



*City of
Encinitas*

June 5, 2006

Mr. John Robertus
San Diego Regional Water Quality Control Board
9174 Sky Park Court
San Diego, CA 92123

RE: Proposed Tentative Order # R9-2006-0011 (Draft Municipal
Stormwater Permit)

Dear Mr. Robertus:

This letter represents a consensus of the City County Managers Association in the San Diego Region related to Tentative Order #R9-2006-0011.

We want to thank you and your staff for the dialogue established during the review and comment period, including two workshops and written feedback which facilitated an understanding of RWQCB staff's goals and methods to achieve them. We appreciate the time and effort you put into this process, and suggest that you consider circulating a "final" draft permit for one more series of public comments after you've made modifications based upon written comments and statements made at the June 21st public hearing. Thanks again for this public conversation.

We are writing to support the letter submitted by the County of San Diego on behalf of all Copermittees that provides both legal and technical comments to the Tentative Order. As managers responsible for addressing a multitude of needs within our communities, we face service demands that exceed our resources, and we work with our elected bodies to create a balanced approach to many challenges. Cleaning up our bay, rivers, streams and the ocean is of strategic importance to us individually and collectively, but it must be addressed within the context of many other public services we are tasked to provide including public safety – fire, police and emergency medical response, transportation, quality development, recreation, building safety, code enforcement, and economic development.

It is in this context that we express our concern over the potential fiscal impact of the proposed permit. For example, the regional monitoring requirements will increase between hundreds of thousands of dollars to \$2 million depending on the

final terms of the permit. The HMP is estimated to cost approximately \$2 million and a regional education program may cost between \$50,000 and \$2 million. Further, there are yet to be quantified program costs which will be unknown until the permit is implemented and we have identified priorities. This is further aggravated by the fact that many expenses are heavily loaded in the early years of the permit. It would be helpful if these costs could be spread over a longer period.

Fundamentally, the heavy financial burden of the new permit will strain jurisdictions that are already under financial duress and cities' financial capacity to meet requirements grows increasingly problematic. For example, Lemon Grove already eliminated a Sheriff's deputy in order to implement RWQCB requirements. The voters of Encinitas recently rejected an increase for stormwater management, and the Howard Jarvis Taxpayers Association is suing Solana Beach to stop its fee added to trash collection. The suit is very disturbing because about half the cities in the region use a similar methodology to raise stormwater management funds.

In addition to the financial burden of the proposed permit, it appears that some requirements represent unfunded state mandates contrary to Article XIII B, section 6 of the State Constitution (Proposition 1A). To name two, the hydromodification and MS4 requirements fall into this category. Please consider these requirements to ensure the State's budget includes the required funding or suspend the requirements until such time as you secure state funding. Finally, raising fees for watershed management presents a practical problem, at a minimum. More importantly, raising fees to pay for programs outside of each city's boundaries may be illegal. Proposition 218 comes into play, and jurisdictions may not raise fees to pay for actions outside their jurisdictions. Please carefully weigh the fiscal impacts that the proposed requirements will have on already strained municipal budgets.

Again, thank you for your attention to the substance and process of the current review. We appreciate your dedicated efforts to improve the waters of our region.

Sincerely,



Kerry Miller