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January 11, 2013

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

Re: Comment – Tentative Order No.R9-2013-0001, Regional MS4 Permit,
Place ID: 786088Wchiu

Dear Mr. Chiu:

This letter comments on the San Diego Regional Water Quality Control Board's Tentative Order R9-2012-0011 ("Permit") dated October 31, 2012. After reviewing the proposed Permit, I am convinced that the benefits of the Permit as drafted overreaches in a way that will result in detrimental consequences that cannot be overridden by the theoretical benefits hoped to be achieved. The Permit as currently drafted imposes expensive, onerous, and untested regulations on local governments, businesses, and residents. These new regulations will impact the region's economy in a way that far exceeds whatever water quality benefit may result.

I understand the importance of clean, safe water to the region. As a member of the business community, I too am interested in improving San Diego's water. It is important, however, that we use our limited resources wisely, and ensure that our efforts produce the desired outcome of improving water quality without shutting down our economy or placing unreasonable and infeasible burdens on our local governments, businesses and residents.

I applaud the Board's inclusion of Water Quality Improvement Plans (WQIP) as a first step in developing a cost-effective approach to improving our water. Analysis remains a critical component of a successful strategy, and I am glad to see that the Board is committed to finding the best possible solution to water quality improvement.

I am concerned, however, that the costs associated with enforcing and implementing the permit will have a negative impact on my business and San Diego's economy. The four primary areas of concern include: 1) the strict liability for exceeding water quality objectives; 2) the additional and changing requirements for development projects, impacting items such as storm water retention and discharge; 3) the preemption of WQIPs by new and changing regulatory requirements prior to allowing the WQIPs to be developed and implemented; and 4) the lack of reliable funding sources to implement these regulatory changes.

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It is necessary to hold individuals, businesses and governments accountable, but it is critical that the accountability measures can be reasonably achieved and are likely to have a significant and positive impact on San Diego's water. Because of these concerns, I respectfully request that the Permit focus on the timely development of effective and enforceable WQIPs, and that each of the WQIPs be developed through a process that ensures public participation. I ask also that the designation of appropriate Best Management Practices in each watershed be determined through the WQIP process rather than the one size fits all strategy currently being proposed in the Permit. I ask further that until the Board adopts a WQIP for a watershed that the provisions of the existing Permit remain in place for that watershed. Finally, in order to avoid unnecessary litigation I request that the Board adopt the WQIPs as Orders implementing the proposed Permit.

I urge you to adopt final permit language that is evidence-based and both environmentally and economically sustainable. Thank you for your consideration. Please contact me if you have any questions.

Very truly yours,



Donna D. Jones
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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cc: Leah Hemze