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May 21, 2012

Sent Via E-mail and First Class Mail

Catherine George Hagan, Esq.
Senior Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Proposed Regional MS4 Permit for San Diego RWQCB

Dear Ms. Hagan:

I am writing on behalf of the County of Riverside ("County") and the Riverside County Flood Control & Water Conservation District ("District") concerning the proposed three-county MS4 permit which was released as an Administrative Draft last month by the San Diego Regional Water Quality Control Board ("Regional Board"). Regional Board staff has stated that the proposed regional permit would apply to the copermitees currently regulated by separate MS4 permits issued to San Diego County, South Orange County and the Santa Margarita region of Riverside County ("SMR").

The County and the District are open to discussion of the concept of improving the MS4 Permitting approach as described in the staff workshop on April 25th, 2012. However, both agencies have concerns regarding the administrative process and legal rationale for issuance of a regional MS4 permit. The County and the District also would like to address certain issues relating to the planned focused meetings.

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First, with regard to the administrative process and legal rationale, the SMR copermittees are actively engaged in modifying existing compliance programs as well as preparing and submitting the required documentation of these programs under the existing terms of the 2010 MS4 permit adopted only 18 months ago. In addition, the SMR copermittees are fully engaged in working to implement the modifications to these programs. The copermittees do not have the financial or staff resources to simultaneously work on the detailed and comprehensive requirements of the current SMR MS4 permit and effectively participate in the focused meetings and eventual development of the proposed regional permit. Moreover, the SMR copermittees have not budgeted for specialized legal and technical support for these negotiations which would otherwise not have occurred until sometime in 2015.

In light of the County's and the District's concerns, and to hopefully better understand the legal framework for the proposed regional permit, this letter respectfully requests that your office provide its legal position as to whether a regional permit may be issued to copermittees that have not yet filed a ROWD (which for is not due, in the case of the SMR copermittees, until May 2015). Additionally, we request that the Office of Chief Counsel address the Regional Board's legal authority to issue a single regional permit to municipalities located in three counties, which have separate, non-interconnected MS4s as well as different climatic and hydrologic conditions and distinctly different receiving waters and water quality concerns.

I understand that Ryan Baron of the Orange County Counsel's office has sent a letter to you requesting similar advice. For your convenience, your response to Mr. Baron can be co-addressed to my attention and need not be set forth in a separate letter.

Second, with regard to focused meeting issues, the County and District remain concerned that the proposed focused meetings may not allow full participation by all entities that would potentially be covered by a regional permit. While staff has indicated that the workshop process is informal, we believe that it is essential for all potentially regulated parties to have the opportunity to participate. Moreover, since the matters discussed in the focused meetings could lead ultimately to permit language, and the issues discussed in these focused meetings will undoubtedly be referenced as justification for staff's proposed permit language, full participation of all copermittees at this juncture is essential. We would appreciate your conveying this concern to Regional Board staff.

Additionally, we understand that there has been a request from San Diego County copermittees for a separate "legal track" to occur contemporaneously with the focused meetings, since the focused meetings will focus on technical issues. I would like to add the County's and the District's support for a legal track to address the proposed regional permit. We believe that a discussion of legal issues will provide needed direction to staff as it assesses and develops permit language.

Catherine George Hagan, Esq.

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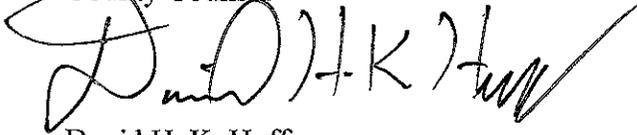
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Thank you in advance for providing a description of the requested legal authority and for your consideration of the focused meeting issues addressed in this letter. If you have any questions concerning the matters discussed in this letter, or any matters relating to the proposed regional permit, please do not hesitate to contact me at the phone and e-mail address noted below.

Sincerely,

PAMELA J. WALLS

County Counsel

A handwritten signature in black ink, appearing to read "David H. K. Huff", with a large checkmark at the end.

David H. K. Huff

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