

Walsh, Laurie@Waterboards

From: Hasenin, Sumer <SYHasenin@sandiego.gov>
Sent: Friday, September 12, 2014 8:43 AM
To: Becker, Eric@Waterboards
Cc: Chiu, Wayne@Waterboards; Walsh, Laurie@Waterboards; Arias, Christina@Waterboards
Subject: Prior Lawful Approval Options
Attachments: Draft PLA Permit Language - Option (1).pdf; Draft PLA Permit Language - Option (2).pdf

Hi Eric,

I wanted to share with you and your staff couple of other prior lawful approval (PLA) options that have been kicked around in addition to the one discussed at the September 8th meeting. All of these options have pros and cons but serve as a basis for discussion. I realize that a unified proposal has not been submitted and it's very unlikely that one will be submitted, but I am hopeful that your staff would take the lead on drafting language for inclusion in the upcoming permit amendment. Sorry to put the burden on you, but if we were able to resolve this with other stakeholders we would not have come to you!! It is really imperative to include permit language at this point and it is very beneficial for the Board members and the public to have written PLA language for consideration at the Oct 8th workshop; otherwise it would be difficult to have a productive discussion.

None of these options represent the City's position at this point, so if you decide to move one of these options forward, please don't attribute it to the City as we have not firmed our position on the issue yet.

Please feel free to call me or email me back if you'd like to discuss further.

Thank you,

Sumer Hasenin, P.E., QSD, QSP
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Provision E.3.e.(1)
Proposed Amendment
Option 1

(1) Structural BMP Approval and Verification Process

(a) Each Copermittee must require and confirm that for all Priority Development Project applications that have not received prior lawful approval by the Copermittee by the time the BMP Design Manual requirements go into effect pursuant to Provision E.3.d, the requirements of Provision E.3 are implemented. For private development projects, prior lawful approval is a development approval or construction permit that complies with the Priority Development Project requirements of Order No. R9-2007-0001 and that includes the ultimate design of the storm water drainage system for the project in its entirety as accepted by the Copermittee. For any applicable portion(s) of the project, approvals may be extended to any subsequent discretionary or ministerial approval necessary to implement the initial project approval with the following conditions:

- i. All subsequent permits must be issued within 5 years of the effective date of Provision E.3.e.
- ii. Work completed under subsequent approvals must remain in substantial conformity with the design of the storm water drainage system included in the initial approval.

For public projects, the Copermittee shall develop an equivalent approach to that for private development projects. For project applications that have received prior lawful approval before the BMP Design Manual is updated pursuant to Provision E.3.d, the Copermittee may allow previous land development requirements to apply.

(b) Each Copermittee must identify the roles and responsibilities of its various municipal departments in implementing the structural BMP requirements, including each stage of a project from application review and approval through BMP maintenance and inspections.

(c) Each Copermittee must require and confirm that appropriate easements and ownerships are properly recorded in public records and the information is conveyed to all appropriate parties when there is a change in project or site ownership.

(d) Each Copermittee must require and confirm that prior to occupancy and/or intended use of any portion of the Priority Development Project, each structural BMP is inspected to verify that it has been constructed and is operating in compliance with all of its specifications, plans, permits, ordinances, and the requirements of this Order.

Provision E.3.e.(1)
Proposed Amendment
Option 2

(1) Structural BMP Approval and Verification Process

(a) Each Copermittee must require and confirm that for all Priority Development Project applications that have not received prior lawful approval by the Copermittee by the time the BMP Design Manual requirements become effective pursuant to Provision E.3.d, the requirements of Provision E.3 are implemented. For private development projects, prior lawful approval is a development approval or construction permit that complies with the Priority Development Project requirements of Order No. R9-2007-0001 and that includes the ultimate design of the storm water drainage system for the project in its entirety as accepted by the Copermittee, or phases of projects that have BMPs in operation in accordance with Order No. 2001-01. For any applicable portion(s) of the project, approvals may be extended to any subsequent discretionary or ministerial approval necessary to implement the initial project approval with the following conditions:

- i. All subsequent permits must be issued within 5 years of the effective date of Provision E.3.e.
- ii. Work completed under subsequent approvals must remain in substantial conformity with the design of the storm water drainage system included in the initial approval.

For public projects, the Copermittee shall develop an equivalent approach to that for private development projects. For project applications that have received prior lawful approval before the BMP Design Manual is updated pursuant to Provision E.3.d, the Copermittee may allow previous land development requirements to apply.

(b) Each Copermittee must identify the roles and responsibilities of its various municipal departments in implementing the structural BMP requirements, including each stage of a project from application review and approval through BMP maintenance and inspections.

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