Suggested Improvements to RWQCB Tentative Order No. R9-2013-0001

Coalition Members

THE ASSOCIATED GENERAL CONTRACTORS · SAN DIEGO CHAPTER

CICWQ

Alliance for Habitat Conservation

BIA 75 YEARS in SAN DIEGO
ADVOCATES for PROGRESS. CONNECTIONS for BUSINESS.

50 YEARS 1963-2013 BOMA San Diego

SDCAA SAN DIEGO COUNTY APARTMENT ASSOCIATION

90 YEARS PROUDLY SERVING OUR MEMBERS

SAN DIEGO™ REGIONAL CHAMBER OF COMMERCE

ABC Associated Builders and Contractors, Inc. San Diego Chapter

NAIOP COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION SAN DIEGO CHAPTER

Business Leadership ALLIANCE Strengthening the voice of business

SDAR SAN DIEGO ASSOCIATION OF REALTORS® The Trusted Voice of San Diego Real Estate

ASLA san diego

What we support

- The development of Water Quality Improvement Plans as the Core of the Permit
  - An open process involving all of the stakeholders
  - A stakeholder panel consisting of experts to assist in the development of the WQIPs
  - An outcome-based process that will achieve cleaner stormwater for the whole region, not just a small percentage of the built environment
  - Watershed/regional solutions— alternative compliance within the WQIPs will achieve cleaner stormwater faster
  - Incentivize & encourage regional cooperation

Suggested Improvements

- Adopt the US EPA's policy of incentivizing infill development by keeping urban infill Hydromodification Management Standard exemptions per the existing San Diego HMP process; modify, if necessary, as part of the stakeholder process to develop the WQIPs
- Allow more time to develop the WQIPs—give the Executive Officer the authority to extend the time to develop the WQIPs if needed
- Redefine Priority Development Projects for large area, low impervious projects (e.g., solar and wind renewable energy projects.)
- Strike sediment transport language and incorporate this as appropriate in the WQIPs (Section E.3.c.(2)(b) – page 95 of 144)
- Change the definition of Ground Water

Hydromodification Management Standards

- The Coalition and RWQCB staff agree that the Tentative Order keeps current hydromodification management standards in place until such time as the WQIPs are approved by the RWQCB
- The Coalition believes that the current hydromodification management standards are based on good science. Given the limited resources available to the Co-permittees, the Coalition believes that the current hydromodification management standards should be presumed appropriate unless shown otherwise through the development of the WQIPs

Hydromodification Management Standards

- **Request of the Board:**
  - Add the following finding to the Tentative Order:
    - The Regional Board finds that there is substantial evidence to support the use of the current hydromodification management standards in each WQIP unless there are unique characteristics in the watershed to the contrary.

Sediment Balance/Transport

- Concern:
  - This is an example of how a good idea applied to a specific situation becomes a bad idea when applied across the board.
  - This is an example of how overly prescriptive regulations often lead to unintended consequences, including overreaching an agency's authority.
  - The staff has stated it is not their intent to dictate land use decisions, yet they are opposed to removing this prescriptive and overreaching rule.
  - The rule is based on an incomplete understanding of fluvial geomorphic principles and stream rehabilitation.
  - As copermittees will likely continue to implement land development policies from the permit that require expensive studies, this will likely result in yet one more needless study to prove what is already intuitively obvious in the vast majority of development projects.
- Recommendation:
  - strike the requirement to avoid critical sediment yield areas found in Provision E.3.c.2) (b) and properly address the issue in the WQIPs.

Change the definition of Ground Water

- Concern:
  - The current definition of Ground Water in the permit remains vague.
  - Determining what constitutes ground water requires professional expertise.
- **Request of the Board:**
  - Revise the definition in the draft permit as follows:
- Groundwater –Subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated as determined by an appropriately licensed professional pursuant to California Business and Professions Code Section 7830 et seq.

Revise policy to adopt EPA standard for urban infill projects

- Concerns:
  - Permit requires that urban infill projects use a "pre-development condition" standard conflicts with other land use policies and State laws such as AB-32 & SB-375
  - Recent EPA policy expressly encourages incentivizing infill development
- Recommendation:
  - Keep the urban infill project exemption as it reflects EPA's policy direction to incentivize infill development projects; use the pre-project condition standard unless specific findings in the WQIPs require an alternative standard.

Change the definition of Priority Development Projects for large area, low impervious projects

- Concern:
  - The current definition of PDP permits pulls in projects such as renewable energy and public parks that have more than 10,000 square feet of impervious area but are less than 3% total impervious area
- Request of the Board:
  - New development projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site), or redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site). This category includes commercial, industrial, residential, mixed-use, and public development projects on public or private land. This category does not include renewable energy solar or wind projects that do not create impervious surfaces collectively over the entire project site by more than 3% of the total surface area.

Provide more time to develop the WQIPs

- Concerns:
  - This will be the first attempt to develop WQIPs
  - This is an ambitious effort which will likely include issues that have not been anticipated
  - There is no assurance at this time that eight high quality WQIPs can be produced within 24 months.
- **Request of the Board:**
  - Modify the draft Order to grant the Executive Officer discretion to extend the deadline for Co-permittees to develop the WQIPs when good cause is shown

Alternative Compliance

- We need to ensure that Alternative Compliance methods and frameworks are included beyond the limited options included in the permit
- Need to ensure project applicants can actually use the option of Alternative Compliance
- Copermittees have a valid point of needing resources to maintain retrofit devices installed as result of Alternative Compliance

Conclusions

- We seek to build on the collaborative effort started by RWQCB, with co-permittees and NGOs
- Take the time needed to develop a consensus based permit
- The HMP deserves the time to see measurable results
- WQIPs are supported by all stakeholders-**Let's get it done right**