



THE CITY OF SAN DIEGO

February 21, 2012

Electronic Delivery to commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board,
1001 I Street, 24th Floor
Sacramento, CA 95814



Subject: **Comment Letter – Areas of Special Biological Significance (ASBS) Special Protections**

Dear Ms. Townsend:

The City of San Diego, Transportation & Storm Water Department (City) appreciates the opportunity to provide comments on this important issue. We support the inclusion of good cause considerations, physical impossibility or lack of funding regarding compliance with the special exception requirements. We were under the impression from the November hearing that the State Board staff would outreach to the applicants, though we are unaware of any outreach and were not contacted. We are extremely concerned about the seven working day comment period, which raises concerns about the sincerity of obtaining input from the applicants.

The City of San Diego is concerned that changes to this program continue to expand without explanation or without best available scientific data justifying the stricter requirements. There is a requirement to have a 90% load reduction over the 85% reference station threshold within four years, with no justification on how that load reduction was determined. Based on the Bight'08 work the applicants performed with the Southern California Coastal Waters Research Project (SCCWRP) at the request of the State Board staff, the requirement to comply with natural ocean water quality in four years appears to be unjustified, calling out for a more detailed analysis of the program's requirements. Additionally on page four, there is a new requirement that the applicants *must first consider using LID practices to infiltrate, use, or evaporatranspire storm water runoff on the site*. It is the City's understanding that the State and Regional Boards do not dictate which Best Management Practices applicants are to use, and recommend the removal of this requirement.

The City continues to request that mixing or dilution zones be incorporated into the monitoring requirements, as authorized in the Ocean Plan. Monitoring at the point of discharge for both the



Transportation & Storm Water Department

9370 Chesapeake Drive, Suite 100, MS 1900 • San Diego, CA 92123

Hotline (619) 235-1000 Fax (858) 541-4350



Page 2
Jeanine Townsend
February 21, 2012

storm water and the receiving water is duplicative, and appears to be punitive. Additionally, there are new requirements to perform both the pre- and post- storm monitoring that have not undergone cost considerations analysis. The monitoring requirements added to the approval process with the Regional Board regarding the quantitative intertidal benthic marine life survey, bioaccumulation study, and the marine debris program. Please explain why both the State Board and the Regional Board are now required to approve these documents. During these times of budget restrictions, it makes sense to only have one entity perform the review on these components.

The City is not advocating inaction; we are requesting that mixing or dilution zones be allowed in the special exceptions requirements, similar to other authorized Ocean Plan permits. We request consistent regulations based on best available science, and a reasonable timeline to comply that goes beyond four years for full implementation of all Best Management Practices. We request a 30 day time period to review public documents. Finally, State Board staff should include the Bight'08 findings as a basis for the special exception requirements, particularly after State Board staff requested that the applicants participate in this special study. If the State Board does not choose to use the data gathered by the applicants, conformance with Governor Brown's intent for effectiveness and his directives to curb spending seems insincere to the concerns of local government. If you have additional questions, please contact Ruth Kolb at (858) 541-4328.

Sincerely,



Kris McFadden
Deputy Director

KMrk

cc: Almis Udrys, Deputy Director, Office of the Mayor
Ruth Kolb, Program Manager
Drew Kleis, City Program Manager
Fritz Ortlieb, Deputy City Attorney
Heather Stroud, Deputy City Attorney