

RANCHO MISSION VIEJO

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September 21, 2006

Mr. Michael P. McCann
Supervising WRC Engineer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court – Suite 100
San Diego, CA 92123-4340

2001 SEP 22 P 12:56
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Reference: Tentative Order No. R9-2006-0104
NWU: 18-2006047.02:haasj

Subject: Rancho Mission Viejo Comments

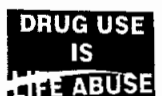
Dear Mr. McCann:

Rancho Mission Viejo (RMV) is the applicant for which tentative order R9-2006-0104 has been drafted. RMV is appreciative of the efforts by SDRWQCB staff to process our application. We have reviewed the draft tentative order and wish to offer the following comments for your consideration:

Tentative Order, Condition C.12

Condition C.12 requires the Discharger to implement development design features specifically to *eliminate* the discharge of pathogens and indicator fecal bacteria. Although the stormwater BMPs will reduce pathogens and indicator bacteria, it is not feasible to *eliminate* indicator fecal bacteria. This condition should require the elimination of dry weather discharges and associated indicator bacteria to the maximum extent practicable. RMV suggests that this condition be re-drafted as follows:

The Discharger shall implement development design features specifically to eliminate to the maximum extent practical the discharge of pathogens and human indicator fecal bacteria (i.e., e. coli, enterococci, and fecal coliforms) in dry-weather urban runoff to San Juan Creek from each residential and commercial area. These features shall be implemented where feasible and shall be maintained over the life of the project.



Tentative Order, Condition C.15

Condition C.15 requires the Discharger to implement planning, design, and maintenance measures to prevent pollutants in the stormwater conveyance system from affecting groundwater. As Planning Area 1 does not include infiltration BMPs, this Condition 15 should be removed.

Condition C.15(a) addresses the vertical distance of any infiltration structural treatment BMP to seasonal high groundwater. The BMPs listed in this condition are not infiltration BMPs, but instead are detention and retention basins (lakes). The primary difference between detention/retention basins and infiltration facilities is that detention/retention basins provide full treatment of stormwater runoff above the ground surface and any overflows are discharged to surface water. The retention basin/lakes in Planning Area 1 will actually be lined to prevent loss of irrigation supply water to groundwater. The dry extended detention basins proposed for PA-1 will reduce runoff volumes through evapotranspiration and incidental infiltration of fully treated runoff. Infiltration facilities are basins or trenches with a highly permeable base that are designed to detain and completely infiltrate runoff from a water quality design storm to groundwater. Infiltration facilities rely on filtration and adsorption of the underlying native soils to remove pollutants. A 10-foot separation to groundwater from the bottom of the proposed lakes and dry extended detention basins is not necessary to protect groundwater quality, as the lakes will be lined to prevent any discharge to groundwater, and any potential discharges to groundwater of treated runoff from dry extended detention basins are expected to be well above groundwater quality standards and therefore should not impact groundwater quality.

Tentative Order, Condition D.8

Condition D.8 states that mitigation areas shall not receive untreated urban runoff or discharges. RMV requests a clarification regarding the definition of mitigation areas. Does the SDRWQCB consider San Juan Creek to be a “mitigation area” as invasive species control will be performed in San Juan Creek? If this is the case, RMV would note that discharges above the water quality design storm listed in Condition E.2 do not require treatment and may be discharged to San Juan Creek. RMV suggests that this condition be re-drafted as follows:

Mitigation areas shall not receive untreated urban runoff or untreated stormwater discharges below the water quality design storm set forth in Condition E.2. from the proposed development during the post-construction phase. Construction phase runoff or discharges shall be treated in accordance with the General Construction Permit requirements.

Tentative Order, Condition E.4

Condition E.4 requires that the Discharges submit a conceptual post-construction stormwater treatment plan for all proposed roads within the project area that were not considered in the PA-1 Master Area/Sub-Area WQMP. Cow Camp Road was addressed in the WQMP as indicated in a prior response

provided by RMV, potential WQMP facilities for Ortega Highway, Antonio Parkway and La Pata were also discussed. RMV requests the condition be deleted.

Tentative Order, Condition E.5

Condition E.5 requires submittal of the project-level WQMPs to the Regional Board for consistency review with the Order and to provide comments to the County. RMV believes the authority to review the WQMP's properly lies with the County of Orange as delegated by the MS4 permit. RMV requested that the condition be deleted.

Tentative Order, Condition E.6

RMV agrees that education of homeowners is integral to the protection of water quality. However, to require that the lot purchaser to be educated as to the precise location of stormwater site, design, pollution prevention and treatment BMP's for the subarea seems excessive. RMV will develop educational materials to a level that can be understood by a layperson as required by the DAMP, and these materials will be provided to the builder and HOA. RMV suggests the condition be re-drafted as follows:

The discharger shall develop educational materials consistent with the Orange County DAMP regarding the importance of pollution prevention, the role of the homeowner in preventing pollution and a general description of the BMP facilities within the Planning Area for use by the builder and HOA. As appropriate the discharger shall include pictures and text in the educational materials.

Tentative Order, Condition E.7.b

Condition E.7.b requires the preparation of an O&M Plan for the stormwater treatment BMPs, and for the submittal of that plan to the Regional Board. RMV believes the authority to review the O&M plans as part of the WQMP's properly lies with the County of Orange as delegated by the MS4 permit. RMV requested that the condition be deleted.

Attachment A, Page A-4

BMP summary states that Treatment BMPs for the roads subject to Caltrans and County jurisdiction have not been finalized. RMV does not agree that treatment BMP's for Cow Camp Road have not been finalized. Treatment BMP's for this facility are set forth in the WQMP. It is correct to note that treatment BMP's for Ortega Highway, La Pata and Antonio have not been finalized at this time, however information on the likely treatment BMP's has been provided to the Board. RMV requests this description be updated and corrected.

Attachment C, Condition 2

Condition 2 should reference the requirements of the Construction General Permit for visual monitoring.

Attachment C, Condition 4(b)

This condition requires preparation of a functional assessment every two years following the initiation of mitigation (i.e., removal of giant reed) from 0.77 acre of San Juan Creek. While RMV agrees with the intent of the condition, RMV does not believe that this is the most effective use of monitoring resources inasmuch that removal of 0.77 acre of giant reed will not produce results that are measurable. While the Hybrid Functional Assessment (HFA) is a fairly sensitive tool, removal of 0.77-acre of giant reed accounts for less than one percent of the total area of giant reed within the RMV-owned reach of San Juan Creek and as such, is too small for the effects to be captured by the HFA approach. Even using the subareas addressed in the HFA would not make a difference as Area 1, which is upstream and would be the starting point, covers 32.17 acres. The 0.77 acre area is 2.4-percent of the 32.17-acre area and changes associated with the removal of the giant reed would not be picked up by the HFA. This is the case because all of the metrics are broken down into categories scored typically at 0.25/1.0 intervals (e.g., for topographic complexity potential scores are 1.0, 0.75, 0.50, 0.25 and 0.10) and a 2.4-percent change would not provide a "lift" from the 0.50 to the 0.75 or from 0.75 to 1.0.

Ultimately, as giant reed eradication progresses, the HFA will be an important tool for assessing the recovery of many of the aquatic functions associated with San Juan Creek; however, it will not be useful until about 25-percent of the giant reed is removed from any of the six subareas mapped in the HFA. We also would propose that the monitoring would be performed every five years in order to remain consistent with other reporting requirements associated with the SAMP and NCCP/HCP/MSAA.

Attachment C, Condition 5

Consistent with the above, we request removal of the reference to the biannual functional assessment from 5(d) and deletion of 5(e).

Attachment C, Condition 7

Through the SAMP and NCCP/HCP/MSAA, RMV has developed an HRMP that incorporates a stressor-based adaptive management program that has been developed within input from scientists who are specialized in adaptive management of large open space tracts (Dr. Barry Noon and Dr. Dennis Murphy). Aquatic and/or riparian species are among those with the highest priority in the adaptive management program, including (but not limited to) the arroyo toad, least Bell's vireo, southwestern willow flycatcher, and southwestern pond turtle. The goals of the SAMP and NCCP/HCP/MSAA have been carefully developed over the last five years with these species as the major focal points of the long-term management, maintenance and restoration of optimal conditions in San Juan Creek and its tributaries. As such, we believe that the Annual Bioassessment proposed by the Regional Board is not necessary and would be a drain on resources that would be committed to implementing the HRMP. As such, we request that this condition be deleted. We would note that the Science Review Panel for the NCCP/HCP/MSAA will have the responsibility to make recommendations regarding the kinds of data that are collected in implementing the HRMP and should the panel believe that Stream Bioassessment

would provide data that would be helpful in managing the target species, such monitoring would be implemented. In addition, we would note that such monitoring should occur in conjunction with a regionwide program to optimize the use of the resulting data.

Attachment C, Condition 10

Condition 10 provides requirements for Post-Construction BMP Effectiveness Monitoring. GeoSyntec has prepared a draft BMP Monitoring Plan for submittal to the County to satisfy the Mitigation and Monitoring Program requirement. In response to this condition we would note the following and request the condition be revised to reflect the proposed BMP Monitoring Program:

1. Samples taken as part of the BMP monitoring plan will be taken of the effluent from the BMP, not at a storm drain outfall. This will allow for examination of the BMP's performance, while eliminating the effects of bypass and off-site flows at the outfalls.
2. The BMP Monitoring Plan proposes to monitor one BMP (a dry extended detention basin) for 2 – 3 storm events a year for three years. This will provide better statistical information than monitoring one event for five years.
3. The Monitoring Plan proposes to summarize monitoring data in an annual report that will be submitted to the County at the same time as the Stream Monitoring Plan annual report.
4. Condition 10.a requires that a certified contract laboratory or municipal staff certified to conduct the specific analyses perform all sampling, laboratory, quality assurance, and analytical procedures. RMV should be allowed to use environmental professionals to collect the samples and a certified contract laboratory to perform the testing of the samples.
5. Condition 10.b requires storm drain effluent monitoring. RMV proposes to sample the effluent from the BMP as opposed to the storm drain in order to eliminate off-site flow and bypass flow effects on water quality. The purpose of the monitoring is to evaluate the effectiveness of the BMP and therefore sampling of the BMP effluent is required.
6. The following constituents should be eliminated from the monitoring parameter list as they are not pollutants typically associated with urban runoff:
 - Reactive Phosphorous
 - Dissolved oxygen
 - Total organic carbon
 - Nickel
 - Cadmium

Mr. Michael P. McCann, Supervising WRC Engineer
California Regional Water Quality Control Board – San Diego Region
Sept 21, 2006

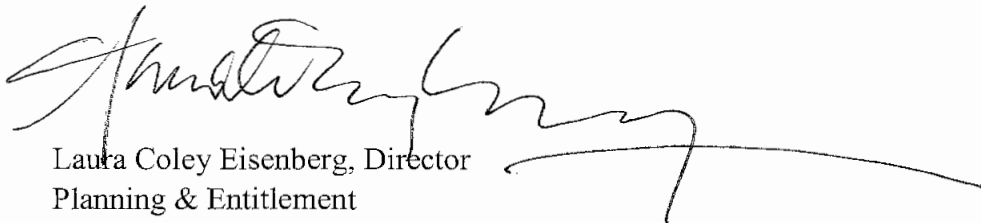
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Attachment D, Page D-13

RMV wishes to clarify that RMV will retain ownership of all areas proposed to be dedicated as open space.

RMV appreciates the opportunity to provide these comments on the proposed tentative order. If you have any questions regarding our comments, please feel free to contact me at (949) 240-3363.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Coley Eisenberg", with a long horizontal flourish extending to the right.

Laura Coley Eisenberg, Director
Planning & Entitlement

pc: Jeremy Haas, SDRWQCB
Tony Bomkamp, GLA
Lisa Austin, Geosyntec