



## CITY OF LAGUNA HILLS

*Public Services*

January 24, 2008

By Email and U.S. Mail

Mr. 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 REVISED TENTATIVE ORDER NO. R9-2008-0001;  
NPDES NO. CAS0108740**

Dear Mr. Robertus:

The City of Laguna Hills has reviewed the latest revised subject order dated December 12, 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. R9-2008-0001) (NPDES No. CAS0108740). The City of Laguna Hills as Co-Permittee, is providing further comments on the Revised Tentative Order prior to adoption and request that the issues in this letter be addressed.

City Staff submitted extensive comments on the initial Tentative Order on April 4, 2007 and August 22, 2007. While a number of our technical comments were acted upon by the Board Staff, several of our comments have not been satisfactorily addressed.

The City of Laguna Hills is committed to improving storm water quality and protecting our natural resources, and 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 attain. Some of the directives and provisions of concern are as follows:

- Section (D.3.a (4) c) requires the Permittees to evaluate all existing flood control devices by **July 2008** [emphasis added], identify those causing or contributing to a condition of pollution, and evaluate feasibility to retrofit. Despite previous comments, in the revised Tentative Order, the Staff made no changes to this section, explaining that a timeframe to complete the retrofits was not required, only the development of an implementation schedule. City Staff believes this deadline is inappropriate and very difficult to achieve. Moreover, this deadline has not been changed from the first draft sent on February 9, 2007. City staff believes this deadline should be omitted from this section to allow the Permittees flexibility to upgrade any structures as needed, over time. Additionally, the “flood control devices” are primarily owned and operated by the Orange County Flood Control Agency and they should be solely tasked with the responsibility of this section. The City should not be obligated to address this issue.
- 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. This requirement has remained unchanged in both revisions of the Tentative Order. The Board Staff has responded to this comment claiming that this section does not require a fully completed investigation; rather it requires the Co-Permittees to begin conducting an investigation. This clarification should be in the Tentative Order so the City is clear of the Board’s requirements.
- 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. The City has previously commented on this section and has stated that it takes time to gather resources and respond to illegal discharges/illegal connections, hence the language should be amended to allow flexibility as to eliminate illegal discharges in a timely manner, rather than immediately. The term “immediately” is undefined in the Permit and can be interpreted as within a few minutes (an infeasible response) to within a few hours (a timely manner). The Board Staff has responded that it “expects the Co-Permittees to take action immediately to eliminate detected illicit discharges but acknowledges that actual elimination may not occur immediately in some cases.” This clarification should be in the Tentative Order and the term “immediately” should be deleted in favor of “a timely manner.”
- 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 would identify the long-

term funding strategies for program evolution and funding decisions along with planned funding methods and mechanisms for Municipal Stormwater Management. City Staff has stated its' concerns on this section in both of the previous Tentative Order drafts and yet this section remains unchanged. Staff believes this provision is inappropriate, improper and unjustified. The City has consistently funded its Stormwater Management Obligations and there is no evidence to suggest otherwise. Moreover, the City submits a Fiscal Analysis in its Annual reports, also known as JURMPs (Local Implementation plan or LIP). The Board Staff claims that the Business Plan is not subject to approval and does not restrict the Co-Permittees to the implementation of any of the methods in the plan. If that is the case, there shouldn't be any need for the Business Plan. Furthermore, the mere existence of the requirement of a Business Plan in the Tentative Order makes it the purview of the Board regardless of the Staff's comment. And, the Board should not work towards a funding mandate nor take any steps to involve itself in the Budget preparation of another governmental agency. The City's budget is available for all to see as a public record and should suffice to respond to any staff concerns about funding commitments. This provision should be deleted from the Tentative Order.

The City appreciates your attention to our concerns with the December 2007 draft Tentative Order, however, further revisions to the Tentative Order addressing the City and County comments are needed in order to carry out a more effective and successful Stormwater Program.

Sincerely,



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

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