten years to implement the Proposed Trash Amendment. The City has no clear source of funding to meet these requirements and believes these obligations constitute an unfunded mandated. Prioritizing the Proposed Trash Amendments puts the City at risk of being unable to undertake projects it has planned and budgeted to undertake, such as repairing infrastructure.

Recommendation 3.1: Prior to approval of the Trash Amendment, the City requests the Board conduct a full assessment of the costs and benefits of the Proposed Trash Amendment.

Recommendation 3.2: The City requests that language be added to the Proposed Trash Amendments allowing delayed implementation until a funding source is identified for the implementation and ongoing maintenance of the structural controls required to capture trash.

### **4. Flexibility in Prioritizing Land Use Designations**

The City supports the Proposed Trash Amendments' incorporation of prioritized land uses to focus efforts in areas with the greatest contributions of trash; however, the approach should allow for more local input in this prioritization. As currently written, the Proposed Trash Amendments establish certain land use designations as high priority areas but also allow the City to identify other land use designations as high priority areas ("City-identified high priority areas"). It is possible that areas which the Proposed Trash Amendments identify as high priority areas do not actually pose a "high priority" for trash. Requiring agencies, such as the City, to address areas that do not pose an actual high priority threat may interfere with the City's ability to sufficiently address City-identified high priority areas.

Recommendation 4.1: The City requests that language be added to the Proposed Trash Amendments that allows the City to adequately evaluate,

designate, and prioritize those areas that would realize the greatest benefit. Including a process by which the City may lower the priority of areas that the Proposed Trash Amendments currently designates as "high priority" is essential to effective implementation. The City supports a modification of Section III.L.2. (Ocean Plan) and IV.B.3 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) by adding Section III.L.2.e and IV.B.3.e, respectively, as follows:

e. A regulated MS4 may determine that areas within priority land uses do not generate trash that accumulates in state waters (or in areas adjacent to state waters) in amounts that would either adversely affect beneficial uses, or cause nuisance. In the event that the regulated MS4 identifies such areas and is able to provide data supporting the finding, the permitting authority may waive the requirement for the MS4 to comply with Chapter III.L.2.a/IV.B.3.a with respect to the identified locations. The regulated MS4 shall submit documentation of the continued condition with annual reports as required under Section III.L.6/IV.B.7.

## 5. Implementation Schedule

The Proposed Trash Amendments establish a 10- to 15-year implementation timeline (10 years after the next permit adoption or 15 years, whichever occurs first). Because of the long term planning required to accommodate the Proposed Trash Amendment's requirements into the City's capital improvement plan, the 10- to 15- year implementation timeline is insufficient.

Recommendation 5.1: The City requests that the language in the Proposed Trash Amendments, establishing a 10- to 15-year implementation timeline, be revised to establish a 15- to 20-year timeline (i.e., 15 years after the next permit adoption or 20 years, whichever occurs first).

Thank you for your time and consideration of these comments.

Sincerely,



Pedro Orso-Delgado  
Acting City Manager

c. Shawn Hagerty, City Attorney  
Melanie Kush Acting Director of Development Services  
Scott Johnson, Principal Civil Engineer  
Cecilia Tipton, Stormwater Program Manager