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SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

2009 JUN 26 A 11:50

Subject: Comment Letter, Tentative Order No. R-92009-2002 NPDES No. CAS0108740

Dear Mr. Robertus and Members of the Board:

I am a homeowner in Trabuco Highlands Community Association in Trabuco Canyon. Although the Tentative Order applies directly to the County of Orange as Principal Permittee and the many south Orange County city Co-Permittees, I will be impacted as I will be required to pay for the cost of implementing measures to assure that the permittees remain in compliance. It is from this perspective that these comments are offered in response to the Tentative Order, No. R-2009-2002 NPDES No. CAS0108740.

1. Adoption of the Tentative Order will require my Association to incur added costs which may result in higher assessments charged to homeowners and trigger a chain-reaction of events that will have devastating consequences to the Association, our homeowners and the City as a whole.

Our community is reeling from the consequences of the current state of the economy, and an ever increasing number of the owners and members of my Association are facing financial collapse and the loss of their homes. Under the terms of the Tentative Order, as the City implements and enforces the mandatory requirements, the Association will be subject to fines and penalties and other administrative actions. In order to respond to these new mandates and to avoid penalties and fines, my Association will be required to implement new administrative procedures and make capital improvements and renovations to existing infrastructure. *My Association will be forced to increase dues and assessments charged to the homeowners to provide for these new services and improvements. I will be required to pay more dues and assessments to my Association and may be required to pay for homeowner improvements to assure that the City remains in compliance.* These added costs will pose extraordinary hardship upon me and my neighbors and there is an increasing likelihood that I cannot or will not be able to pay increased assessments or the costs of homeowner improvements. The financial burdens imposed by the Tentative Order could be the tipping point in my financial situation and my Association, leading to catastrophic consequences.

Faced with ever increasing debt obligations, I and my neighbors will be forced to prioritize the debts we pay, and when we pay them, and unfortunately, my situation requires that I consider delaying payment of assessments. I am already financially challenged by the amount of taxes, homeowner maintenance costs, monthly mortgage payments and existing levels of assessments I pay. If my obligations increase I may face expensive legal fees, foreclosure and bankruptcy. I cannot afford to pay all of the costs which may result from the adoption of the Tentative Order and all of the other costs I pay for my daily existence. I do not have the resources to pay fines or penalties imposed by the City or the Board.

If the Tentative Order is adopted, my property values will decline and I will be unable to sell my property for a fair price as buyers will be driven away from purchasing property in my city and my Association, choosing instead to purchase property elsewhere to avoid the threat of penalties

and fines levied by the City and the Board and increased assessments charged by the Associations to cover the added costs. Homes will sit empty and fall into disrepair, thus decreasing property values and threatening the safety and welfare of our community associations and the homeowners they serve.

The costs of implementing and enforcing the Tentative Order will trigger a financial maelstrom such that I may have inadequate resources to continue to meet my obligations.

The primary objective the Tentative Order is designed to achieve will be frustrated and delayed by the financial collapse of the organizations and homeowners like me who are most capable of making a positive difference in enhancing water quality. There is no evidence that in crafting the Tentative Order, the negative economic consequences were considered and properly addressed.

The Tentative Order should be revised to address and overcome negative economic consequences of implementation. The Tentative Order should support and compliment, and not detract from, the financial stability of the City, my Association and the homeowners like me that they serve.

2. Adoption of the Tentative Order will unnecessarily create adversity and barriers to the implementation of successful strategies and will divert resources needed to achieve the ultimate objectives of NPDES frustrating and delaying the implementation of successful programs.

The Tentative Order will require the City to adopt a much more strident enforcement posture. I am fearful that the City will be forced to implement strategies using its police powers, rather than achieving favorable outcomes based upon education, mutual cooperation and alignment of systems and processes based upon alliances with me, my Association and my neighbors. This new direction will drastically alter the climate of mutual cooperation and support homeowners and the Association and the City have worked so hard to achieve. This change will result in unnecessary adversity and controversy which will delay and generate resistance to the process of making real progress in achieving the prime objective of enhancement of water quality.

Equally alarming is the change in relations between me and my Association and my neighbors which will result from the adoption of the Tentative Order. The Association will be required to pass increased costs of compliance through to the homeowners. This will enhance the debt burden imposed upon the owners by my Association, and create unnecessary hardship and tension between the Association and homeowners. Increasing dues and assessments in the current economic environment will create significant controversy, paralysis in the implementation process, and dysfunction within the community. The Association and homeowners will be caught in the cycle of ever increasing legal involvement to assure funding for the added costs which will result from adoption of the Tentative Order.

To survive financially, the Association will be forced to more aggressively pursue foreclosure and other legal remedies against delinquent homeowner members to collect unpaid assessments for these added costs. Those homeowners not in default will be required to pay even more to subsidize the debt of their delinquent neighbors.

Adoption of the Tentative Order will sow the seeds of community unrest, pitting neighbor

against neighbor and homeowners against the Association and the City against the Association, homeowners and other community interest groups. Instead of achieving compliance with the requirements of NPDES and the Clean Water Act by creating a strong foundation of mutual support and cooperation, compliance will be imposed upon resisting homeowners and other community stakeholders by pursuing costly legal and administrative enforcement, penalties and fines.

The Tentative Order should be revised to support cooperation among key community stakeholders including the City, community associations, homeowners and other interest groups.

3. The Tentative Order fails to acknowledge the successful efforts of homeowners to achieve compliance.

In spite of this record of accomplishment, the Tentative Order imposes new requirements without justification. Where is the evidence that the programs already in place in the City are not working?

Instead of encouraging the development of pilot programs and other management practices based upon the successful existing practices, systems and operations already implemented, the Tentative Order without justification and in an almost punitive fashion mandates new procedures and compliance to new standards which will be extremely costly to achieve and which will expose me, the City, my Association and my neighbors to civil liability and other administrative penalties.

The Tentative Order should be revised to support pilot programs before setting new standards. Revisions should be made to support existing programs until those programs are shown to be ineffective. New standards and requirements should not be adopted without justification. New requirements and standards should not be adopted until there is evidence that existing programs and systems implemented by the City, the Association and the homeowners are unsuccessful.

4. Unequal Application of the permitting process and treatment under the law is not justified.

The requirements of the Tentative Order dramatically exceed those contained in all Orders adopted by the Board and all other regions of the California Water Quality Control Board and are inconsistent with the draft Order for North Orange County. There is no justification for the different and unequal application of the permitting process or the new draconian requirements included in the Tentative Order which if adopted will result in unfair and unequal treatment of me, the City and my Association. Why should owners living in community associations in North Orange County, San Diego County, or elsewhere in California benefit from demonstrably less restrictive standards and requirements in the Orders adopted for those regions than those imposed upon me and my neighbors living in the community associations within the City which will be subject to the Tentative Order if adopted? I strongly believe that homeowners like me, the City and my Association should not be singled out and forced to bear the cost and penalty of unequal treatment under the law. There is no justification for this unfair and unequal treatment.

The Tentative Order should be revised to be consistent with the Order adopted by the Board for San Diego County and with the draft Order of the California Water Quality Control Board, Santa Ana Region, North Orange County.

In conclusion, I would like to stress that revisions to the Tentative Order are required to

assure fair and equal treatment under the law. Revisions are required to support existing programs which are working. New standards or requirements should not be adopted unless and until it has been shown that existing programs are ineffective. Revisions should be made to encourage use of pilot programs to develop and test new requirements and standards before implementation. Revisions are needed to support and encourage cooperation among community stakeholder groups and the City. The Tentative Order should be revised to address and overcome negative economic consequences of implementation. The Tentative Order should support and compliment, and not detract from, the financial stability of the City, the community associations and the homeowners they serve.

I ask that you review the above-mentioned information and consider it when making final revisions to the Order. I look forward to your response and stand willing and ready to answer any questions you may have. Please contact me at 949-709-1970 should you have any questions.

Sincerely,



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