



December 8, 2009

Via US Mail and E-mail

Mr. David Gibson
Executive Officer
California Regional Water Quality Control Board,
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Mayor
Mark Tettemer

Mayor Pro Tem
Peter Herzog

Council Members
Richard Dixon
Kathryn McCullough
Marcia Rudolph

City Manager
Robert C. Dunek

Subject: Comments on the Additional Errata and Updates to Sixth Draft of Tentative Order No. R9-2009-0002, NPDES No. CAS0108740, Waste Discharge Requirements for Discharges for Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watershed of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District within the San Diego Region, dated December 16, 2009

Dear Mr. Gibson:

The City of Lake Forest ("City") submits this letter to the California Regional Water Quality Control Board, San Diego Region ("SDRWQCB") to convey the City's formal written comments on Tentative Order No. R9-2009-0002/NPDES Permit No. CAS0108740 ("Draft Permit").

The City fully supports the SDRWQCB's decision to remove Numeric Effluent Limits from the Draft Permit, and replace them with action levels. The City still has concerns about several aspects of the changes including the following:

- The action levels are too low, in some cases lower than "natural" watershed conditions. To be truly effective, the action levels should be based on actual conditions as suggested by the State Water Resources Control Board's Blue Ribbon Panel.
- There is no clear exemption for natural sources, or uncontrollable sources. As currently drafted, the action level responses do not provide an attainable natural source exclusion. Instead, natural sources are only "exempt" if they are "natural in origin and conveyance." This should be revised to include all natural sources regardless of how they are conveyed to the MS4 or the waters of the State. In addition, the Copermittees lack legal jurisdiction over certain discharges that are permitted by the State Water Resources Control Board or the SDRWQCB such as some government facilities, utilities, and special districts. Other potentially significant pollutants are not controllable by the Copermittees such as those generated from internal combustion engines, brake pad wear, tire wear, atmospheric deposition, and leaching of naturally occurring minerals from local geologic formations.



- The categorical prohibition approach to exempt discharges is unnecessary. As drafted, the Draft Permit's action level responses will require the City to prohibit any type of currently exempt discharge that is observed causing an action level exceedance. Addressing pollutant loads from such discharges can be done on a case-by-case basis that would not require a blanket prohibition. The Draft Permit should adopt this approach.
- The Draft Permit still makes an artificial distinction between stormwater and non-stormwater, and implies that non-stormwater is subject to something other than the MEP standard. This should be revised, and references to non-stormwater should be replaced with references to dry weather flows.

The City is aware that the County of Orange ("County") is submitting a comment letter documenting its concerns with the Draft Permit, and suggesting revisions. The City would like to express its full support for the County's comments and proposed revisions. This support, however, should not be interpreted as an endorsement of the Draft Permit's current distinction between discharges of stormwater and non-stormwater.

Thank you for your attention to our comments. The City is committed to the goal of water quality improvement and wants to work with the SDRWQCB in developing the most prudent and cost effective permit possible. If you should have any questions, please contact Devin Slaven, Water Quality Specialist, at (949) 461-3436.

Sincerely,

CITY OF LAKE FOREST



Robert L. Woodings, P.E.
Director of Public Works/City Engineer

cc: Robert C. Dunek, City Manager
Theodore G. Simon, P.E., Engineering Services Manager
Devin E. Slaven, REA, CPSWQ, Water Quality Specialist
Chris Crompton, County of Orange, RDMD