

April 20, 2011

Via Hand Delivery and Email

Mr. David W. Gibson  
Executive Officer  
Ms. Michelle Mata  
Water Resource Control Engineer  
San Diego Regional Water Quality Control Board  
9174 Sky Park Court  
San Diego, CA 92123-4340

SUBJECT: Tentative Order No. R9-2011-0022, NPDES Permit for Public Display of  
Fireworks; Reg Measure ID 375971: MMATA Place:656901

Dear Mr. Gibson and Ms. Mata:

The San Diego Unified Port District ("Port") appreciates the opportunity to provide comments on Tentative Order No. R9-2011-0022, General National Pollutant Discharge Elimination System ("NPDES") Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks ("Tentative Order"). These comments are in addition to the written comments the Port provided on March 7, 2011, before the second fireworks workshop held on March 11, 2011. We appreciate your office's continuing efforts in working with the numerous stakeholders to obtain input on this important community issue. The Port has reviewed the revised Tentative Order and has the following comments at this time. The Port may offer additional comments at the public hearing scheduled on May 11, 2011.

The Port appreciates your clarification in the revised Tentative Order that the NPDES permit must be obtained by "*Any person discharging* pollutant wastes associated with the public display of fireworks . . ." (Tentative Order, Table 1, Discharger Information, emphasis added), instead of an event "sponsor". This alleviates our previously stated concern that persons other than the actual discharger or organizer of an event must apply for a permit, and therefore be required to assume legal liability for another party's actions over which they have no control. For example, there are numerous local monetary "sponsors" of fireworks shows, who merely donate funding to those who put on the shows. Monetary "sponsors" such as the Port have no involvement in or control over the displays and do not "discharge" the fireworks. Therefore, they should not be subject to the Tentative Order. Should that occur, many monetary sponsors may choose to withdraw their support, which would jeopardize the ability of the shows to continue.

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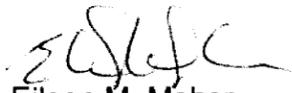
However, we request that this clarification be uniform throughout the Tentative Order and all references to show "sponsors" or "hosts" be deleted or clarified so the permit obligation clearly applies solely to the actual discharger or show organizer, and excludes organizations or persons that merely donate funds for the presentation of fireworks shows. For example, Section II.G of the Tentative Order refers to "sponsor", as well as Attachment F.II.F (which could be replaced by "Discharger"). Similarly, Attachment B.II has the prior draft language referring to the obligations of "sponsors", which should be revised (and potentially replaced by "organizer"). There are many other references to "sponsors" throughout the Tentative Order, which are not listed here. Also, Section II.B and Attachment F.II.A refer to the obligations of a "host" (which could potentially be defined or replaced by "organizer").

The Port also has the following comments on the draft Monitoring and Reporting Program (Attachment E, Section IX):

1. Section IX.A.1.a, Category 1 Discharger Criteria defines which discharges are subject to monitoring. The Port recommends that this definition include discharges to surface waters which can flow into or are adjacent to San Diego Bay.
2. In Section IX.A.2, Category 1 Dischargers are encouraged to establish or join water body monitoring coalitions for San Diego Bay and/or Mission Bay. As you know, these bays have been sampled at regular intervals for the last 15 to 20 years through the Bight Program and, as a result, have established a solid baseline of water and sediment conditions. The Port recommends, in lieu of the proposed monitoring coalition, that dischargers contribute to the regional Bight monitoring program.

The Port looks forward to continuing its work with the Regional Board and the numerous stakeholders on these issues. If you have any questions, please contact me at (619) 686-6254.

Sincerely,



Eileen M. Maher  
Assistant Director  
Environmental & Land Use Management

EMM: rlg  
File: Fireworks  
cc: Darlene Nicandro

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