



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
SoCAL CHAPTER

June 17, 2009

John Robertus
Executive Officer
San Diego Regional Water Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Re: Revised Tentative Order No. R9-2009-0002

Dear Mr. Robertus:

The NAIOP SoCal Chapter is submitting this correspondence to the San Diego Regional Water Quality Control Board (SDRWQCB) to provide our initial formal comments on Revised Tentative Order R9-2009-0002. By way of introduction, NAIOP is the nation's leading trade association for developers, owners, investors, and other professionals in the industrial, office and mixed-use commercial real estate. NAIOP provides educational programs, research on trends and innovations, and strong legislative representation. The SoCal Chapter serves more than 1,200 members. It is the second largest chapter in the United States and is the leading commercial real estate trade association in Southern California.

NAIOP SoCal and its members have for many years been promoting efforts to design, construct and maintain buildings, infrastructure and their accompanying grounds in a manner that promotes environmental protection. In fact, the industrial and office development industry has voluntarily made great strides in using proven environmental strategies. These efforts have provided us with a vast experience in what can truly work in light of the realities we all face. Clearly, for any program to be successful it needs to be focused on addressing the various realities of this region, and should provide for voluntary incentives that are cost effective.

One overriding reality and challenge we all face is that a major portion of Orange County is already urbanized with residential, commercial and industrial developments. In fact, Orange County's population per square mile is the sixth densest in the entire United States. There is very little developable land remaining, and what open land remains is, essentially, already entitled. That means any future development to meet the projected population and business increases will be redevelopment/infill projects, not pervious open spaces. Additionally, the State of California is creating more mandates and programs, such as SB 375, which will further drive

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development into already developed/impervious areas. Thus, any NPDES permit for this region must reflect this reality and not conflict with the other clean environment efforts that are ongoing.

NAIOP SoCal has reviewed the comments submitted by the County of Orange in their May 15, 2009 document. We will not repeat what they have set forth, but will incorporate them by reference as though fully set forth herein. We agree with the issues they raised and do feel that further discussions would be very beneficial in developing a final permit that addresses everyone's goal; cleaner water. NAIOP SoCal looks forward to meet with you and other stakeholders in working on the permit.

NAIOP SoCal will highlight a few of the areas of concern. First, the draft permit attempts to establish Municipal Action Levels (MALs). NAIOP does not believe MALs are justified or warranted, as well as not being technically supportable. In fact, the Blue Ribbon Panel Report does not support the use of numeric effluent criteria on stormwater discharges, and should be deleted.

The draft permit also attempts to establish Total Maximum Daily Loads (TMDLs) for 303(d) impaired waters. Yet, there have been no TMDLs approved by the Federal or State governmental agencies. What is set forth in the draft permit appears to be unworkable and impracticable. Any interest in pursuing TMDLs should be done by working on one impaired body and its associated watershed at a time.

Next is the limit on impervious area on a project site to 5% of the total area. This really is not reasonable or practical. Setting development restrictions that cannot be practically achieved is not an approach that leads to effective means of addressing the runoff issue. The 5% limit needs to be deleted.

We also want to emphasize the concept of a County-wide Model WQMP that is consistent for the entire County and one that does *not* include different standards for new development and redevelopment for North and South County areas.

To clarify our point, we observed the following technical differences pertaining to the New Development/Redevelopment sections of the recently adopted North Orange County Permit and the Tentative South Orange County Permit. For each item discussed below, recommendations are provided.

- Sections XII.B.4A and B of the North County Permit provides several options for the treatment control BMP sizing calculations, whereas the South County Permit provides only one option. ***We request that the language in Section F.1.d.6 of***

- ***the South County Permit be updated to reflect all of these options, which is consistent with Exhibit 7.II of the OC DAMP (Page 7.11-47).***
- Section XII.C.5 of the North County Permit discusses many of the issues that limit the applicability of LID principles in certain situations (e.g., unfavorable soil conditions, existing contamination issues, etc.). ***The option for the permittees to incorporate the LID principles into larger sustainability programs that balance the benefits of LID against other laudable sustainability objectives should be included in the South Orange County Permit.***
- As also discussed in previous comment letters provided by the County of Orange, we are concerned with the elimination of irrigation runoff required by the South County Permit. Our experience has taught us that irrigation runoff can be feasibly minimized, however complete elimination of irrigation runoff is unlikely to be 100% achievable. ***We recommend the language of Section XII.B.3.a that requires irrigation runoff to be minimized to the maximum extent practicable rather than eliminated.***
- The interim hydromodification requirements of the South County Permit section F.1.h.6 are extensive and include the 1-year through the 10-year storm and potential for continuous modeling requirements along with an EIA requirement. The hydromodification requirement of the North County Permit (as set forth in Section XII.D) is limited to the 2-year storm and has clear provisions for determining compliance and for determining the applicability of the hydromodification requirement. Based on our consultation with several storm water and water quality engineers, the design and approval process for implementing a system that control multiple storms is exponentially more difficult than the design approval process for a single storm event. This increased complexity in design, however, does not translate to a radically altered design in the constructed condition. ***We feel the complexity does not greatly add to achieving the regional water quality objectives and recommend that the Regional Board replace the hydromodification language from the North County Permit with the South County Permit language entirely.***

In general, the changes that NAIOP requests will not negatively impact water quality in the region and the recommended changes are consistent with the overall approach taken for water quality protection in the region. In fact, we strongly feel that a consistent Model WQMP for the entire County will increase the probability that the design measures in the Permits will be implemented in a more consistent manner when all cities have the same requirements. The overall differences with respect to new development/redevelopment in the adopted Permit for North Orange County and the draft permit for South Orange County are minimal enough that the objectives for both Permits can be achieved by a County-wide Model WQMP that reflects the specific design and numerical requirements set forth in the northern Orange County Permit.

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We appreciate you taking the time to consider the above comments, and NAIOP SoCal does look forward to working with you and your staff to make the draft permit one that is truly effective in realistically achieving the best results.

Sincerely,

A handwritten signature in black ink, appearing to read "James V. Camp". The signature is fluid and cursive, with a large initial "J" and "C".

James V. Camp
Chair, Legislative Affairs Committee