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*“The Difference is Quality”*

March 6, 2011

San Diego Regional Water Quality Control Board  
9174 Sky Park Court  
San Diego, CA 92123-4340

Re: Comment Letter-03/11/2011 Board Workshop-Fireworks Draft Permit

Mr. Gibson and Members of the Board:

I once again find the need to comment on Tentative Order (TO) R9-2011-0022, this time, specifically version 2/8/2011.

I strongly disagree with the Water Board's judgment on the need for such a permit. The numerous hours I have spent reading the revised TO still brings me to the same conclusion: The Board has provided no quantitative data supporting its contention that display fireworks constitutes a significant source of environmental water pollution, and thus a mandate for an NPDES permit. To the contrary, the scientific evidence gleaned through water monitoring nationwide shows that Display Fireworks do not cause ecological harm to our surface waters.

The TO includes the statement that display fireworks “pose no significant threat to Water Quality.” Yet, the Board continues to push forward the implementation of a permitting process. Common sense begs the question: WHY??? Nowhere in the United States of America is this action being contemplated except in San Diego, CA. Does this make you trend setters? I doubt it. The actions just leave me wondering what is the real motive? It certainly can't be clean water; we already have that here in San Diego, just read your own reports. Why are you pressing forward with this general permit for display fireworks when you have other major water issues on which you should be spending your time and limited resources?

The revised TO ostensibly provides relief to many sponsors of fireworks displays, yet still encumbers some which sponsor multiple small displays, such as the San Diego Symphony Summer Pops Series and the USS Midway Museum. The TO applies to “point source discharges” of display fireworks fallout to the waters of Mission Bay and the San Diego Bay. After years of fireworks displays being conducted in and/or proximate to Mission Bay, it is judged clean, so say the reports we read and hear in the local news. Likewise, San Diego Bay is judged reasonably clean, despite the substantial ship and boat traffic and numerous fireworks displays conducted. I conclude that any adverse ecological events in San Diego Bay have not had public fireworks displays as causative.

As specific areas of concern, I offer the following.

1. I strongly object to the TO referring, sans any confirming data, to the discharges, associated with the public display of fireworks, to surface waters as either residual pollutant waste or worse, hazardous waste. Hazardous waste has very serious connotations, and fireworks decomposition products do not fall under the terms nor definitions of hazardous waste. That wording must be changed immediately and removed from all publications; we are not dealing with hazardous waste.
2. The TO fails to clearly define “Discharger,” and who, the “person” is or shall be subject to the 1000 lb. NEW monitoring-free limitation and the permitting process. I have enclosed a copy of a March 3, 2011 letter to me from Dr. Roger Schneider which address the TO’s shortcomings in this regard. Attendant this concern is the uncertainty in who is responsible for filing the Post Display Report with the Board?
3. I believe the 60 day advance notice to the Water Board for the permit is totally unreasonable. For the issuance of display permits, both the State of California and the City of San Diego require 10 days. The Water Board should be able to process their permit (if needed) within the same time frame as the State and City.
4. The TO lists in multiple locations the “typical fireworks constituents” as including but not limited to aluminum, antimony (misspelled as antimony throughout the TO), barium, carbon, calcium, chlorine, cesium, copper, iron, potassium, lithium, magnesium, oxidizers including nitrates, chlorates, perchlorates, phosphorus, sodium, sulfur (appears incorrectly as sodium sulfur in the TO), strontium, titanium, and zinc. Although his presentation at the workshop on December 16, 2010 was cut short, Dr. Schneider did address many of these listed elements and anions and was able to demonstrate that most are naturally found in sea water. He told the workshop attendees that display fireworks do not contain elemental phosphorus, nor cesium or lithium, and yet we see the list unchanged. Dr. Schneider did not have the opportunity to address barium, which is present in some display fireworks compositions as either the nitrate, sulfate and/or carbonate, nor perchlorates. With respect to barium, any fireworks related discharges of this element to surface waters would either be or would soon be in the form of the sulfate. The solubility of barium sulfate in water is so low, that it is considered effectively insoluble and represents no threat to the environment. Perchlorates are mineralized in the San Diego surface waters through phytoremediation. I have attached a paper authored by Dr. Schneider which addresses this process. I have also attached a list of Standard Fireworks Chemicals, which is found in the American Pyrotechnics Association’s standard 87-1.
5. I am troubled that the Board does not seem to care about the economic impact this Order can and will have on San Diego’s business community. The cost to benefit of a Category 3 threat, the lowest threat to the environment, should be a deciding factor in whether or not implementation of a permitting process is warranted.

I commend the Board on the significant changes made in the original Tentative Order. However, the Board has not yet made enough changes to make this even reasonably workable, nor has the Board made the change that I feel makes the most sense: Eliminate the Tentative Order, it is not needed, nor does the Board have the authority to regulate the public displays of fireworks.

Do not think for one minute that you and the other members of the Board are the only ones who care about our water quality. All of us in the fireworks industry have been working hard for years to keep our waters and our land clean and protected. But when common sense gives way to regulatory abuse, the fight must be fought. My world is beset with obtaining permits and following many rules and regulations. It is inextricable with the service that we provide to our sponsors. But, when new potential regulations spring up that have no logical nor scientific basis, just the reasoning that “an ounce of prevention is worth a pound of cure”, they engender another strong response to drive the deliberations towards prudence.

Sincerely,

*Joseph R Bartolotta*

Joseph R. Bartolotta  
President