



THE CITY OF SAN DIEGO

January 7, 2013

VIA EMAIL TO: wchiu@waterboards.ca.gov

Wayne Chiu, P.E.
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego California 92123-4340

Dear Mr. Chiu:

Subject: Draft Municipal Storm Water Permit, Tentative Order No. R9-2013-0001

Thank you for the opportunity to comment on the San Diego Regional Water Quality Control Board's (Regional Board) draft Municipal Storm Water Permit (Tentative Order No. R9-2013-0001, hereinafter referred to as "Tentative Order"). The City of San Diego (City) participated with the twenty one permittees in the San Diego region subject to the current Municipal Permit (Copermittees) to develop a collective set of comments on the Tentative Order. The Copermittee comments were submitted separately by the County of San Diego and are supported by the City. In addition, the City submits this letter to provide additional comments on the Tentative Order.

- *Revise the Tentative Order to allow for compliance with Discharge Prohibitions, Receiving Water Limitations, and Areas of Special Biological Significance (ASBS) and Total Maximum Daily Load (TMDL) requirements if a Copermittee is implementing an approved Water Quality Improvement Plan (WQIP) that includes a reasonable assurance analysis.* The City's objective is for the Tentative Order to allow the City to efficiently integrate its TMDL, ASBS and Municipal Permit requirements into a program that allows for compliance through implementation. The WQIP developed by Regional Board staff provides an innovative, thoughtful, and strategic framework for such an approach. However, the Tentative Order does not provide a mechanism for the City to achieve compliance with ASBS and TMDL regulations and the Tentative Order's prohibitions and limitations while implementing the WQIPs. The City supports the proposed process offered by the San Diego Copermittees which links compliance to the WQIPs provided that a reasonable assurance analysis is provided which demonstrates that water quality goals will be met if the WQIP is implemented. The City requests inclusion of the Copermittee's "WQIP-Based Compliance" option in the Tentative Order.
- *Incorporate 4 options from the adopted Bacteria I TMDL into the Tentative Order.* The following options are included in the Bacteria I TMDL and consistent with federal regulations. These options should be included in the Tentative Order because they encourage



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efforts to target the highest polluting outfalls, address multiple pollutants comprehensively, and improve best management practices through adaptive management.

1. Mass (load)-based method for complying with Water Quality Based Effluent Limits (WQBELs). A mass (load)-based approach would allow the City to achieve water quality improvements more quickly and efficiently by targeting the highest polluting outfalls in each watershed.
 2. BMP-based method for complying with WQBELs. The Bacteria I TMDL allows for BMP-based WQBELs, and is supported by federal regulations provided that measurable goals are set and efforts are iteratively adapted if water quality targets are not initially met. The WQIP-Based Compliance framework proposed by the Copermittees in their comment letter qualifies as a BMP-based program, consistent with federal regulations.
 3. Adjusting interim Bacteria I TMDL compliance dates. The Bacteria I TMDL allows for Copermittees to propose alternative interim dry and wet weather compliance dates if the Copermittee proposes to address multiple pollutants (in addition to bacteria) through a comprehensive approach.
 4. TMDL Re-opener. The Bacteria I TMDL states that the TMDL will be re-opened within 5 years after the effective date or later as new information becomes available to improve the science supporting the TMDL. The Tentative Order should include a corresponding acknowledgement that the adopted Order will be re-opened if the Bacteria I TMDL is amended.
- *Revise the Tentative Order to uphold the previously adopted San Diego Hydromodification Management Plan (San Diego HMP), Resolution No. R9-2010-0066*. This plan has been in effect for less than two years. The San Diego HMP was developed by an expert consultant team that utilized extensive scientific studies, analysis and modeling to determine the appropriate hydromodification control criteria. Additionally, the Copermittees have embarked upon a \$1.5 million, 5 year monitoring plan to validate the parameters and design criteria. There have been no scientific advances in the last 2 years to justify revisions to the San Diego HMP. Therefore, we request allowing the Copermittees to continue implementation of the current San Diego HMP. Additionally, the Tentative Order expands the application of HMP controls beyond a project's impact by: 1) imposing HMP requirements on sites that have no potential of causing erosion downstream; and 2) setting pre-development as a baseline for HMP mitigation. The City requests limiting the HMP requirements to only the project's impact.
 - *Replace the monitoring and assessment requirements in the Tentative Order (Provision D.4) with the strategic monitoring approach developed collectively by the Copermittees*. The Copermittees' approach will more efficiently and effectively address critical questions necessary to adaptively manage the City's programs and realize our storm water quality goals.
 - *Add the San Diego Unified Port District (Port) as a Municipal Separate Stormwater Sewer System (MS4) Operator to the Shelter Island Yacht Basin Copper TMDL*. The Port should be

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listed as an MS4 Operator because the Port is responsible for storm drains in parking lots within the Port's jurisdiction that drain to the Shelter Island Yacht Basin.

Thank you for the opportunity to comment. We look forward to continued discussions in finding ways to improve and protect water quality. If you have any questions please contact Drew Kleis, Program Manager at (858) 541-4329.

Sincerely,



Kris McFadden
Deputy Director

KM:dk

cc: Heather Stroud, Deputy City Attorney, City Attorney's Office
Sumer Hasenin, Senior Civil Engineer, Storm Water Division
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Ruth Kolb, Program Manager, Storm Water Division
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