



ORANGE COUNTY  
**COASTKEEPER**  
EDUCATION / ADVOCACY / RESTORATION / ENFORCEMENT

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September 28, 2009

Via Electronic Mail: [@waterboards.ca.gov](mailto:@waterboards.ca.gov)

Chairman Wright and Members of the Board  
California Regional Water Quality Control Board, San Diego Region  
Attn: Mr. John H. Robertus, Executive Officer  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4353

**RE: Comments on Tentative Order No. R9-2009-0002 (formerly R9-2008-0001 & R9-2007-0002)**

Dear Chairman Wright and Members of the Board,

Orange County Coastkeeper (“Coastkeeper”) is an environmental organization with the mission to preserve, protect and restore the watersheds and coastal environment of Orange County. On behalf of the members of Coastkeeper, I would like to thank you for requesting our input on the issuance of south Orange County’s Municipal Separate Storm Sewer System (“MS4”) permit.

Coastkeeper commends the San Diego Regional Water Quality Control Board’s (“Regional Board”) commitment to increasing the water quality of south Orange County and sincerely hope to continue our partnership in making Orange County’s coastal environment sustainable. We appreciate the amount of hard work and dedication the creation of a tentative order demands and hope our comments and recommendations are considered in the light they are delivered. We seek to make a good draft MS4 permit better by seeking clarification, encouraging the development of ideas, and ensuring uniform application of the Permit’s mandates and requirements. In cooperation with the Regional Board, Coastkeeper believes this Permit could become a model for future MS4 permits and encourages all participants to embrace this opportunity.

Our comments focus on the development and implementation of effective Low-Impact Development (“LID”) utilizing progressive standards and reviews in order to ensure the integrity of the latest MS4 permit. Coastkeeper has consistently supported the inclusion and implementation of LID principles throughout the development of MS4 permits in Orange County and the Inland Empire. LID provides an environmentally preferred avenue for the reduction of harmful pollutants from the waterways of southern California as well as providing for groundwater recharge and a reduction in our region’s reliance on imported water. In as much as we support the incorporation of LID principles into the south Orange County MS4 permit, we are also dedicated towards the adoption of a permit which accurately reflects the various LID best management practices (“BMPs”) in a way which maximizes their utility.

Chief among our concerns is this permit’s pervasive reliance on “biofiltration” without including a working definition of the term or providing verifiable standards of which biofiltration BMPs must satisfy. Rather than provide clarity the permit instead reinforces ambiguity by providing a potentially unworkably vague term which does not guarantee onsite retention of pollutants. If biofiltration is adopted, then there should be additional guidance on the Regional Board’s definition of biofiltration. Additionally, the

Regional Board should ensure proper oversight of any proposed biofiltration device to guarantee that it is properly sized and designed.

Coastkeeper agrees with the Regional Board that structural, proprietary, and/or engineered biofiltration devices should be permitted where appropriate. However, the Regional Board should hold those biofiltration devices to equivalent water quality standards and require proper monitoring to prove their initial and continued effectiveness as pollution control devices. For example, a four to five year post-construction monitoring regimen with at least annual reporting which includes data on wet and dry seasons would be an appropriate mechanism for analyzing biofiltration effectiveness for major developments.

Finally, Coastkeeper encourages the Regional Board to view the utilization of biofiltration as a “trigger” for LID offsite programs. As stated earlier, the use of biofiltration does not guarantee that pollutants are retained onsite and therefore the adoption of additional programs to address pollution should be included in a comprehensive approach to combat the discharge of harmful pollutants into the waters of Orange County. Possible offsite programs are discussed in the permit concerning the LID waiver program and include “green streets projects, existing development retrofit projects, retrofit incentive programs, regional BMPs and stream restoration.”

In conclusion, Coastkeeper appreciates the effort the Regional Board and its staff have put towards developing an effective MS4 permit for south Orange County which effectively and efficiently addresses the environmental concerns of the watershed in a transparent and comprehensive approach. We look forward to a constructive relationship with the Regional Board and hope our comments will assist in the development of a thoughtful and progressive permit.

Sincerely,

A handwritten signature in black ink that reads "Garry Brown". The signature is written in a cursive, flowing style.

Garry Brown  
Executive Director  
Orange County Coastkeeper