Wayne Chiu

January 8, 2013

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

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

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Subject: City of Imperial Beach comments on the proposed Tentative Order No. R9-2013-0001

Dear Mr. Chiu:

The City of Imperial Beach appreciates this opportunity to provide comments on the Tentative Order No. R9-2013-0001. We recognize the effort made by RWQCB staff to consider and discuss the various stakeholder positions for this new permit and agree that developing a new permit through a series of focused meetings was innovative and successful in getting the stakeholders to understand each other's positions for achieving the same end goal of improved water quality. We hope that similar efforts for collaboration are continued at the water board.

The City of Imperial Beach has been actively involved in the focus meeting process and subsequent special workshops held on the new permit. The City also participated in the development of the San Diego Regional Copermittees response to the new permit and support the redline draft being proposed by the Copermittees. The comments on the new permit below are provided in addition to the comments being made by the San Diego Copermittees. We look forward to working with the RWQCB on the final development of this new storm water permit and are optimistic that this new permit will allow for the more efficient use of community resources to implement a successful storm water management program.

Comments by the City of Imperial Beach on Tentative Order R9-2013-0001:

- Provision A: The point of jurisdictional compliance under provision A is vague and presents the potential for unintended 3rd party lawsuits. If the regional board truly embraces an adaptive approach to address priority pollutants then that needs to be explicitly clear in the new permit. It is not clear if compliance means meeting the water quality objective or implementing an adaptive WQIP. We recognize the position by the Regional Board to not get ahead of the State Water Board especially in light of the recent November 20th workshop in Sacramento to discuss concerns on the limitations of receiving water limitations in municipal storm water permits, however, we want to strongly emphasize the importance of preventing unnecessary and costly 3rd party lawsuits in the new permit.
- Provision D: We strongly support the San Diego County Copermittee's recommended changes to the monitoring program in Provision D. The Copermittees met with RWQCB staff on multiple occasions after the focus meetings to discuss recommended changes. Please incorporate a monitoring program such as the one suggested by the Copermittees that uses a scientific and question driven monitoring approach that most effectively uses public funding to demonstrate any statistically significant changes in water quality.
- E.3.B.2.e Priority Development Project Categories: The definition for a priority development project that "discharges directly to" an Environmental Sensitive Area was changed in this permit. The clarifying language from the last permit specified flows that "discharge directly to" <u>as outflow from a drainage conveyance systems that is comprised entirely of flows from the subject development and not commingled with flows from adjacent lands</u>. It is my understanding from the RWQCB that their intent was not to change the definition for discharging to an Environmentally Sensitive Area and request that the clarifying language from the old permit is reintroduced for clarity.

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- E.3.B.3.b Priority Development Project Exemptions: Major maintenance on roads, alleys, and sidewalks should be treated different than other redevelopment projects because design standards and public safety take priority over water quality regulations. It is not practical to incorporate green streets and LIDs into every street retrofit project due to site feasibility, conflicting design standards, and increased project costs; however, the Copermittees should be allowed the flexibility to consider the application of green streets and LIDs into street retrofit projects whenever and wherever feasible.
- E.3.B.3.c Priority Development Project Exemptions: Single family residential redevelopment projects should not be held to the specific design standards for regular priority development projects because it discourages redevelopment of old properties. LID and HMP sizing criteria requires hydrology reports and engineered BMP design plans that captures the 24-hr 85$^{th}$ percentile storm event and prevents not more than 10 percent of the naturally occurring flow off the site, which is beyond the normal scope of many single family residential projects. These regulations are complex and hard to understand for the regular home owner and general contractor. Requiring costly engineered BMP plans for single family residential redevelopment projects disproportionally impacts lower income communities like Imperial Beach that already have a hard time encouraging new development. We support permit language that does not require engineered BMP solutions for single family residential projects such as the disconnection of impervious surfaces, improved landscaped areas with 12" of loamy soil, and incorporation of LID concepts into the project area.
- E.3.C.2 Hydromodification Management BMP Requirements: We strongly support the recommended HMP changes discussed at length by the San Diego Copermittees. Most importantly the City requests the HMP exemptions that were removed from the previous permit be reintroduced. The entire City of Imperial Beach discharges into a tidally influenced area and does not contribute to downstream erosion. Requiring HMP on project sites in the City does not make any sense and furthermore, requiring offsite mitigation somewhere in the watershed essentially translates into a tax on development that does not mitigate for any downstream flow impacts from the project site.
- E.3.C.3.b Alternative Compliance Project Options: It does not seem appropriate for the RWQCB or any government agency to regulate alternative compliance based on LEED Certified Redevelopment projects when there are other green building certification programs on the market. Being LEED Certified does not necessarily modify storm water runoff pollution. LEED accreditation is a noteworthy building accomplishment but it is bad policy to write LEED into the regulations.
- Attachment E Provisions for TMDLs: We support the comments made by the County of San Diego related to incorporating the requirements of existing TMDLs into this new permit.

Sincerely,

Chris Helmer
Environmental Programs Manger

cc: Gary Brown – City Manager; Greg Wade – Assistant City Manager; Hank Levien – Public Works Director