

SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY

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March 22, 2013

Mr. Wayne Chiu, P.E.
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

**RE: Public Hearing to Consider Adoption of Tentative Order R9-2013-0001
NPDES No. CAS01092662 ("Tentative Order")**

Dear Mr. Chiu:

The undersigned represents the San Diego County Regional Airport Authority ("Authority") concerning the above-referenced matter. This letter constitutes: (1) the Authority's formal objection to the Hearing Procedures and Order of Proceedings ("Procedures") dated March 15, 2013, issued by the California Regional Water Quality Control Board, San Diego Region ("San Diego Water Board"); and (2) a formal request for an evidentiary hearing in accordance with Cal. Code Regs., Tit. 23 § 648, *et seq.*

The San Diego Water Board's Meeting Notice and Agenda sets the hearing on this matter for April 10 and 11, 2013. To date, however, the San Diego Water Board has not issued the revised Tentative Order that is the subject of that hearing. The Procedures further require participants to file any objections or requests for alternative procedures no later than 5:00 pm on March 22, 2013. The aggressive hearing schedule and proposed Procedures are antithetical to the most basic tenants of due process: adequate notice and an opportunity to be heard. They also run contrary to the spirit of collaboration, which has been the principle championed by the San Diego Water Board throughout this process. Without the benefit of knowing what revisions, if any, have been made to the Tentative Order, the Authority is compelled to preserve its due process rights.

1. Banning Additional Substantive Comment Violates The Code of Federal Regulations.

Under the heading "Scope of Hearing," the proposed Procedures purport to severely restrict the substantive content and format of additional comment on the



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Tentative Order. Such restrictions are contrary to 40 C.F.R. § 124.12 (c), which states, in relevant part: “The public comment period under § 124.10 shall automatically be extended to the close of any public hearing under this section.” Because the San Diego Water Board has yet to publish the revised Tentative Order, it is impossible for the Authority to know whether additional written or oral comment will be necessary at this time. Accordingly, to preserve its right to a complete administrative record in this matter, the Authority objects to these purported limitations.

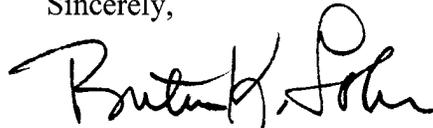
2. The Authority requests a formal evidentiary hearing in accordance with Cal. Code Regs. Tit. 23 § 648, et seq.

The Procedures state that the San Diego Water Board intends to conduct this hearing in an “informal manner”. The Authority respectfully submits that both the time and procedural limitations proposed are inappropriate for a Tentative Order of this magnitude and complexity. This matter is currently set for hearing in less than three weeks and the stakeholders have not yet been afforded an opportunity to review the Tentative Order. Without knowing what is contained in the Tentative Order, the Authority is compelled to preserve its right to, and hereby requests, a formal hearing on this matter conducted in accordance with Cal. Code Regs, Tit. 23 § 648, *et seq.*, and Cal. Govt. Code § 11513.

Because it does not know the contents of the revised Tentative Order at this time and will not have adequate time to coordinate the presentation of evidence with other co-permittees, the Authority respectfully requests a minimum of one (1) hour for the presentation of oral evidence, introduction of witnesses, cross examination of witnesses, rebuttal testimony and other rights afforded by Cal. Govt. Code § 11513.

The Authority requests the San Diego Water Board reconsider its decision to hold the hearing now scheduled to begin on April 10, 2013, and instead postpone it for a minimum of forty-five (45) days from the date of issuance of the revised Tentative Order. In that way, stakeholders will have an opportunity to review/analyze it, to coordinate the presentation of common concerns and to generally present comments and evidence in a more efficient way.

Sincerely,



Breton K. Lobner
General Counsel

cc: David Gibson, Executive Officer
Catherine Hagan, SWRCB Counsel