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June 4, 2009

Mr. Robertus
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CITY OF SANTEE

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

2009 JUN -8 A 10:54

Dear Mr. Robertus,

Subject: Draft Tentative Order R9-2009-0002 Reference NWU: 658018:bneill

Thank you for allowing the City of Santee the opportunity to provide comments on the draft Orange County Permit issued March 13, 2009 (Draft Permit). Page references are given where appropriate.

Comment 1: Dry weather flows now referred to as dry weather effluent (global).

Dry weather flows may originate from a number of sources including groundwater ingress, which is a natural source of water. Dry weather flow does not originate from consistent activities or locations, or at consistent flow rates. Assigning the word "effluent" infers that this is a relatively consistent, predictable and controllable flow originating from a single industrial process (such as a wastewater treatment plant). As such, it is relatively easy to control and treat. This is not the case with dry weather flows.

Assigning the term "effluent" to dry weather flow will trigger mandatory minimum penalties under the Clean Water Act. This is inappropriate for the above-referenced reasons, and will likely result in the relevant municipal separate storm sewer system (MS4) operator(s) being in immediate and consistent violation of the Clean Water Act. The term effluent should be replaced by the word "flow."

Comment 2: Remove of urban from urban runoff (global).

At present the stormwater programs apply to MS4 systems which tend to be located in urbanized areas. Removing the term "urban" infers that these requirements apply to all runoff. This is an expansion of the requirements under the Clean Water Act and would logically apply to all runoff within a jurisdiction whether or not the jurisdiction has control over the sources of runoff (agricultural sources, or undeveloped areas, for example) or the conveyance (natural drainage). Has any economic analysis been conducted to assess the impact of this change? We

consider this an unfunded mandate that exceeds the requirements of an MS4 permit, as it appears to be applied to areas which do not necessarily drain to an MS4. The word "urban" should be reinstated when discussing runoff.

Comment 3: Introduction of Numeric Limits to define Maximum Extent Practicable (MEP).

This is inconsistent with the concept of the iterative process where you have a chance to adapt BMPs based on observation, instead of reaching a numeric limit which is more commonly associated with Total Maximum Daily Loads (TMDLs). This is also inconsistent with the 2006 Blue Ribbon Panels recommendation that numeric limits are inappropriate for municipal permits. The NELs and the MALs should be removed from the permit.

Comment 4: Annually incorporate findings from local treatment control BMP effectiveness studies into S(U)SMP (page 37).

Based on the regional model review for San Diego County updating the SUSMP annually is not feasible. It would be a more effective use of resources to update the SUSMP less frequently. Revise to incorporate findings from effectiveness studies once every permit cycle.

Comment 5: All food facilities to be inspected every year and have specific requirements imposed on them (page 61).

Based on our experience, not all food facilities warrant annual inspection (coffee shops, sale of largely prepackaged foods, such as ice cream parlors etc). It would not be an effective use of resources if the permittee cannot differentiate between facilities that genuinely have potential for exposures and those that do not.

This should be revised to require that food facilities be prioritized based on potential for exposures and that the annual inspection requirement be only applied to those deemed to have the highest threat of exposure of pollutants to urban runoff. The permittees should be allowed to develop their own method to determine how the facilities should be prioritized, but this should be based on: observations from previous inspections; record of complaints and violations associated with the specific facility; potential sources of pollutants (sale of prepackaged products versus facilities with rendering bins, food preparation waste, outside eating areas, etc).

Comment 6: Requirement to retrofit existing development (page 65).

It is not clear what mechanism(s) will be available to accomplish this requirement, nor how it would be funded. Further clarification is needed on how this can be legally accomplished and how it would be funded.

It would be a better use of resources for jurisdictions to develop measures during the review of any discretionary project to ensure that retrofitting stormwater BMPs are considered. Preparing a comprehensive report on the City-wide potential for retrofit, when it is unlikely that there would be any legal opportunity, much less financial resources, to extensively implement it appears to be wasteful. The goal

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