



City of Del Mar

1050 Camino Del Mar · Del Mar, California 92014-2698

JMR 9/28

Where the Turf meets the Surf

September 27, 2006

John Robertus
Executive Director
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court Suite 100
San Diego, CA 92123-4340

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 SEP 28 P 1:30

SUBJECT: INVESTIGATIVE ORDER NO. R9-2006-076
REFERENCES: WQS: 79-0058.02:WC AND WQS:79-0058.02:CGT

Dear Mr. Robertus:

This letter is in response the San Diego Regional Water Quality Control Board (Regional Board) issuance of Investigative Order No. R9-20006-076 issued on July 19, 2006, and the Notice of Public Hearing on Investigative Order No. R9-2006-076 issued on September 11, 2006.

The City of Del Mar (Del Mar) has been diligently implementing the Municipal Storm Water Permit (Order No. 2001-01) and actively participates with other copermitees in the development of program components that focus on protecting water quality. Del Mar has effectively implemented the storm water and water quality program at a scale in excess of Del Mar's size and resources.

The dischargers named in the Investigative Order have estimated the cost of producing the required monitoring program reports between \$300,000 and \$500,000 per lagoon. Del Mar is currently listed as a Responsible Discharger in Attachment 1 of the Investigative Order for the water quality limited segment of Los Penasquitos Watershed (HUC 906.1) which corresponds to Los Penasquitos Lagoon for sedimentation/siltation (see Figure 1, attached). Table 1 of the Investigative Order indicates the extent of Lagoon impairment as 469 acres. Del Mar is not directly connected to the Lagoon's waterbody, and is only minimally linked to the Los Penasquitos Watershed. The Miramar Reservoir Hydrologic SubArea is approximately 33,325 acres and only 150 acres are within Del Mar city limits, which is equivalent to less than four tenths of one percent of the total drainage area.



Our comments are as follows:

1. The City of Del Mar should not be listed as a responsible discharger in Attachment 1 - *Responsible Dischargers Within the Watershed of the Water Quality Limited Segment* in the Investigative Order.

Del Mar's storm drain system in the southern portion of the city includes three small segments of underground pipe that collect drainage. The outfalls from this limited drainage area are located in the northern-most part of the Miramar Reservoir Hydrologic SubArea and are not directly connected to the Lagoon's waterbody as shown in attached Figure 2. Two of the pipes are located across Carmel Valley Road and are less than 200 ft long each. Their function is to direct surface flow from Camel Valley Road to prevent flooding. The third and easterly-most outfall includes several segments with a total length of approximately 3,500 feet and collects surface runoff from a residential neighborhood representing less than 30 homes along with open space as designated in the Carmel Valley Precise Plan. The distance between the easterly-most outfall and the Lagoon is approximately 1,450 feet in an area of open space. The total drainage area into these three storm drain pipes within the Del Mar city limits is only 37.8 acres or one tenth of one percent of the Miramar Reservoir Hydrologic SubArea which measures 33,325 acres. The drainage areas within Del Mar's jurisdiction are shown in dark green in Figure 2.

We respectfully request that the City of Del Mar be removed as a responsible discharger since the City does not contribute to sedimentation and siltation of the Los Penasquitos Lagoon based on the drainage design and area topography. We have not identified a direct link between this relatively insignificant drainage area and the Monitoring Program Workplan questions presented in the Investigative Order (Section A1). Del Mar does **not** agree with the Regional Board's current directive to comply with the Order based on the relatively insignificant drainage area, the large open space located between the drainage area and the Lagoon, and the lack of association with the workplan questions. Examples of workplan questions include:

- What percentage of the annual load from each constituent is deposited within the lagoons/sloughs/creek mouths, in accordance with the impairments specified in the 303(d) list, versus exiting the tidal channels? (Question d2)

Answer: Del Mar's percent contribution of sediment to the Lagoon is estimated to be negligible considering the relatively insignificant size of the drainage area, the geographical location, and the distance between the base of the storm drain outfalls and the lagoon.

- What are the relative contributions for impairing pollutants(s) from each land use type or from regulated industrial/municipal facilities? (Question f)

Answer: Del Mar's relative contributions are negligible. The land use includes large portions of open space, a limited number of single family residences, and the impervious surface area and runoff volume compared to the entire watershed are negligible.

- What is the total annual load reduction of sediment needed so that sediment/siltation is reduced to meet water quality objectives and to prevent lagoon mouth closings, loss of lagoon depth, and loss of important habitats? (Question h2).

Answer: Del Mar's relative contributions are negligible based on: a) the land uses, b) topography and geographical location; c) drainage area configuration; and d) relative small size of the drainage area compared to the entire watershed.

We offer the above questions and answers to illustrate our firm belief that Del Mar has minimal impact on the Lagoon and should not be a responsible discharger.

2. This unfunded state mandate results in a disproportionate cost burden on Del Mar that is not comparable to the protection of water quality and beneficial uses.

This unfunded state mandate will create administrative and financial burdens on Del Mar's already strained resources that are greatly disproportionate to the potential benefit to long-term water quality protection and sustainability of beneficial uses. We request deletion as a responsible party in the Investigative Order pursuant to California Water Code Section 13267(b)(1). That section provides that "the burden, including costs, of these reports shall bear a **reasonable relationship** (emphasis added) to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the Regional Board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports." The technical arguments presented in the previous section indicate that Del Mar's participation and contributions to comply with the Investigative Order, by preparing the required workplans or reports, is not reasonable. The Investigative Order does not provide a reasonable relationship between the need to provide the reports and the benefits obtained. In light of the facts presented in this letter, Del Mar requests a written explanation with regard to any further requirements to comply with the Investigative Order.

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We also urge the Board to re-examine the inclusion of other potential dischargers, including State Parks and North County Transit District, whose property affecting the Lagoon is considerably larger than Del Mar.

We appreciate the time you have taken to consider our concerns and comments on this very important issue for the City of Del Mar. If you need additional information please contact me at (858) 755-9313 or Ms. Rosanna Lacarra at (760) 479-2937.

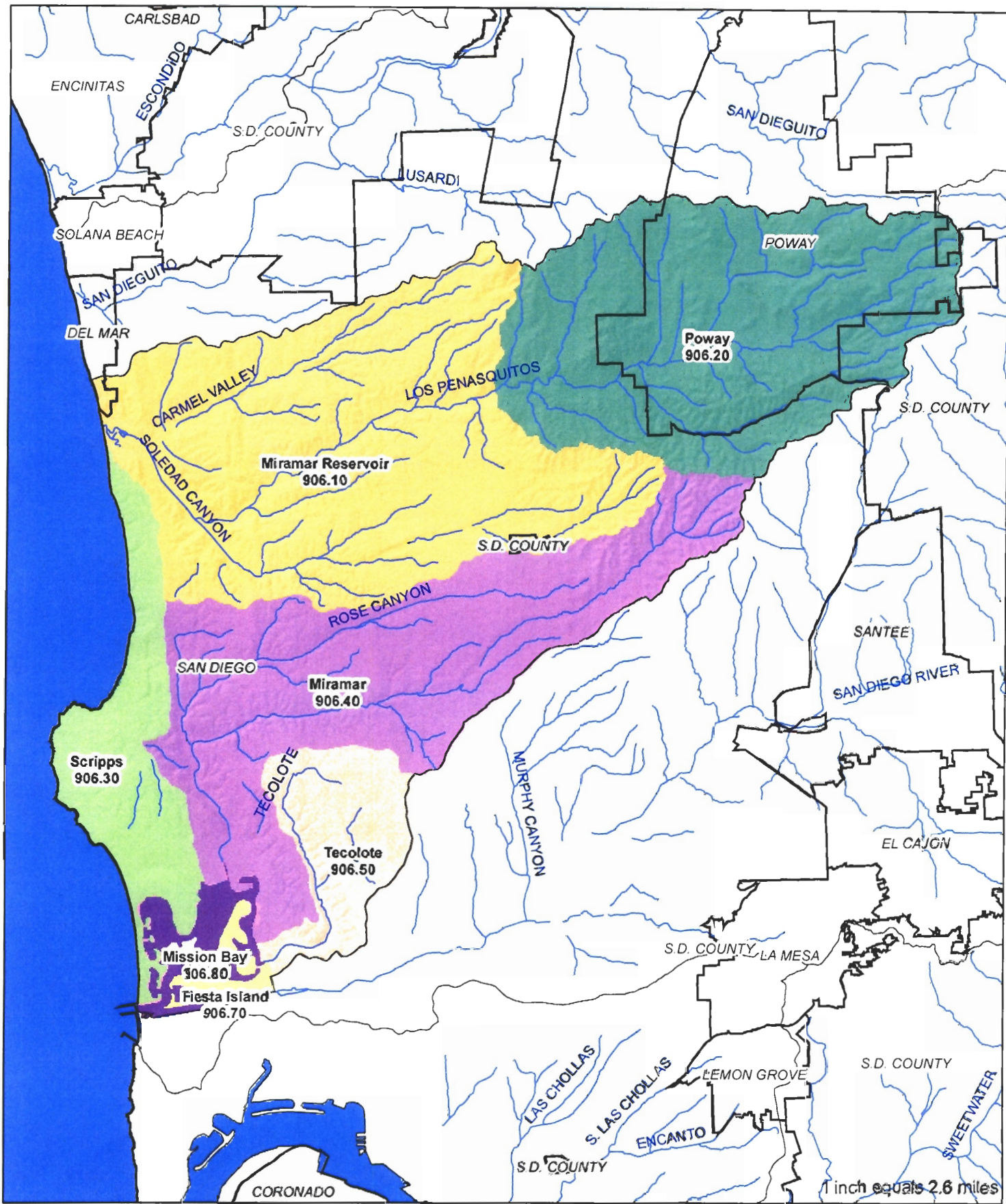
Respectfully,

A handwritten signature in cursive script that reads "Lauraine Brekke-Esparza". The signature is written in dark ink and is positioned above the printed name and title.

Lauraine Brekke-Esparza
City Manager

Cc: Carmen Kasner, City Engineer
Rosanna Lacarra, Storm Water Quality Manager

Attachments

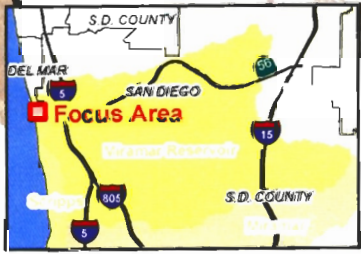


1 inch equals 2.6 miles




- Legend**
- | | | | |
|---------------|-------------------|---------------|----------------|
| Subwatersheds | Miramar Reservoir | Scripps | Rivers/Streams |
| Fiesta Island | Mission Bay | Tecolote | Municipal |
| Miramar | Poway | Vacation Isle | |

Figure 1



1 inch equals 166.7 feet




PBSJ

Legend

— Drainage	 City	 NCTD	 Municipal drainage_areas
— Channel	 Private	 Main	 drainage_areas
— Culvert			

Figure 2



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