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January 23, 2015

Mr. Adam Fischer  
California Regional Water Quality Control Board  
Santa Ana Region  
3737 Main St., Suite 500  
Riverside, CA 92501-3339

**Subject: Comments on Second Draft Orange County Municipal Separate Storm Sewer System (“MS4”) Permit, Draft Order No. R8-2014-0002, NPDES Permit No. CAS618030**

Dear Mr. Fischer:

The Disneyland Resort greatly appreciates the opportunity to comment on the Second Draft Orange County Municipal Separate Storm Sewer System (“MS4”) Permit, NPDES Permit No. CAS618030 prepared by the California Regional Water Quality Control Board Santa Ana Region (“RWQCB”) for implementation by the Orange County Flood Control District, the County of Orange and the Incorporated Cities therein within the Santa Ana Region for Urban Runoff.

The revised second draft of the MS4 permit includes new language in Section XII that if revised as recommended will provide a clearer description of the requirement and avoid confusion during implementation.

To accomplish this goal, revisions to new permit language in this second draft would be needed for Section XII as noted below.

Comment #1

Section XII.I - Fourth Priority Consideration of Offsets through Retrofit of Existing Development

I. Fourth Priority Consideration of Offsets through Retrofit of Existing Development  
1. Co-permittees must require that project proponents give fourth priority

- consideration to offsetting all or any portion of the untreated design capture volume with treatment of the same or greater design capture volume using structural treatment controls (according to Subsections XII.F, XII.G., and XII.H. above) through retrofits of existing development at an off-site location.
2. The retrofit site must be located within the same watershed of the nearest receiving waters of the U.S.
  - ~~3. If the entire design capture volume cannot be treated on-site, the project must be eligible for and receive a Waiver (see Subsection XII.L).~~
  43. The off-site location must not have a pending or submitted development application which would produce similar structural treatment controls on its own.
  54. The structural treatment control(s) selection process at the off-site location must be subject to the requirements of Section XII as applicable.
  65. The operator of the structural treatment control(s) at the retrofit site must be subject to requirements in the project WQMP or another equally-effective mechanism that provides for its proper operation and maintenance.
  76. The retrofit option applies only to the subject receiving project and not to future redevelopment of the same retrofit site; any future redevelopment of the retrofit site projects must consider incorporation of structural treatment controls.

*The deletion of XII.I.3 is recommended since a development project that treats the full or partial DCV through the fourth priority option should not be required to submit a waiver. No permit requirement is being “waived” by the City or Regional Board. Additionally, this is consistent with first, second and third priority considerations which do not require a waiver.*

*The rewording of renumbered XII.I.6 is recommended for clarification of the requirements applicable to the retrofit site and the receiving project site.*

#### Comment #2

### Section XII.J – Credit Programs

#### J.E. Credit Programs

1. Co-permittees are authorized to allow transactions of design capture volume or flow “credits” between projects within the same watershed of the nearest receiving water of the U.S. The “credit” shall be generated when a LID BMP has been designed to treat the design capture volume or flow from an area that is outside of the project boundaries. Credits must be generated and traded subject to the following additional limitations:
  - a. Additional credits ~~Credits~~ may not be generated by oversizing the LID

BMP relative to its tributary area.

~~b. The receiving project must be eligible for a waiver as described above.~~

eb. The credit may only be used once for the receiving project; it may not be re-used for future projects in the same site as the original project receiving the credit.

ec. The selection of structural treatment controls for future projects on the retrofit site must be based on the merits of the project alone and not on credits allowed for past projects in the same space.

ed. The Co-permittees where the affected projects are located must have and employ an effective system of accounting and tracking for the credit transfers.

#### Section XII.K – ~~KL~~. Waiver of Structural Treatment Control BMPs ~~and Credit Programs~~

##### ~~KL~~. Waiver of Structural Treatment Control

1. Co-permittees are authorized to waive their requirement to provide structural treatment control BMPs (see Provision XII.C.1 above) to remove pollutants and subsequently approve a WQMP if all of the following conditions are met:
  - a. Employing structural treatment control BMPs has been demonstrated in the project WQMP to be technically and economically infeasible; or there is no structural treatment control BMP available for which the environmental and public health impacts can be mitigated to an acceptable level;
  - b. ~~Retrofit of existing development is not feasible; No feasible opportunities are available to retrofit existing development in the tributary area of the same receiving water to treat the untreated design capture volume;~~
  - c. Source and site design BMPs have been incorporated to maximize the infiltration of urban runoff;
  - d. If a schedule has been designed to mitigate the water quality impacts of the untreated design capture volume and has been approved by the Executive Officer, the Co-permittee has collected the related impact fees or services from the project proponent;
  - e. The Executive Officer has been provided written notice of the Co-permittee's intent to issue the waiver, along with adequate supporting documentation, at least 30-days prior to issuance by the Co-permittee;  
AND

f. The Executive Officer approves the proposed waiver or 30-days has elapsed without action by the Executive Officer on the proposed waiver, whereby it is “deemed approved”.

*The deletion XII.L.1.b is recommended for simplification.*

*Separating Section J for the Credit Program is recommended because the credit program allows for the treatment of the full or partial DCV through the credit option and should not be required to submit a waiver. No permit requirement is being “waived” by the City or Regional Board. The entire DCV is treated by credits generated from a previously installed project that provided credits. This section should be before the waiver in the permit and therefore a new numbering system is suggested as J and K.*

*Renumbered Section XII.K. clearly authorizes the City to process a waiver from the requirements to treat the DCV.*

If you have any questions or require additional information, please do not hesitate to contact me at 714-781-3563.

Sincerely,

Janina Galicinao  
Manager, Environmental Compliance  
Disneyland Resort