



CITY OF SANTEE

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WATER QUALITY
CONTROL BOARD

2009 JUN -8 A 10: 54

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June 4, 2009

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Mr. Robertus
Regional Water Quality Control Board (RWQCB)
Region 9
9174 Sky Park Court
Suite 100
San Diego, CA 92123-4353

Dear Mr. Robertus,

Subject: Draft Tentative Order R9-2009-0002 Reference NWU: 658018:bneill

Thank you for allowing the City of Santee the opportunity to provide comments on the draft Orange County Permit issued March 13, 2009 (Draft Permit). Page references are given where appropriate.

Comment 1: Dry weather flows now referred to as dry weather effluent (global).

Dry weather flows may originate from a number of sources including groundwater ingress, which is a natural source of water. Dry weather flow does not originate from consistent activities or locations, or at consistent flow rates. Assigning the word "effluent" infers that this is a relatively consistent, predictable and controllable flow originating from a single industrial process (such as a wastewater treatment plant). As such, it is relatively easy to control and treat. This is not the case with dry weather flows.

Assigning the term "effluent" to dry weather flow will trigger mandatory minimum penalties under the Clean Water Act. This is inappropriate for the above-referenced reasons, and will likely result in the relevant municipal separate storm sewer system (MS4) operator(s) being in immediate and consistent violation of the Clean Water Act. The term effluent should be replaced by the word "flow."

Comment 2: Remove of urban from urban runoff (global).

At present the stormwater programs apply to MS4 systems which tend to be located in urbanized areas. Removing the term "urban" infers that these requirements apply to all runoff. This is an expansion of the requirements under the Clean Water Act and would logically apply to all runoff within a jurisdiction whether or not the jurisdiction has control over the sources of runoff (agricultural sources, or undeveloped areas, for example) or the conveyance (natural drainage). Has any economic analysis been conducted to assess the impact of this change? We

consider this an unfunded mandate that exceeds the requirements of an MS4 permit, as it appears to be applied to areas which do not necessarily drain to an MS4. The word "urban" should be reinstated when discussing runoff.

Comment 3: Introduction of Numeric Limits to define Maximum Extent Practicable (MEP).

This is inconsistent with the concept of the iterative process where you have a chance to adapt BMPs based on observation, instead of reaching a numeric limit which is more commonly associated with Total Maximum Daily Loads (TMDLs). This is also inconsistent with the 2006 Blue Ribbon Panels recommendation that numeric limits are inappropriate for municipal permits. The NELs and the MALs should be removed from the permit.

Comment 4: Annually incorporate findings from local treatment control BMP effectiveness studies into S(U)SMP (page 37).

Based on the regional model review for San Diego County updating the SUSMP annually is not feasible. It would be a more effective use of resources to update the SUSMP less frequently. Revise to incorporate findings from effectiveness studies once every permit cycle.

Comment 5: All food facilities to be inspected every year and have specific requirements imposed on them (page 61).

Based on our experience, not all food facilities warrant annual inspection (coffee shops, sale of largely prepackaged foods, such as ice cream parlors etc). It would not be an effective use of resources if the permittee cannot differentiate between facilities that genuinely have potential for exposures and those that do not.

This should be revised to require that food facilities be prioritized based on potential for exposures and that the annual inspection requirement be only applied to those deemed to have the highest threat of exposure of pollutants to urban runoff. The permittees should be allowed to develop their own method to determine how the facilities should be prioritized, but this should be based on: observations from previous inspections; record of complaints and violations associated with the specific facility; potential sources of pollutants (sale of prepackaged products versus facilities with rendering bins, food preparation waste, outside eating areas, etc).

Comment 6: Requirement to retrofit existing development (page 65).

It is not clear what mechanism(s) will be available to accomplish this requirement, nor how it would be funded. Further clarification is needed on how this can be legally accomplished and how it would be funded.

It would be a better use of resources for jurisdictions to develop measures during the review of any discretionary project to ensure that retrofitting stormwater BMPs are considered. Preparing a comprehensive report on the City-wide potential for retrofit, when it is unlikely that there would be any legal opportunity, much less financial resources, to extensively implement it appears to be wasteful. The goal

could be better attained by using the available permitting process to achieve retrofits where feasible.

Comment 7: Expansion of monitoring requirements to include wet and year-round dry sampling of MS4. Expansion of constituents to be analyzed. Introduction of new programs (sediment toxicity study and aquatic habitat monitoring)(Attachment E).

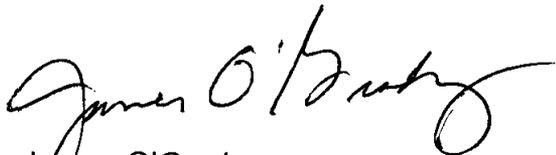
Sediment toxicity may originate from historic sources which the permittee never had control over. Also current activities not under the control of the permittee will also impact aquatic habitats and sediment. It is inappropriate to use an MS4 permit as a catch-all for all monitoring that is conducted in a watershed. Monitoring should be focused on the impact from the MS4 and constituents of concern associated with the MS4.

Presumably these studies are in addition to monitoring associated with TMDLs, therefore resulting in duplication of effort and costs.

Comment 8:

Overall we are concerned at the additional layer of reporting required in the permit (annual workplans in addition to annual reports and management plans). This further diverts precious resources from direct improvements to water quality to the preparation of compliance documents that overlap. We strongly recommend that the RWQCB reconsider its need for such extensive documentation (which would be in addition to any TMDL reporting).

Please contact Helen Perry (619) 258-4100 x177 if you have any further questions regarding this letter.



James O'Grady
Interim Director of Development Services/Deputy City Manager