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District 3

September 10, 2015

Wayne Chiu
California Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Subject: Comment - Tentative Order No. R9-2015-0100, Place ID: 786088WChiu

Dear Mr. Chiu,

The City of Meniffee (the "City") would like to thank the San Diego Regional Water Quality Control Board ("San Diego Water Board") for the opportunity to comment on Tentative Order No. R9-2015-0100, an Order amending Order No. R9-2013-0001 as amended by Order No. R9-2015-0001 ("Tentative Order"). The City is committed to developing and implementing jurisdictional and regional programs and strategies that will improve overall water quality.

The City has been working hard to meet the requirements of the Santa Ana Region Permit under Order No. R8-2010-0033. The Report of Waste Discharge (ROWD) submitted to the Santa Ana Board in July 2015 highlights the Santa Ana Region's major water quality accomplishments since the Permit issuance. The City has been an active participant in the region, including in the development and implementation of the Comprehensive Nutrient Reduction Plan (CNRP) (approved July 2013) to address nutrient Total Maximum Daily Loads (TMDL) for Canyon Lake and Lake Elsinore and in the development of the Watershed Action Plan (WAP) (pending Santa Ana Regional Board approval). The City has also developed a Local Implementation Plan (LIP), which details the day-to-day jurisdictional storm water program to meet Permit requirements.

As stated in the Tentative Order, the City is located partially within the jurisdiction of both the San Diego Water Board and the Santa Ana Regional Water Quality Control Board ("Santa Ana Water Board"). More specifically, less than 1.3 square miles in the City is located in the Santa Margarita Watershed Management Area (WMA). To date, the San Diego Water Board and the Santa Ana Water Board have maintained agreements that designate the Santa Ana Water Board as the single Regional Water Board to regulate the City on matters pertaining to Phase I municipal separate storm sewer system (MS4) permits. The Tentative Order proposes continuing this practice, following past agreements, with the significant exception of now requiring the City to participate in the development and implementation of the Santa Margarita WMA Water Quality Improvement Plan (WQIP).

Both the City and the Riverside County Flood Control and Water Conservation District (RCFCWCD) maintain GIS layers of MS4 infrastructure that they own and

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 San Diego Water Board
 September 9, 2015

operate within the City. Since the release of the Tentative Order, the City of Menifee has coordinated with RCFCWCD to investigate ownership of MS4 within the small portion of the City that is within the Santa Margarita WMA. As shown on the attached maps, MS4 within the portion of the City in the Santa Margarita WMA is owned and operated exclusively by RCFCWCD. The City of Menifee does not own or operate MS4 within the Santa Margarita WMA.

It is the City's understanding, according to the Code of Federal Regulations, title 40, section 122.1(b)(1), that "[t]he NPDES program requires permits for the discharge of 'pollutants' from any 'point source' into 'waters of the United States'". The City does not own or operate any "point sources," as defined in 40 C.F.R. § 122.2 or section 502(14) of the Clean Water Act, within the Santa Margarita WMA. Because the City is not responsible for any MS4 within the Santa Margarita

WMA, it should not be required to develop and implement the Santa Margarita WMA WQIP. For this reason, the City respectfully requests removal of language in the Tentative Order that requires the City to participate in the development and implementation of the Santa Margarita WMA WQIP. Suggested edits to the text of the Tentative Order are shown below:

- Attachment 1, Finding 29(b): "...the City of Menifee is largely regulated by the Santa Ana Water Board under Order No. R8-2010-0033 as it may be amended or reissued, including those portions of the City of Menifee within the San Diego Water Board's jurisdiction, upon the effective date of this Order. ~~The agreement also requires the City of Menifee to actively participate during development and implementation of the Santa Margarita River Watershed Management Area Water Quality Improvement Plan required pursuant to this Order...~~"
- Attachment 1, Table B-1 "Watershed Management Areas": Please strike the City of Menifee from the table and remove the associated footnote.
- Attachment 2, Provision B.1: "Footnote 3 to Table B-1 has been included to specify that Phase I MS4 discharges within the jurisdictional boundaries of the City of Menifee located within the San Diego Region will be regulated under Santa Ana Water Board Order No. R8-2010-0033 (NPDES No. CAS618033) and any reissuance thereof. At this time, the City of Menifee is not identified as a responsible Copermittee for any TMDLs established by the San Diego Water Board. Under the terms of the agreement, the City of Menifee must actively participate in the development and implementation of the Santa Margarita River Watershed Management Area Water Quality Improvement Plan required pursuant to Order No. R9-2013-0001, and any reissuance thereof."
- Attachment 2: "The City of Menifee is not regulated as a Copermittee under this Order because it does not own or operate Phase I MS4 discharges within the portion of the City that is located within the San Diego Region. Are regulated by Santa Ana Water Board Order No. R8-2010-0033 as it may be amended or issued pursuant to Water Code section 13228 designation. The requirements of this Order that apply to the City of Menifee for the duration of this Order, consistent with the Water Code section 13228 written agreement dated [Month][Day], 2015, are described in Finding 29 and Footnote 3 to Table B-1."

Wayne Chiu
San Diego Water Board
September 9, 2015

Thank you for your consideration. Please feel free to contact me or Yolanda Macalalad at 951-639-1368 extension 169 if you have any questions regarding the above comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Smith".

Jonathan Smith, PE, QSD
Director of Public Works/City Engineer

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