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CC: Lynn Abramson <lynn_abramson@boxer.senate.gov>, Gina Semenza <Gina_Semen...
Date: 5/31/2009 1:09 PM
Subject: FHBP Comments: MS4-Aliso Creek Mainstem Study
Attachments: Aliso Creek Mainstem-MS4-FHBP-5-29-2009.pdf; Aliso Creek Mainstem-MS4-FHBP-5-29-2009.pdf

Dear Mr. Neill, Mr. Vivanti, and Ms. Finch,

Attached are combined comments from Friends of Harbors, Beaches, and Parks (FHBP) on the Municipal Separate Storm Sewer Systems (MS4) Permit and the Aliso Creek Mainstem Ecosystem Restoration Feasibility Study. We combined the comments because we feel the efforts could provide a distinctive synergy toward mitigating the significant contamination and excessive flow issues that plague Aliso Creek, while protecting the habitat and recreational values of Aliso and Wood Canyons County Wilderness Park.

Thank you for the opportunity to comment on these very important issues. We look forward to taking part in the continuing collaboration between government entities and citizen organizations.

Regards,

Jack Eidt
Board Member
Friends of Harbors, Beaches, and Parks
mobile 714 501 8262

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May 28, 2009

To: Ben Neill
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From: Jack Eidt
Board Member
Friends of Harbors Beaches and Parks

Re: Comments for:
Tentative Order No. R9-2009-0002
NPDES NO. CAS0108740
Waste Discharge Requirements for Discharges of Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watershed of the County of Orange, The Incorporated Cities of Orange County, and The Orange County Flood Control District Within the San Diego Region

AND

Aliso Creek Mainstem Ecosystem Restoration and proposed SUPER Project

INTRODUCTION

Friends of Harbors, Beaches, and Parks (FHBP) supports the proposed MS4 Permit requirements. Simultaneously, we oppose the County of Orange SUPER Project that proposes construction of 26 concrete drop structures in Aliso Creek, one of the last natural creeks in Orange County which flows through Aliso and Wood Canyons Wilderness Park. We also support efforts that would allow for restoration of this natural creek in conjunction with the implementation of a program that includes pollution prevention, upstream source control, and treatment-control Best Management Practices. Strengthened MS4 Permit regulations would be integral in this regard.

In a meeting arranged by Congresswoman Loretta Sanchez held on May 20, 2009, with representatives from Sierra Club and Friends of Harbors, Beaches, and Parks, Dolores Gonzalez-Hayes, Senior Advisor, Office of Congresswoman Loretta Sanchez, Jonathan D. Vivante and Ed Demesa of U.S. Army Corps of Engineers, and Mary Anne Skorpanich, Director, OC Watersheds Program OC Public Works Department County of Orange, we discussed in detail how the implementation of the new MS4 Permit and Aliso Creek Mainstem Ecosystem Restoration are inseparable with respect to a total restoration and clean up of the entire watershed. At the May 20th meeting Ms. Gonzalez-Hayes advised the County that their "Project Implementation Priorities" needed to be adjusted to indicate that the "priority" project is in fact the Aliso Creek Mainstem study and not the proposed SUPER Project.

In addition, it was suggested to the County representative that an update be provided to the City of Laguna Beach on the County's watershed priorities since the City has publicly supported the SUPER Project over a plan for restoration of the creek. Presentations should also be given to the surrounding municipalities, including Laguna Niguel, Aliso Viejo, Laguna Hills, Laguna Woods, and Mission Viejo. Furthermore, the Laguna Beach City Council will be voting on support of the MS4 Permit this coming Tuesday, June 2, 2009, with a staff recommendation to oppose the Tentative Order.

FHBP advocates that the County of Orange and the Army Corps should support the new MS4 permit or else the efforts at natural control and pollution reduction of the flow of Aliso Creek will not be achieved without destructive engineering solutions. Mr. Vivanti advised that the Corps' support was implied in their planned restoration efforts.

FHBP also requested a more comprehensive study than the area outlined in the Aliso Creek Mainstem in order to regulate future projects on the use of low-impact development micro-scale integrated management practices and retrofit existing polluting developed areas. Chronic illegal discharges from MS4 storm drains by Co-permittees contribute in excess of 5,000,000 gallons each day of polluted urban runoff perpetuate a significant public health and safety nuisance at Aliso Beach in South Laguna, Laguna Beach, California. Marine life and critical habitat in locally protected coastal receiving waters and Environmentally Sensitive Areas (ESA) remain degraded by elevated flows of abandoned imported water which constitutes the primary source of dry weather polluted urban runoff.

MS4 Permit Comments

FHBP supports the entire MS4 permit with emphasis on the following:

Wet weather and dry weather discharges are subject to the conditions and requirements established in the San Diego Basin Plan for point source discharges. These water quality standards must be complied with at all times, irrespective of the source and manner of discharge.

The increased runoff characteristics from new development must be controlled to protect against increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force. Special note: With this implementation there would be no need for 26 concrete drop structures in Aliso Creek.

Increased pollutant loads created by increased and uncontrolled urban development must be controlled to protect downstream receiving water quality.

Development that is ordinarily insignificant in its impact on the environment may become significant in a particularly sensitive environment. Therefore, additional control to reduce pollutants from new and existing development must be required for areas adjacent to or discharging directly to an ESA. This holds particularly true for Aliso Creek. Development has been uncontrolled and unmonitored for far too long.

Non-storm water discharges should be effectively prohibited unless specifically exempted. Exempted discharges identified as a source of pollutants are required to be addressed through prohibition. Dry weather non-storm water discharges have been shown to contribute significant levels of pollutants and flow in arid, urban Southern California watersheds. The Co-permittees have identified landscape irrigation, irrigation water and lawn water, previously exempted discharges, as a source of pollutants and conveyance of pollutants to waters of the United States. In the case of Aliso Creek this is a chronic problem that is leading to not only destruction of the watershed and associated wildlife, but also to our receiving waters.

Co-permittees MUST reduce the discharge of pollutants in storm water urban runoff. This can no longer be ignored and the ongoing pollution can no longer be tolerated.

Pollutants can be effectively reduced in urban runoff by the application of a combination of pollution prevention, source control, and treatment control BMPs. Every available tool must be implemented now, with particular emphasis on construction and mobile businesses that include car detailing.

We support the assertion of the Sierra Club that the Board consider adoption of a citizen-based water quality monitoring program.

Co-permittees must be required to implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the MALs.

Use of Low-Impact Development (LID) site design BMPs at new development, redevelopment and retrofit must be implemented.

Enforcement of local urban runoff related ordinances, permits, and plans must be an essential component of every urban runoff management program and specifically required in the federal storm water regulations and this Order.

Retrofitting existing development with storm water treatment controls including LID, is mandatory to address storm water discharges from existing development that may cause or contribute to a condition of pollution or a violation of water quality standards. Cooperation with private landowners is mandatory to effectively identify, implement and maintain retrofit projects for the preservation, restoration, and enhancement of water quality.

Runoff treatment and/or mitigation must occur prior to the discharge of urban runoff into receiving waters.

Due to Orange County's significant, uncontrolled development, early pollutant control actions and further pollutant impact assessments by the Co-permittees are mandatory.

Discharges of Waste to State Water Quality Protected Areas (SWQPAs) or Areas of Special Biological Significance (ASBS) must be prohibited except where allowable under a State approved Ocean Plan Exception or Special Condition.

Discharges from each approved development project must be subject to the most stringent of management measures.

It is mandatory that each Co-permittee must require each Priority Development Project to implement LID BMPs which will collectively minimize directly connected impervious areas, limit loss of existing infiltration capacity, and protect areas that provide important water quality benefits necessary to maintain riparian and aquatic biota, and/or are particularly susceptible to erosion and sediment loss. With this in mind, it would be virtually impossible for the County of Orange or the Army Corps of Engineers to even remotely consider a project such as the SUPER Project.

Each Co-permittee must revise its SSMP/WQMP to implement a watershed-specific Hydromodification Management Plan (HMP) to include specific criteria for minimizing and mitigating hydrologic modification at all development and redevelopment projects. Again, this would require the County of Orange and Army Corps of Engineers to discard any notion of a project that contains any characteristics similar to the SUPER Project. The Army Corps has been tasked with an ecosystem restoration of Aliso Creek. The Corps' implied support of the MS4 Permit will assist in this effort which would include

disconnecting impervious areas by reducing the percentage of Effective Impervious Area (EIA) to less than five percent of total project area; also disconnect impervious area from receiving waters using on-site or off-site storm water reuse, evapotranspiration, and/or infiltration for small precipitation events, based on limitations imposed by soil conditions, groundwater contamination potential and considerations for the use of amendments to improve soil conditions.

Each Co-permittee must annually notify the Regional Board, prior to the commencement of the wet season, of all construction sites with potential violations such as the SUPER Project or any other construction project in the Aliso Creek watershed.

Each Co-permittee must implement a retrofitting program which meets the requirements of this section, solves chronic flooding problems, reduces impacts from hydromodification, incorporates LID, supports stream restoration, systematically reduces downstream channel erosion, reduces the discharges of storm water pollutants from the MS4 to the MEP, and prevents discharges from the MS4 from causing or contributing to a violation of water quality standards.

The Watershed Permittees must develop, implement, and update annually, a Watershed Water Quality Work Plan that ranks each watershed's highest priority issues. The Watershed Water Quality Work plan shall identify planned watershed assessment, BMP evaluation, BMP selection, and BMP implementation efforts for each watershed planning area for the full 5-year Permit cycle. The goal of the work plan to is to demonstrate a responsive and adaptive approach for the judicious and effective use of available resources to attack the highest priority problems on a watershed basis. This element should have special emphasis and be brought to the attention of the Army Corps of Engineers in light of their Aliso Creek Mainstem Ecosystem Restoration Project.

Aliso Creek Mainstem Ecosystem Restoration Comments

Restoration of a healthy ocean must be achieved. We cannot protect the ocean by poisoning it with our wastewater and urban runoff. In addition, our County wilderness parks are set aside for recreation, wildlife habitat, open space, and protection of sensitive ecosystems and individual species of plants and animals. Our riparian wetland streambeds are the most productive ecosystems within the coastal sage-scrub and oak woodland zones of the chaparral ecosystems, and must be protected.

Natural, non-invasive solutions are technologically available as soon as citizens, resource agencies and elected representatives, working together, are ready to act.

FHBP applauds Congresswoman Loretta Sanchez and her senior advisor, Dolores Gonzalez-Hayes for their proactive stance in bringing the environmental community, County of Orange Watersheds and Army Corps of Engineers together. It is imperative

that these two agencies move forward with a plan that will eliminate concrete from Aliso Creek (existing and future) while adopting the policies of the new MS4 Permit, which will dramatically minimize the runoff and current flow rates that are creating pollution and destroying the creek's natural resources.

The proposal to build 26 step-dams (grade-control structures built 10' deep into the soil spanning the entire flow area) in the lower Aliso Creek should be eliminated as an alternative in this feasibility study. This "engineering wonder" would turn our park into a flood control channel device and do nothing to diminish the doubling of storm water flows and dry weather urban runoff that is polluting the ocean and eroding the banks.

Alternatives that should be considered in the watershed and surrounding cities are as follows: large-scale cistern strategies that capture runoff for reuse; modernizing the Laguna Niguel sewage treatment plant by OCSD, including recycling of gray water and groundwater recharge, powering the facility with captured methane gas, and reducing the toxic sewage that is dumped 1.2 miles off Aliso Beach. As well, Low-Impact Development (LID) strategies must be applied to areas of the watershed where applicable including rain gardens and bioretention; rooftop gardens; sidewalk storage; vegetated swales, buffers, and tree preservation; rain barrels; permeable pavers; soil amendments; impervious surface reduction and disconnection; and pollution prevention programs instituted for residential properties.

CONCLUSION

With strict adherence to the MS4 Permit, a natural restoration of Aliso Creek that preserves the ecosystem and integrity of the Aliso and Wood Canyon Wilderness Park can be achieved. The County of Orange must embrace these new regulations along with the Army Corps of Engineers as they move towards an environmentally sound solution to restoration and flow controls in Aliso Creek. The Army Corps must not move forward with a restoration plan without their partner's full agreement to all terms and conditions set forth by the new MS4 Permit. Without the County's and Co-permittee's full cooperation with the new order, the Aliso Creek Mainstem Ecosystem Restoration Feasibility Study will have limited effectiveness at mitigating the significant pollution and flow impacts that degrade the integrity of the ecosystem, the wilderness park, and the water quality of the Pacific Ocean at South Laguna.

Copy: Senator Barbara Boxer
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