

WARREN D. WILLIAMS
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RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

July 9, 2012

Mr. Grant Destache, Chairman
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123

Dear Chairman Destache:

Re: Exclusion of Riverside County
Copermittees from Focused Meetings
on Proposed Regional MS4 Permit

The Riverside County Flood Control and Water Conservation District is the Principal Copermittee on Order R9-2010-0016, the MS4 permit which the San Diego Regional Board issued in November 2010 to the District, the County of Riverside, and the Cities of Murrieta, Temecula and Wildomar (collectively the Riverside Copermittees). The District is sending this letter on behalf of each of these Copermittees.

The purpose of this letter is to request an explanation as to why it was considered appropriate to move forward with "Focused Meetings" on a new proposed Regional MS4 Permit in a manner which knowingly precluded the Riverside Copermittees from participation.

On April 4, 2012, less than 17 months after the adoption of Order R9-2010-0016, Regional Board staff announced that they were actively developing a new proposed Regional MS4 Permit, which would cover San Diego County and the portions of Orange and Riverside Counties within the jurisdiction of the Regional Board. A public workshop was held on April 25th, during which Board staff presented their rationale for the proposed Regional MS4 Permit and announced a series of four subsequent "Focused Meetings", each covering various aspects of the proposed permit. Staff stressed at this workshop that it was important to bring the Copermittee groups of the three Counties together with other stakeholders in these Focused Meetings, to collaboratively and constructively discuss options for a strategic, adaptive, and synergistic permitting approach focused on achieving desired water quality outcomes.

At the April 25th public workshop, another meeting on May 9, 2012, and in three letters dated May 22, June 1, and June 7 (enclosed), the Riverside Copermittees reminded Board staff that the existing MS4 permit, Order R9-2010-0016, required the Riverside Copermittees to develop and submit seven major compliance documents by June 30, 2012. In addition, the District and the County of Riverside were faced with additional major requirements due that same date to the Santa Ana Regional Board.

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Accordingly, the Riverside Copermittees informed staff that they simply could not participate in any Focused Meetings before the week of July 23rd due to these other regulatory obligations from the Regional Boards. The Riverside Copermittees explained that beginning the meetings the week of July 23rd would provide the Riverside Copermittees with the minimum amount of time needed to complete their submissions in compliance with Order R9-2010-0016, and leave enough time for them to then review and analyze the administrative draft of the Regional MS4 Permit in preparation for the Focused Meetings. This scheduling concern was discussed with Regional Board staff at an in-person meeting on June 14, 2012. During that meeting, Regional Board staff indicated that a delay of the first Focused Meeting to the week of July 23rd was acceptable, pending approval by Regional Board management.

Despite all of these above referenced communications, and the statements of staff at the June 14th meeting, Regional Board staff issued a notice on June 20th stating that they would nevertheless move forward with the first two (of four) Focused Meetings on June 27th and July 11th. These two Focused Meetings were scheduled to cover many of the fundamental and core elements of the proposed Regional MS4 Permit.

We must conclude that Board staff's actions reflect a conscious decision to move forward with the Focused Meetings without representation and participation from the Riverside Copermittees. Subsequent communications with Board staff unfortunately reinforce a conclusion that staff is not genuinely interested in involving the Riverside Copermittees and considering their input. For example, after the June 27th Focused Meeting, Board staff indicated that they would be willing to meet with the Riverside Copermittees only to "summarize" the meeting. Providing a summary does not address the fact that the Riverside Copermittees were effectively precluded from participating together with the other stakeholders in the actual Focused Meeting discussions. This action appears contrary to the collaborative public participation processes that have been advocated by Executive Officer David Gibson at various public forums, as well as by Regional Board staff at the April 25th public workshop.

The Riverside Copermittees are further concerned that this decision may be indicative of an underlying indifference among some Regional Board staff toward the types of collaboration that they have discussed in their public forums, as well as their commitment to collaboration on other ongoing watershed protection efforts, such as for the Santa Margarita Lagoon and Estuary and the Santa Margarita River TMDL Project.

As public stewards for the citizens of Riverside County, we must be able to provide an explanation to our local elected officials and citizens as to why it was considered appropriate to move forward with the Focused Meetings in a manner which knowingly precluded the Riverside Copermittees from participation. We look forward to receiving your thoughts on this important matter and appreciate the Board's response.

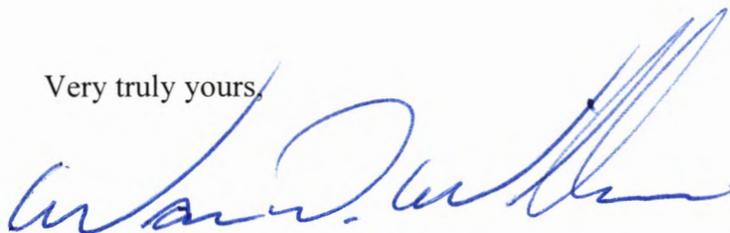
Mr. Grant Destache, Chairman
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If you have any questions regarding this letter, please contact Jason Uhley or me at 951.955.1200.

Very truly yours,



WARREN D. WILLIAMS
General Manager-Chief Engineer

Enclosures:

- Letter to Eric Becker from Claudio Padres (District), May 22, 2012
- Letter to David Gibson from Jason Uhley (District), June 1, 2012
- Letter to David Gibson from Cid Tesoro (County of San Diego), on behalf of the MS4 Copermittees in the three Counties of San Diego, Orange and Riverside, June 7, 2012

cc: David Gibson
George Johnson, Assistant County Executive Officer
Office of Riverside County Supervisor Jeff Stone (attn. Verne Lauritzen)
David Barker
Eric Becker
Riverside Copermittees

CMP:seb

P8\147760

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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

May 22, 2012

Mr. Eric Becker, P.E.
Senior WRCE Engineer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Sent Via E-Mail to ebecker@waterboards.ca.gov

Dear Mr. Becker:

Re: Schedule for Focused Meetings on the
Proposed Joint Permit for San Diego, Orange
and Riverside County Copermittees

I am writing on behalf of the Santa Margarita Region ("SMR") Copermittees regarding the proposed schedule for focused meetings on the Administrative Draft proposed joint MS4 permit for the San Diego, Orange and Riverside County Copermittees.

As we discussed in our May 10, 2012 meeting with you, Laurie Walsh and Wayne Chiu, the SMR Copermittees are fully occupied through the end of June in modifying existing compliance programs as well as preparing and submitting the required documentation of these programs under the terms of the 2010 MS4 Permit. As a result, the Copermittees lack staff and financial resources to participate in the focused meetings during June, especially given that Regional Board staff has indicated that Copermittees should come to those meetings prepared to comment on the Administrative Draft as well as propose alternative language.

Because the SMR Copermittees cannot attend any focused meetings during June, and need time to study the Administrative Draft and prepare comments, alternative language and questions, the Copermittees request that the first focused meeting occur no earlier than the week of July 23, 2012 which will give the Copermittees time to prepare and help ensure that the focused meetings are productive for all participants.

Please note that by agreeing to participate in the focused meetings, the SMR Copermittees are not waiving their already-stated concerns with the joint permit process nor their previous comments on the format for the focused meetings.

Please contact me at 951.955.8602 or by e-mail at cmpadres@rcflood.org if you have any questions concerning the matters discussed in this letter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Claudio Padres".

CLAUDIO PADRES
Senior Civil Engineer

ec: David Barker, P.E.
Laurie Walsh, P.E.
Wayne Chiu, P.E.
SMR Copermittees

CP:cw
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General Manager-Chief Engineer



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RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

June 1, 2012

Mr. David Gibson
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Sent Via E-Mail to dgibson@waterboards.ca.gov

Dear Mr. Gibson:

Re: Schedule for Focused Meetings
on the Proposed Joint Permit for
San Diego, Orange and Riverside
County Copermittees

I am writing on behalf of the Santa Margarita Region ("SMR") Copermittees regarding the Administrative Draft of Tentative Order No. R9-2012-0011 for the San Diego, Orange and Riverside County Copermittees (Administrative Draft). Fundamentally, we believe that consideration of the Administrative Draft is premature. However, if the Regional Board insists on proceeding with development of a regional MS4 permit, each of the Copermittee programs must have an opportunity to meaningfully and effectively participate in the focused meeting process.

Development of a Joint MS4 Permit is Premature

The SMR Copermittees support the South Orange County Copermittees' position (set forth in their May 17, 2012 letter) that a regional MS4 permit is not the preferred approach at this point. In discussions leading up to the development of the SMR fourth-term MS4 permit, a regional permitting option was discussed. The SMR Copermittees requested that the Regional Board defer adoption of the fourth-term SMR permit pending coordinated discussions with the other Counties regarding the viability of a regional permit. That request was denied. We are now faced with potentially having to negotiate, develop and implement portions of two MS4 permits for the SMR within two years. This represents a potentially significant waste of limited public resources during a severe and prolonged recessionary period that is impacting State, local and taxpayer budgets. In light of these facts, Board staff should not impose a second permit renewal process upon the SMR Copermittees a mere 18 months after the Board adopted our individual SMR MS4 Permit in 2010.

The SMR Copermittees believe that a more reasonable alternative would include issuance of a fourth-term MS4 permit to the San Diego County Copermittees and development of a regional MS4 permit in 2017, by which time all three fourth-term MS4 permits issued by the San Diego Regional Board will have expired. This would enable the SMR, San Diego and South Orange County Copermittees to schedule for and properly allocate the substantial resources needed to properly undertake such a complex and resource intensive process.

Mr. David Gibson
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June 4, 2012

Joint MS4 Permit Development

Without waiving their above-stated objections, the SMR Copermittees are not opposed to participating in the series of focused meetings to discuss a regional permitting approach. Such meetings, if appropriately conducted, may enable the SMR Copermittees to properly evaluate the potential benefits of a regional permit. We would also note that additional meetings beyond those originally proposed by the Regional Board staff may be required if a meaningful dialogue regarding development of a regional permit is expected. Both the existing fourth-term MS4 Permits and the Administrative Draft pose many difficult issues that must be addressed.

The participation of the SMR Copermittees in the focused meetings, however, is predicated on the following scheduling requirements:

July Commencement of Focused Meetings

As previously communicated to Board staff, the SMR Copermittees are fully occupied through the end of June in developing and modifying existing compliance programs as previously directed by the Board in the 2010 MS4 Permit. Therefore, the SMR Copermittees cannot attend any focused meetings during June and still meet our compliance deadlines. Further, once those required documents are completed and submitted, the Copermittees will still need time to study the Administrative Draft and prepare comments, alternative language and questions before being able to effectively participate in the focused meetings as requested by staff. Therefore, the Copermittees reiterate our previous request that the first focused meeting occur no earlier than the week of July 23, 2012. This will provide SMR Copermittee representatives an opportunity to prepare for the focused meetings so that they may effectively represent the interests of the SMR Copermittees. If staff moves forward with focused meetings in June, this will preclude the SMR Copermittees from effective participation in the initial focused meetings.

Mid-October/Mid November Blackout

Riverside County is under the jurisdiction of three Regional Boards and three MS4 permits. As a result, between mid-September and mid-November, the Riverside County MS4 program is fully engaged in preparing the three Annual Reports required by these permits. In addition, the Riverside County MS4 Program will also be finalizing a Report of Waste Discharge for submittal to the Colorado Regional Board. As a result, the key members of SMR MS4 Program management will not have adequate time to prepare or participate in the focused meetings during the mid-September to mid-November time period. We, therefore, require that no focused meetings occur during that period. We understand that this scheduling concern is shared by the South Orange County Copermittees.

Mr. David Gibson
Re: Schedule for Focused Meetings
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June 4, 2012

Support for Comments by South Orange County Copermittees

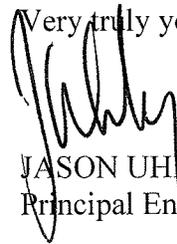
In addition to accommodation of the above-noted scheduling requirements, we support the position of the South Orange County Copermittees (set forth in their May 17th letter) that the focused meetings must:

- Provide for meaningful individual participation by all of the municipal entities that are intended to be enrolled in a regional permit, and
- Include appropriate proportionate representation by stakeholders and interested parties, recognizing that the regional permit is intended to be issued to the permittees and not others.

The SMR Copermittees reserve their right to comment on the format for the focused meetings.

Please contact me at 951.955.1273 or by e-mail at juhley@rcflood.org if you have any questions concerning the matters discussed in this letter.

Very truly yours,



JASON UHLEY, P.E.
Principal Engineer

cc: David Barker, P.E.
Eric Becker, P.E.
Laurie Walsh, P.E.
Wayne Chiu, P.E.
SMR Copermittees
Chris Crompton
John Van Rhyne
David Burhenn

RC:JU:bjp



County of San Diego

DEPARTMENT OF PUBLIC WORKS

RICHARD E. CROMPTON
DIRECTOR

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June 7, 2012

David Gibson
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-47340

Dear Mr. Gibson:

COPERMITTEE INPUT ON ADMINISTRATIVE DRAFT PERMIT WORKSHOPS

The Regional Water Quality Control Board staff has proposed that a series of stakeholder focused meetings be held to explore and consider the content of *Administrative Draft National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Tentative Order No. R9-2012-0011, NPDES No. CAS0109266)*. To this end, the Copermittees of San Diego County, South Orange County, and the Santa Margarita Region of Riverside County offer the following input on their expectations and preferences for the organization and conduct of the meetings.

I. Parties at the Table ("Table Parties") for Focused Meetings

Regional Board staff initially proposed that a total of eleven participants be included in the focused meetings. Since that time, Regional Board staff, after consulting with a professional facilitator, has indicated a willingness to allow up to 15-20 participants (excluding Regional Board and USEPA staff) to participate in each meeting. It is the Copermittees' position that increases in participation should be limited to Copermittees of the three regions only, i.e., NGO and industry / public representation should remain as originally proposed. Specifically, we propose that representation for each meeting be distributed as follows:

- San Diego County Copermittees: 5 people.
- Riverside County Copermittees: 4 people.
- Orange County Copermittees: 5 people.
- Industry / Public Representatives: 2 entities.
- Non-governmental Organizations (NGOs): 2 entities.
- U.S. EPA: 1 person.

David Gibson
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Given that the Copermittees are the only parties to be directly regulated under this proposed Order, they should have the greatest possible opportunities for productive input. While we agree that NGO and industry representation are also critical, we believe that the formal permit adoption process will allow sufficient opportunity for expanded input from these other parties. It is therefore appropriate to restrict their upfront involvement until many of the specifics of the draft Order are solidified.

Moreover, given the limited availability of total meeting seats, we believe that industry and/or public representation should vary as appropriate to the specific content of each meeting. We are interested in providing additional input on this representation once the meeting content is established, but will defer to Regional Board staff in deciding how best to fill each seat for the non-regulated parties.

II. Makeup of Table Parties

All participants should be free to designate any individual or individuals to serve in their table party for any focused meeting. Where the subject matter of a particular meeting warrants, Copermittees should be able to change representatives during the meeting.

III. Copermittee Attendance (Audience)

Contingent on seating availability, each Copermittee should have the right to send as many attendees as they deem appropriate to each meeting.

Sufficient breaks should be allowed during the sessions to allow Copermittees in the Audience to caucus with the table parties.

As time permits, each focused meeting should end with a time for Copermittees or other attendees who are not at the table to provide brief comments or to ask brief questions.

The focused meetings are not intended to be public workshops, and audience membership beyond the Copermittees should be appropriately limited. Regional Board staff, in consultation with the meeting facilitator, should determine how best to ensure appropriate attendance at each meeting.

IV. Meeting Schedule

Due to existing obligations, USEPA regulatory audits, and deliverables related to recently issued MS4 permits, the Orange and Riverside County Copermittees are constrained in their availability to participate in the proposed focused meetings with Regional Board staff and other stakeholders starting in June 2012. Although the San Diego County Copermittees are not subject to the same constraints in June and July, they support structuring the focused meeting process in a way that allows for full participation by the Orange and Riverside County Copermittees. This is key to ensuring a robust dialogue that involves all of the stakeholders and dischargers who will be significantly affected by the new requirements.

In particular, the San Diego County Copermittees concur that in order to accommodate the Riverside County Copermittees' ability both to fulfill their existing obligations, and to prepare for the meetings, no meeting should occur before the week of July 23, 2012. Moreover, as is stated in the Riverside County

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Flood Control and Conservation District's June 1, 2012 letter, meetings should not occur between September and mid-November 2012. This will allow representatives of all three permit regions to fulfill their annual reporting obligations.

V. Time between Meetings

The focused meetings should be scheduled such that there are 3 to 4 weeks between meetings. This will allow sufficient time for participants to adequately prepare for the next meeting topic.

VI. Record Keeping/Report Out

Notes or minutes should be taken at the meetings, and draft notes or minutes circulated within one week to the table parties for edits/concurrence. When concurrence on the notes/minutes is reached, they should be promptly distributed to the Copermittees and other participants to ensure continuity between and adequate preparation for each of the meetings. The Copermittees are able provide these services if desired.

VII. Meetings to be Focused on Technical, Not Legal, Issues

Ground rules should be established to ensure that the focus of the meetings will be on technical, not legal, issues. To the extent that table party members are lawyers, they must abide by these rules.

Issues relating to the legality/illegality of provisions in the Administrative Draft or proposals raised during the focused meetings should be referred to legal counsel for separate discussion and, as appropriate, reporting back to the table participants. Additionally, while Copermittees do not propose to have lawyers in their table parties, they should be allowed limited access to legal counsel for consultation during the meetings. Given that the technical and legal aspects of many issues under consideration are not wholly separable, some issues may arise where immediate input or clarification is needed.

In all cases, counsel should only participate in discussions in accordance with the ground rules established.

Please contact Todd Snyder at (858) 694-3482 if you have questions or would like to further discuss this letter. We look forward to meeting with Regional Board staff to finish preparing for the focused meetings, and are hopeful that they will provide the dialogue needed to craft a permitting approach that meets all of our expectations.

Sincerely,



CID TESORO, Manager
Department of Public Works

CT:js

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cc: Eric Becker, San Diego Regional Water Quality Control Board
David Barker, San Diego Regional Water Quality Control Board
Copermittees of Santa Margarita Region of Riverside County
South Orange County Copermittees
San Diego County Copermittees