



CITY OF LAGUNA HILLS

April 3, 2007

By Email and U.S. Mail

John H. Robertus
Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Subject: Comments for Tentative Order No. R9-2007-0002; NPDES No. CAS0108740

Dear Mr. Robertus:

The City of Laguna Hills has reviewed the subject order dated February 9, 2007, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District within the San Diego Region (Tentative Order No. R9-2007-0002) (NPDES No. CAS0108740). The City of Laguna Hills as Co-Permittee, welcomes the opportunity to provide comments on the Tentative Order. The City supports the comment letter prepared by the County of Orange (Principal Permittee) and would also like to address specific technical comments that may affect the City locally.

Overall, the Tentative Order establishes general standards of care to be met for water quality as a result of urban runoff. Hence, the permit includes specific regulations affecting City operations including development planning, construction and municipal activities, watershed urban runoff management, fiscal analysis of local NPDES funding, etc. The City of Laguna Hills believes that some of the specific regulations in the Tentative Order may adversely affect our ability to effectively deliver the water quality improvements that the Board and the City are seeking to obtain. Consequently, the City of Laguna Hills working through the Principal Permittee would like to work closely with the Regional Water Board staff to revise the Tentative Order to ensure that the most effective strategies are implemented to ensure water quality.

Throughout the Tentative Order, certain actions are directed to be taken by the Permittees. These directives limit the City's discretion and the flexibility in addressing water quality issues in our community. Some of the directives and provisions of concern are as follows:

- Section (D.1.d) of Tentative Order requires the Permittees to implement an updated local SUSMP within twelve months of adoption of the Order. The City believes this schedule for the update of the SUSMP is aggressive and does not allow sufficient time for the Permittees to

incorporate changes and implement an updated SUSMP. Since the modifications for the SUSMP will take longer than the 12 month period identified in the Tentative Order, the section should be modified to require the Permittees to implement an updated local SUSMP within 24 months of adoption of this Order.

- Section (D.1.f(2)c(iii)) of Tentative Order requires that 100% of projects with treatment control BMPs that are high priority must be inspected annually by the Permittees. This will create an intensive inspection program that is not warranted. The Provision should be amended to reduce the prescriptive nature of the program and allow the Permittees to develop an inspection program that will meet the intent of the provision while balancing the need for a variety of approaches to complete this element of the program in a cost effective manner.
- Section (D.3.a(4)c) of the Tentative Order requires an evaluation of all existing flood control devices to include identifying devices causing or contributing to a condition of pollution, identifying measures to reduce or eliminate the structure's effect on pollution, and evaluation of the feasibility of retrofitting the structural flood control device. This evaluation is to be completed by July 1, 2008. This requirement is new in that the third term NPDES permit only required the Permittees to evaluate the feasibility of retrofitting existing flood control devices where needed. The new requirement places a deadline on the City without clearly defining a "flood control device". City Staff believes the new requirement should more clearly define a flood control device and not place a deadline on performing an evaluation and should give the Permittees the flexibility to upgrade any structures only as needed over time.
- Section (D.3.a(5)a) of the Tentative Order requires that the Permittees design and implement a street sweeping program based on criteria which includes optimizing the pickup of "toxic automotive byproducts" based on traffic counts. The term "toxic automotive byproducts" is not defined and these products are not specifically known to the City as we do not regulate the automobile industry. This is a Federal and State issue. Staff postulates that such byproducts might include commonly utilized automotive products such as oil, gasoline, transmission fluid, brake fluid, brake dust and radiator fluids and could include air deposited byproducts of combustion (an air quality issue). However, none of these products are intended to be the primary refuse to be collected by street sweeping operations and their deposit on a street is not necessarily related to traffic volumes as contrasted with parked vehicles. It is also unlikely that a street sweeper could collect any liquid byproducts that have soaked into the pavements. Traffic counts also seemingly have nothing to do with the frequency of material deposited on a street such as organic plant and tree materials, litter and sediments, the primary constituents suitable for street sweeping pick up. The City of Laguna Hills believes the Tentative Order should delete this provision or propose language that provides objectives for the program instead of strictly defining the criteria. The street sweeping criteria should be determined based on local needs.
- Section (D.3.b(3)a) of the Tentative Order requires the Permittees to develop and implement a program to reduce the discharge of pollutants from Mobile Businesses; to keep a listing of Mobile Businesses within the Co-Permittees jurisdiction; to develop minimum standards and Best Management Practices (BMP's) for the various types of Mobile Businesses; to notify the Mobile Businesses known to operate within the Permittees jurisdiction of the

minimum standards and BMP's; and inspect the Mobile Businesses as needed to implement the program. This provision is problematic for several reasons as described below:

- A mobile Business is not clearly defined.
- The City does not require a business license, leaving the City without a listing of Mobile Businesses;
- The city does not have staff to roam the City looking for Mobile Businesses;
- Mobile Businesses operate in multiple jurisdictions and cannot be tracked as to time and place, and;
- Mobile Businesses may operate on private property out of the City's view.

City Staff believes the Tentative Order should include language that limits the scope of the provision until the costs and benefits of the program are better understood. As such, the Tentative Order should include language that allows the Permittees to identify a mobile business category that may be a significant source of pollutants and develop a pilot program. The pilot program would allow the Permittees to work together on a regional basis to develop an appropriate framework for addressing mobile businesses and identify if the program is effective prior to expending a significant amount of resources on multiple categories of unknown mobile businesses.

- Section (D.3.b(4)c) of the Tentative Order includes new, prescriptive requirements for food facility inspections including the maintenance of roof vents and identification of outdoor sewer and MS4 connections. These are new requirements and the City does not see any justification for these additional requirements. In addition, it is completely infeasible and of a safety concern for staff to access building roofs. The City's current food facility inspection program through the Orange County Health Care Agency has been conducted successfully over the past few years and the inspection program focuses on the critical Stormwater issues including maintenance of trash/disposal areas, floor mat cleaning, disposal methods for food wastes, fats oils and greases, etc. The City believes that the current program is a successful and effective program and does not need to be amended.

- Section (D.3.c(5)a) of the Tentative Order requires the Permittees to force the implementation of specific management measures within common interest area (CIA) developments and home owner associations (HOA) to ensure compliance with the order. The CIA/HOA component of the permit has been modified to become more prescriptive than the third term permit. Section D.3.c(5)b of the Tentative Order requires the Permittees to review their existing water quality ordinance and determine the most appropriate method to implement and enforce urban runoff and management measures within CIA/HOA areas within two years of the adoption of the new permit. City staff believes the requirement should not identify specific measures to enforce, but rather should give the Permittees the flexibility to develop and implement a plan to ensure urban runoff from CIA/HOA activities meets the objectives of the permit.

- Section (D.4.e(2)b) of the Tentative Order imposes new requirements that the Permittees conduct an investigation or document why a discharge does not require an investigation, within


two business days of receiving dry weather field screening results that exceed action levels. City Staff believes two days to begin an investigation is not sufficient and is not warranted. Performing an investigation of dry weather data requires analyzing the data, pulling together the resources, analyzing maps, etc. City Staff suggests that this language be amended to advise Co-Permittees to initiate an investigation rather than to conduct one within two businesses days for both field screen data and analytical data.

- Section (D.4.f) of the Tentative Order requires the Permittees to immediately eliminate illegal discharges that pose a threat to the public's health or environment. As it takes some time to gather resources and respond to illegal discharges/illegal connections, this language should be amended to allow flexibility as to eliminate illegal discharges in a timely manner, rather than immediately.

- Section (F.2.b) of the Tentative Order requires that the Permittees annually explain any budget changes to Stormwater operations of 25% or more and Section F.3. of the Order requires the submission of a "Municipal Stormwater Funding Business Plan" by the end of the permit term. The Plan is to identify the long term funding strategy for program evolution and funding decisions. The Business Plan must identify planned funding methods and mechanisms for Municipal Stormwater Management. Staff believes these requirements are inappropriate. The fact is that the City has consistently funded its Stormwater Management Obligations. The proposed Business Plan becomes subject to review and approval by the Board, a function that is only appropriately a budget function of the City Council. The City believes that the Regional Water Quality Control Board should not be an integral part of the City's budget process.

The Tentative Order will place undue financial burden and prescriptive technical requirements on the City's Stormwater Program, without necessarily achieving the desired water quality improvements. The City believes that a revised Order addressing the City and County comments would assist the City in carrying out a more effective and successful Stormwater Program.

Sincerely,



Kenneth H. Rosenfield, P.E.
Director of Public Services

cc: Bruce Channing, City Manager
Chris Compton, County of Orange, PF&RD