



January 11, 2013

Attention: Wayne Chiu, P.E.
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: Comments on Tentative Order No. R9-2013-0001 (San Diego Region MS4 Permit Reissuance)

Dear Mr. Chiu,

On behalf of the Los Peñasquitos Lagoon Foundation (LPLF), I would like to submit the following comments on Tentative Order No. R9-2013-0001 San Diego Region MS4 Permit Reissuance (Please see attached Exhibit A). Thank you for this opportunity and I look forward to working with Water Board staff and Co-Permittees on improving and protecting the beneficial uses afforded by Los Peñasquitos Lagoon, a State Preserve that is also listed as an impaired water body in the Clean Water Act Section 303(d).

Please contact me if you have any questions. (760) 271-0574.

Sincerely,

A handwritten signature in blue ink that reads "Mike Hastings". The signature is written in a cursive, flowing style.

Mike Hastings
Executive Director, Los Peñasquitos Lagoon Foundation

Exhibit A.
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GENERAL COMMENTS

- Require public participation in Water Quality Improvement Plans (WQIP) development process to improve the Plan and avoid unnecessary "surprises" later on.
- WQIP development, implementation and assessment processes and efforts should be transparent to all stakeholders to facilitate their involvement.
- Provide summarized details on what a jurisdiction is doing in a particular watershed for understanding of RWQCB and public.
- WQIPs should be coordinated with other planning documents developed to improve, enhance and protect beneficial uses of receiving water bodies, including those prepared by third parties (e.g. NGOs).

SPECIFIC COMMENTS

Comment #1.

Page 2, #6. Non-Storm Water Discharges

Page 4, #12. Pollutants in Runoff

Page #15. Non-Storm Water and Storm Water Discharges

Page 65, #2 Illicit Discharges Detection and Elimination

Comment: Provide mechanisms to allow Co-permittees to address dry-weather flows/illicit discharges into receiving waters regardless of whether or not constituents of concern are present within these flows. These mechanisms should be broad enough to allow co-permittees to require landowners to modify their actions (e.g. landscape irrigation) that are identified directly or indirectly as contributing to dry weather discharges into the MS4. Priority given to dry weather discharges into the MS4 that discharge directly into 303(d) listed water bodies.

Context: Dry weather discharges can create serious impacts to the beneficial uses of receiving water bodies that support salt marsh habitats, especially when these discharges are perennial in nature. These flows are directly related to habitat conversion through their ability to alter salinity levels in soils that displace native salt marsh species, often permanently. Numerous studies, including those pertaining to Los Peñasquitos Lagoon, document the impacts of dry weather flows. The current methods available to co-permittees reduce their ability to effectively control all of these discharges.

Example: Ground-water charging from irrigation practices on top of sandstone bluffs. Water filters down, through the sandstone and seeps out at the bottom and into MS4. Although lines of evidence point to the irrigation practices that contribute

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to and/or cause the mounding and subsequent seepage(s) that generated dry weather discharges into the MS4, co-permittees cannot address the source under the current regulatory format.



Figure 1. Perennial seepage from over-irrigation on mesa top. Flow enter the MS4 and discharge into Los Peñasquitos Lagoon, a 303(d) listed waterbody.

Comment #2.

Page 3. #8. Point Source Discharge of Pollutants.

Comment: Needs to include discharges from the MS4 that generate and/or contribute to pollutant discharges below the outfall (e.g. sediment scoured below MS4 outlets). Or, keep the language under #11 that recognizes natural drainages and conveyances (e.g. creeks) within developed areas as part of the MS4 and receiving waters.

Context: Multiple lines of evidence support this claim (e.g. Los Peñasquitos Lagoon Sediment TMDL).

Comment #3.

Page 4. #13.

Comment. Human Health and Aquatic Impairment. Dry weather flows themselves, especially those that are perennial in nature, can contribute to impacts to receiving water bodies that historically received ephemeral flows (e.g. coastal salt marshes). One such impact is habitat conversion that can contribute to impaired beneficial uses within the receiving water body (e.g. Los Peñasquitos Lagoon) and substantial

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threats to nearby communities. One example is related to the presence of West Nile Virus (WNV) at Los Peñasquitos Lagoon (LPL), as documented by the County of San Diego's Department of Environmental Health. WNV is transmitted by the freshwater mosquito *Culex tarsalis* that was not present in LPL prior to the recent establishment of riparian and brackish marsh habitats caused by perennial flows of dry weather discharges into the Lagoon's main tributaries and along Lagoon boundaries.

Another impact related to dry weather flows of freshwater include aquatic impairment within tidally influenced lagoons (e.g. salinity/temperature stratification within lagoon tidal channels that can be harmful to aquatic species).

Comment #4.

Page 66, #2(3) Illicit Discharges Detection and Elimination

Comment: Revise language under (3) to replace "...identifies the discharge a source of pollutants to receiving waters" with "...identifies the discharge a source of pollutants and/or contributor to the impairment (e.g. habitat conversion) of the receiving waterbody." Please see Comment #1 for more information and supporting justification for this requested change in language.

Comment #5.

Page 13 & 14, #2 Receiving Water Limitations

Comment: Insert the following (underlined) language under 2a. "Discharge from MS4 must not cause or contribute to the violation of water quality standards and/or impairment to receiving waters,"

Comment #6.

Page 19, #2 Priority Water Quality Conditions

Comment: include the following language under the first paragraph - "The Copermittees must work with the appropriate land managers and related management groups directly associated with the receiving water body to identify the water quality priorities within each Watershed Management Area."

This needs to occur since the land managers and associated groups will have a better idea (and supporting data) about what should be priorities for water quality improvements in receiving water bodies. Priority should be given to the land managers and management entities (e.g. NGOs) directly associated with the receiving water body (e.g. lagoon foundations/conservancies). Relevant monitoring

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programs and management documents (e.g. enhancement plans) for receiving waterbodies should be considered and included in efforts to identify priority water quality conditions.

Comment #7.

Page 24, #3 Water Quality Improvement Strategies

Comment: include the following language under the first paragraph - “The Copermittees must work with the appropriate land managers and related management groups directly associated with the receiving water body to identify and prioritize strategies to address the highest priority water quality conditions identified within a Watershed Management Area.”

This needs to occur since the land managers and associated groups will have a better idea (and supporting data) about what should be priorities for water quality improvements in receiving water bodies. Priority should be given to the land managers and management entities (e.g. NGOs) directly associated with the receiving water body (e.g. lagoon foundations/conservancies). Relevant monitoring programs management documents (e.g. enhancement plans) for receiving waterbodies should be considered and included in efforts to identify, develop and implement Water Quality Improvement Strategies.

Comment #8.

Page 25, #4 Water Quality Improvement Monitoring and Assessment Program

Comment: include the following sentence under the paragraph for 4a.- “The Copermittees in each Watershed Management Area must work with the appropriate land managers and related management groups directly associated with the receiving water body to plan, implement and review Water Quality Improvement Monitoring and Assessment Program.”

Justification: The use of better data sets collected by land managers and related NGOs over longer periods of time that better describe water quality conditions. Also improves data collection by determining the appropriate monitoring locations by avoiding areas or conditions that can confound monitoring efforts (e.g. salinity stratification in lagoon channels).

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Comment #9.

Page 25, #5 Iterative Approach and Adaptive Management Process

Comment: include the following language in the first sentence - “The Copermittees in each Watershed Management Area must work with the appropriate land managers and related management groups directly associated with the receiving water body to implement the iterative approach”

Comment #10.

Page 28, C. Action Levels

Comment: Include action levels for insecticides (e.g. pyrethroids), since they are known to contribute impairment to receiving water bodies and quite possibly directly related to low Index of Biological Integrity (IBI) for macroinvertebrates in most, if not all, receiving water bodies.

Comment #11.

Page 33, D. Monitoring and Assessment Program Requirements

Comment: “The Copermittees in each Watershed Management Area must work with the appropriate land managers and related management groups directly associated with the receiving water body to plan, implement and review Water Quality Improvement Monitoring and Assessment Program.

Justification: The use of better data sets collected by land managers and related NGOs over longer periods of time that better describe water quality conditions. Also improves data collection by determining the appropriate monitoring locations by avoiding areas or conditions that can confound monitoring efforts (e.g. salinity stratification in lagoon channels).

Comment #12.

Page 39, D 1(c). Dry Weather Receiving Water Monitoring

Comment 1: Include continuous flow monitoring at the base of tributaries to 303(d) listed water bodies to better document the transport of pollutants and total volume of dry weather inputs that impair the beneficial uses of receiving water bodies (i.e. salt marshes) by converting lagoon tributaries from seasonal to perennial and facilitating habitat conversion through reductions in soil salinities.

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Comment 2: Include monitoring of groundwater seepages into 303(d) listed water bodies to better document the transport dry weather inputs that impair the beneficial uses of receiving water bodies (i.e. salt marshes) by converting native habitats through reductions in soil salinities.

Comment #13.

Page 39, D 1(d). Wet Weather Receiving Water Monitoring

Comment: Include continuous flow monitoring at the base of tributaries to 303(d) listed water bodies to better document the transport of pollutants, peak discharge and total volume of storm runoff.

Comment #14.

Page 56, #4 Assessment Requirements

Comment: under 4a(2), include language such that the Copermittees must work with local land managers and related management entities (e.g. NGOs) for receiving water bodies to assess the status and trends of receiving water quality conditions. This is essential for the effective management of receiving water bodies and surrounding environs.