



ORANGE COUNTY  
**COASTKEEPER**  
EDUCATION / ADVOCACY / RESTORATION / ENFORCEMENT

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October 14, 2010

Santa Ana Regional Water Quality Control Board  
ATTN: Mark Smythe  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

**RE: AMENDMENT OF WASTE DISCHARGE REQUIREMENTS FOR THE COUNTY OF ORANGE, ORANGE COUNTY FLOOD CONTROL DISTRICT AND THE INCORPORATED CITIES OF ORANGE COUNTY, AREA WIDE URBAN STORM WATER RUNOFF PERMIT (ORDER NO. R8-2009-0030, NPDES NO. CA618030, MS4 PERMIT), TENTATIVE ORDER NO.. R8-2010-0062**

Dear Mr. Smythe,

We write on behalf of Orange County Coastkeeper (“Coastkeeper”) and the Natural Resources Defense Council (“NRDC”). Coastkeeper is an environmental organization with the mission to preserve, protect and restore the watersheds and coastal environment of Orange County. NRDC represents over 100,000 members in California, including members in the Orange County area affected by the Permit and Water Quality Management Plan (“WQMP”). After careful review of Tentative Order No. R8-2010-0062, Coastkeeper and NRDC oppose a six month deadline extension for updating and approving Orange County’s required WQMP. While we appreciate the opportunity to comment on the Tentative Order, we are disappointed to see that the Staff Report and Recommendation on this matter have been completed and transmitted to the Regional Board before the close of comments, meaning that the staff’s recommendation was made without the full input of the public.

In adopting R8-2009-0030, the MS4 Permit for North Orange County, the Regional Board provided the County of Orange and their staff with clear deadlines and compliance guidelines for implementing their latest MS4 permit. In conformance with an unfortunate but frequent practice of failing to satisfy deadline requirements, the County of Orange submitted a woefully inadequate WQMP and technical guidance document “on time” that resulted in hundreds of suggested revisions by Regional Board staff. The draft product submitted to the Regional Board for comment may have been of a higher quality had the County cooperatively worked with members of the Technical Advisory Group, of which both NRDC and Coastkeeper

were members, rather than move from meeting to meeting without adequately incorporating or modifying the working document to reflect the suggestions made by its members as a whole. The result of the TAG process was a product neither Coastkeeper nor NRDC supported and one that required such significant revision that County staff is currently asserting meeting the November deadline would be a near impossibility.

The County of Orange has developed a chronic problem meeting permit deadlines and producing documents sufficient to satisfy Regional Board and regulatory requirements, as seen with the NSMP process in Newport Beach. Our organizations are highly concerned that the Regional Board's extension of this deadline will serve to validate the behavior of the county in failing to meet its regulatory deadlines and that requests for extensions will become the norm, so as to transform mandatory deadlines into permissive Regional Board suggestions.

Finally, Coastkeeper and NRDC are not satisfied with the assertion that such a delay is warranted because coordination between Orange, San Bernardino and Riverside Counties will result in the reduction of costs, the provision of uniform requirements for municipalities, businesses, and citizens of the various counties. As the Clean Water Act contemplates, the terms and requirements found within the various MS4 permits are materially different, as are the timelines on which the permits are adopted. As such, there is no regulatory need that permit implementation should be substantially delayed to allow such coordination. Rather, the assertion that such coordination is necessary appears to be primarily for the purpose of allowing additional delay, the impact of which would be the postponement of a finalized WQMP for the County of Orange by an entire year, with its attendant impacts to the health and well being of the County's waters, despite the MS4 permit's unambiguous language requiring a WQMP within 12 months of adoption.

Coastkeeper recognizes the reality that the County of Orange and Regional Board currently find themselves faced with: the implementation of an incomplete WQMP that may result in regulatory uncertainty and confusion. However, rather than reward the County for producing this reality, the Regional Board should hold the County accountable. Coastkeeper and NRDC encourage the Regional Board to ensure the County of Orange answers for missed deadlines and to deliver a message of firm resolve concerning the importance of deadlines and requirements issued by the State of California. Instead of consenting to the County's non-compliance, the Regional Board should pressure the County of Orange to meet the deadlines set by the public process. In this regard, while we do not support the allowance of any extension for the County, should the Board determine to allow an extension at all, we urge the Regional Board to permit an extension of the WQMP deadline by no more than 90 days, the reconvening of the TAG and PAG if necessary, and the strict enforcement of all future MS4 deadlines.

Our organizations would like to thank the Regional Board for the opportunity to comment on the proposed amendment. The quality of our waters is of critical importance to our organizations and the people of Orange County, and we look forward to continued cooperation during the completion of the permit requirements.

Sincerely,

A handwritten signature in black ink that reads "Garry Brown". The signature is written in a cursive style with a light grey rectangular background behind it.

Garry Brown  
Executive Director  
Orange County Coastkeeper

A handwritten signature in black ink that reads "Noah Garrison". The signature is written in a cursive style.

Noah Garrison  
Project Attorney  
Natural Resources Defense Council