

San Diego Regional Water Quality Control Board



Executive Officer's Report

October 10, 2007

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SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

October 10, 2007

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. Storm Water Coordination Meetings *(Jimmy Smith)*

On September 18, 2007, Jimmy Smith attended the quarterly meeting of the Storm Water Monitoring Coalition Steering Committee (SMC-SC). The meeting was also attended by representatives of the Los Angeles Regional Water Quality Control Board (Region 4), Santa Ana Regional Water Quality Control Board (Region 8), Riverside County Flood Control District, County of Orange, the Southern California Coastal Water Research Project (SCCWRP), San Bernardino Flood Control District, Los Angeles County Department of Public Health, CalTrans, City of Los Angeles, and the Ventura County Watershed Protection District. Significant issues discussed included the following.

- The Master Agreement, continuing the SMC and adding new members, has almost been ratified by all parties.
- Recommendations for a Regional Monitoring Program were presented. Funding sources and the possibility of providing flexibility under existing monitoring programs were discussed.

The next meeting will be on December 3, 2007 at the Riverside County Flood Control District.

On September 20, 2007, Christina Arias attended the San Diego Regional Storm Water Management Committee meeting. The Committee meets every other month and is comprised of the San Diego County Copermittees. The Copermittees are regulated by the Regional Board under Order No. R9-2007-0001, the municipal storm water permit. Ms. Arias attended the meeting to provide an update of Regional Board activities to the group. The copermittees were most concerned about the municipal program inspections that were soon to be conducted by the Regional Board and U.S. EPA on September 19-21, 2007.

Lilian Busse attended the monthly meeting of the San Diego Regional Monitoring Workgroup on September 25, 2007. The meeting addressed the following issues.

- Update of Dry Weather Monitoring, Bight 2008, and the Stormwater Monitoring Coalition (SMC) study;
- Update of the Baseline Long-term Effectiveness Assessment; and
- Discussion of the preliminary budget for 2008-2009.

The next meeting is October 23, 2007.

On September 25, Brandi Outwin of the Northern Watershed Unit met with representatives of San Diego County to investigate alleged storm water violations and to conduct a joint inspection of Loveacres Ranch.

On September 27, Brandi Outwin participated in the Riverside County MS4 Technical Advisory Committee Meeting.

On September 27, the Statewide Storm Water Roundtable (Urban Runoff Task Force) held its monthly meeting at the offices of the San Diego Regional Water Quality Control Board, with Regional Board staff (Christina Arias, Tony Felix and Ben Neill) in attendance.

2. California Stormwater Quality Association (CASQA) 2007 Conference

(Jeremy Haas)

The annual CASQA conference was held on October 11, 2007 in Costa Mesa, California. The theme for this year's Conference was: "Stormwater Management - Tools for Success: Research, Policy, Planning, Implementation, and Assessment." Several Regional Board staff attended the conference. Jeremy Haas of the Northern Watershed Protection Unit gave a presentation on factors considered when urban runoff pollution treatment practices are proposed to be located within waters of the U.S. and State. Projects involving these types of storm water implications are increasingly being reviewed by staff working in various programs, including section 401 water quality certification, municipal storm water, construction storm water, financial assistance, total maximum daily loads (TMDLs), and nonpoint source management. Other staff attending the conference included Christina Aria, Lilian Busse, Tony Felix, Ben Neill, and Kristin Schwall.

3. World Water Monitoring Day 2007 *(Lilian Busse and Dave Gibson)*

The Annual World Water Monitoring Day in San Diego will be held at the Old Poway Park on October 12, 2007, and at the Chula Vista Nature Center on October 18, 2007. These efforts are coordinated by the San Diego Citizen Watershed Monitoring Consortium. World Water Monitoring Day is an international outreach event that builds public awareness, and promotes public involvement in protecting water resources around the world, by engaging communities in monitoring the condition of local rivers, streams, estuaries and other water bodies.

Last year, over 160 students attended the World Water Monitoring Day in the San Diego Region. In 2006, World Water Monitoring Day participants heard presentations on general water quality issues, by Mr. John Robertus, Regional Board Executive Officer, and Mr. Wayne Nastri, U.S. EPA Region 9 Administrator. The Regional Board staff (Ms. Lilian Busse) plans to attend World

Water Monitoring Day 2007, and give presentations to participants on the use of benthic macroinvertebrates in water quality testing.

4. BIGHT '08 Kickoff Meeting (*Cynthia Gorham-Test and Lilian Busse*)

Planning for the 2008 regional monitoring survey of the Southern California Bight (BIGHT '08) began on September 19, 2007 with a kickoff meeting at the Southern California Coastal Water Research Project (SCCWRP) office in Costa Mesa, CA. The purpose of the meeting was to work with the multiple stakeholders to develop a coordinated regional monitoring effort to be conducted in 2008, which will be funded through partnerships with the various organizations. SCCWRP has successfully completed three previous BIGHT surveys from 1994, 1998 and 2003. Past Bight surveys have extended from Point Conception, CA to Mexico.

Approximately, 130 representatives from stakeholder agencies and organizations attended the meeting. The agencies included the U.S. EPA, Region IX, NOAA, the USFWS, the State Water Board, Regional Water Boards 4, 8, and 9, the Counties of Los Angeles, Orange, and San Diego, several city governments, POTWs, universities, and environmental organizations.

SCCWRP's Executive Director, Steve Weisberg, gave an overview of the results from Bight 2003. John Robertus, of the San Diego RWQCB, gave a presentation on a regulator's perspective regarding the BIGHT '08 regional monitoring effort; whereas, Joe Gully, of the Los Angeles County Sanitation District, presented a permittee's perspective. Mr. Robertus and Mr. Gully are both very supportive of the Bight program.

The following areas/habitats are being considered for monitoring in Bight '08: Coastal Ecology (includes sediment quality, and coastal biota), Offshore Water Quality (includes water column quality), Areas of Special Biological Significance, Beach Water Quality (includes bacteria), Rocky Habitat Quality, and Wetland Quality. The following new areas of concern that will be addressed in 2008 are: Areas of Special Biological Significance, harmful algal blooms, rocky habitats, and wetlands (and possibly watersheds). Meeting participants provided questions of concern to produce an initial list of monitoring priorities. The next planning meeting is scheduled for December 5, 2007. Monitoring for Bight '08 is scheduled to begin in June of 2008.

PART B SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Clean Water Act Section 401 Water Quality Certification Actions Taken in August and September 2007 (*Chiara Clemente*) (*Attachment B-1*)

Section 401 of the Clean Water Act requires that any person applying for a federal permit which may result in a discharge of pollutants into Waters of the

United States must obtain a water quality certification that that specific activity complies with all applicable state water quality standards, limitations, requirements, and restrictions. The most common federal permit that requires a 401 Certification is a CWA Section 404 permit, issued by the Army Corps of Engineers, for the placing of fill (sediment, rip rap, concrete, pipes, etc.) in Waters of the U.S. (i.e. Ocean, bays, lagoons, rivers and streams).

Upon receipt of a complete 401 certification application, the Regional Board may either certify the project or deny certification, with or without prejudice. In cases where there are impacts to Waters of the U.S., the Regional Board may issue a conditional certification. The certification can be either in the form of a conditional certification document approved by the Regional Board Executive Office, or Waste Discharge Requirements (WDRs), adopted by the Regional Board. And, in the case where a federal permit is not required because impacts have been determined to be only to Waters of the State, the Regional Board may adopt WDRs. Table B-2 (attached) contains a list of actions taken during the months of August and September. Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.waterboards.ca.gov/sandiego/programs/401cert.html>.

2. Significant Enforcement Actions in September 2007 (Frank Melbourn) (Attachment B-2)

The following is a summary of all enforcement actions during the month of September 2007. During this period, the Regional Board issued 25 enforcement actions (22 Notices of Violation, 1 Notice of Violation/Investigative Order, 1 Investigative Order, and 1 Administrative Civil Liability Complaint.).

A detailed listing of the most significant enforcement actions undertaken by the Regional Board during the period is attached. Information on sewage spills for will be provided as a separate discussion topic entitled "Sewage Spills" in next month's Executive Officer Report.

AGENCY/ FACILITY NAME	CITY	PROGRAM ¹	ACTION DATE
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Notice of Violation (NOV)			
City of San Marcos Bradley Park / Old Linda Vista Landfill	San Marcos	LNDISP	9/21/2007
2 Enrollees in the General Industrial Storm Water Permit for failure to submit 2006/07 Annual Storm Water Report	Region-wide	INDSTW	9/28/2007
16 Enrollees in the General Construction Storm Water Permit for failure to pay	Region-wide	CONSTW	09/10-20/ 2007

AGENCY/ FACILITY NAME	CITY	PROGRAM ¹	ACTION DATE
annual fees			
3 Enrollees in the General Industrial Storm Water Permit for failure to pay annual fees	Region-wide	INDSTW	09/20/2007

Notice of Violation (NOV)/Investigative Order (13267 letter)			
Robert Yanik	Unincorporated Riverside County	CER	9/12/2007

Investigative Order (13267 letter)			
Santa Margarita Water District	San Clemente	SSO	9/25/2007

Administrative Civil Liability (ACL) Complaint			
City of Carlsbad City of Vista	Buena Vista Pump Station into Buena Vista Lagoon	SSO	9/28/2007

¹Program Acronyms

CER	Clean Water Act Section 401 Certification
CONSTW	Construction Storm Water
DoD	Department of Defense
INDSTW	Industrial Storm Water
LNDISP	Land Disposal
MNSTW	Municipal Storm Water
NPDES	National Discharge Elimination System
WDR	Waste Discharge Requirements
SSO	Sanitary Sewer Overflow
SLIC	Spills, Leaks, Investigations, and Cleanup
TANKS	Underground Storage Tank

² see attached table

3. Grants Update (*Dave Gibson*)

The Regional Board is managing 22 projects worth approximately \$39.7 million in total project costs. Several projects remain behind schedule or have failed to submit deliverables or regular progress reports. The Regional Board Grant Managers will continue to provide close oversight of these grant funded projects in order to ensure the success of the projects and conformance to the Grant Agreement terms and conditions. During recent years, several grant funded

projects that have failed to conform to the Grant Agreement terms and conditions have been terminated by the State Water Resources Control Board (State Water Board) on the recommendation of the Regional Board Executive Officer.

Integrated Regional Water Management (IRWM) Grant Program

Twenty eight applications were submitted for Step 1, Round 2 of the IRWM Grant Program of which 11 were determined to be incomplete or ineligible. Technical Reviews have been completed and consensus scores determined for all 17 eligible proposals including proposals submitted by the San Diego County and Upper Santa Margarita Watershed IRWM Groups. Final scoring of each proposal will be determined following senior and supervisory reviews at the State Water Board and Department of Water Resources.

319(h) Nonpoint Source (NPS) Grant Program

The State Water Board will be accepting Concept Applications for the 319(h) NPS Grant Program beginning on September 14, 2007. The first of several applicant workshops was held on September 27, 2007 in Sacramento.

The purpose of the 319 (h) NPS Grant Program is to provide funds to projects that restore and protect the beneficial uses of water throughout the State by the controlling NPS pollution consistent with completed Total Maximum Daily Loads (TMDLs) or TMDLs under development. The 319 (h) NPS Grant Program seeks to fund projects that will serve as effective models for water quality improvement. Proposals most likely to receive funding must successfully demonstrate the following:

- Well planned and designed implementation activities that have a high likelihood of contributing to the desired water quality improvements based on data and information contained in TMDLs and watershed management plans;
- Significant pollutant load reductions that contribute to the restoration of a nonpoint source impaired 303(d) listed water body. Restoration refers to the attainment of water quality objectives and beneficial uses, ultimately resulting in delisting;
- Achievement of water quality objectives and beneficial uses within a specified time-period. Projects demonstrating short-term results (e.g., 5 years) will be preferred, but longer-term results may also be funded.

Approximately \$5.65 Million will be available for this solicitation with a minimum grant amount of \$250,000 and a maximum grant amount of \$1,000,000 per project. A minimum funding match of 25% is required. Eligible applicants include local public agencies, public agencies, public colleges, 501(c)(3) nonprofit organizations, Indian tribes, federal and state agencies. Projects

including activities required under a National Pollutant Discharge Elimination System (NPDES) permit, however, are not eligible for this funding.

The 319 (h) NPS Grant Program Solicitation is a two-step process. In the first step, applicants submit brief Concept Proposals (CPs) using the State Water Board's on-line Financial Assistance Application Submittal Tool (FAAST). Applicants with the highest-ranking CPs are invited to submit a Full Proposal. After a thorough review of all full proposals, a recommended funding list is developed and presented at a State Water Board meeting for public comment and adoption.

All applicants requesting funds from the 319 (h) NPS Grant Program must submit a complete electronic CP by 5:00 pm on Thursday, November 1, 2007.

4. Auto Shredder Wastes Remediation **Complete** -Naval Base Point Loma Fleet Combat Training Center (FCTC) (Laurie Walsh) (Attachment B-4)

The Department of Defense (DoD) Installation Restoration (IR) Site 1, Rubble Site, is located on the top of the Point Loma peninsula west of Catalina Blvd at the Third Fleet Headquarters. IR Site 1 was created from the filling of a canyon with rubble and debris, including automobile shredder residue (ASR). Most of the canyon was filled in the middle to late 1970's with approximately 100,000 cubic yards of material, with about 10,000 cubic yards being ASR. By the early 1980's the top was leveled and used as a recreational ballfield. In 2003, the 5-acre site was changed to a gravel parking lot. Heavy storms in 2005 eroded the slope, exposing ASR, which contains elevated levels of PCBs, dioxin, lead, cadmium, and chromium.

To eliminate exposure of hazardous waste to human or ecological receptors and to avoid the risk of a failing slope causing a discharge of hazardous waste to the Pacific Ocean, the Navy chose to excavate and remove all ASR from the site. The Navy started to truck ASR waste off of IR Site 1 in late September 2006. Between 20 and 40 trucks/day for 54 days were used to haul away 26,000 tons of material to the receiving facility located in Beatty, Nevada. The waste is classified as federal Resource Conservation Recovery Act (RCRA) hazardous waste requiring stabilization once received at the facility. The removal action covered 2.5 acres and cost \$8 million dollars. Regional Board staff conducted regular site visits to observe the remedial activities.

Upon completion of remediation activities at IR Site I, the parking lot was restored to accommodate US Navy Third Fleet Complex, and the slope re-engineered and re-vegetated with native Point Loma vegetation for greater slope stability. See photos in Attachment B-4.

5. U.S. Marine Corps: Las Pulgas Landfill (Amy Grove)

On September 13, 2007, representatives of the USMC, the U.S. Navy, and their consultants met with the Land Disposal Unit staff to discuss the status of their

corrective action plan (CAP) for the Las Pulgas Landfill at Marine Corps Base Camp Pendleton. This CAP is being developed to address problems with a defective composite liner system at the landfill that has resulted in illicit discharges of leachate from the containment structure. In January 2006, the Regional Board issued Cleanup and Abatement Order (CAO) No. R9-2006-0016, requiring the USMC to terminate all discharges of municipal solid waste to Waste Management Unit Phase I, which is the portion of the landfill with the defective liner. The CAO further requires USMC to either repair or replace all defective portions of the waste management structure/liner system, and foundation/subgrade or remove all waste and close Phase I.

The USMC reported on September 13 that a "Corrective Construction" approach may be viable to mitigating the liner defects at the landfill. This remediation approach allows the USMC to replace the entire side-slope liner system, and only repair the deficiencies in the basal liner system. The USMC has assured the Regional Board that they are on track for submittal of a replacement Corrective Action Plan (CAP) by the due date of December 18, 2007 and the start of corrective action by February 18, 2008. The status of the project will continue to be reported to the Regional Board in future Executive Officer reports.

6. Municipal Storm Water Inspections (*Chiara Clemente*)

From September 19 to September 21, 2007 the Regional Board assisted PG Environmental, a consulting firm contracted by USEPA, in conducting compliance inspections of various municipal storm water conveyance systems under the control of co-permittees within the Region. The majority of the inspections focused on compliance with Standard Urban Stormwater Mitigation Plan (SUSMP) standards and Illicit Discharge Detection and Elimination (IDDE) program requirements. These requirements are contained in the three municipal separate sanitary sewer system (MS4) permits for the counties of San Diego (Order No. R9-2007-001), Orange (Order No. R9-2002-001), and Riverside (Order No. R9-2004-001). The applicable permit requirements can be viewed on-line at <http://www.waterboards.ca.gov/sandiego/orders/orders.html>. Inspected entities include the counties of San Diego, Orange, and Riverside as well as the cities of San Marcos, Murrieta, Temecula, and San Diego. Appropriate follow-up actions will be determined after the Regional Board receives the results of the inspections in a final report from PG Environmental.

7. State Route 241 Foothill South Toll Road Extension, Orange County

(*Jeremy Haas*)

The Regional Board members (Board) have previously asked for periodic updates on the proposed project to construct a southerly extension of State Route 241; a toll road known as the Foothill Transportation Corridor, located in Orange County. The southerly toll road extension project is also commonly referred to as the South Orange County Transportation Infrastructure Improvement Project (SOCTIIP) and as the Foothill Transportation Corridor-South (FTC-South). The Foothill/Eastern Transportation Corridor Agency (TCA), a Joint Powers Authority, is the project sponsor. The planned toll road extension

is approximately 16 miles long and includes approximately 0.8 miles of improvements on Interstate 5. The proposed roadway includes four general-purpose travel lanes, two in each direction, for the entire length of the corridor. Two additional lanes could be added as warranted by future traffic conditions. The planned alignment would connect Interstate 5, at San Onofre State Beach, with the existing portion of SR-241 at Oso Parkway in the Coto de Caza area of Orange County. An aerial map of the alignment is available on the TCA web page at:
http://www.tcagencies.com/home/SOCTIIP%20Alignments%2011x17_Rev_A.pdf

Facility Tour

At the August 8, 2007 California Regional Water Quality Control Board, San Diego Region (Regional Board) meeting, the TCA offered to provide the Regional Board members an opportunity to tour the proposed project area. A tour of the project area, for the Board, has been tentatively scheduled for October 26, 2007. The Northern Watershed Unit will establish an agenda, in coordination with the TCA, to focus the tour on items of particular interest to water quality and resources. Plans are being developed to facilitate public participation to comply with regulations regarding interaction between Board members and project proponents. The event is expected to attract significant attention from interested parties.

Status of Section 401 Water Quality Certification

The TCA applied to the Regional Board for a section 401 water quality certification for discharges of fill to federal waters and requested waste discharge requirements for discharges of fill to non-federal waters of the State. On September 24, 2007 the Regional Board Executive Officer requested additional information from the TCA in order to further supplement its application. The 401 certification application was denied without prejudice pending review of the requested information. Denial without prejudice is done for procedural, not substantive, reasons and does not include any judgment on the technical merits of the project [23 CCR § 3831(h)]. Additional information was requested regarding management measures, for post-construction storm water discharges and for compensatory mitigation, to address adverse effects to beneficial uses and water quality from the temporary and permanent discharge of fill into 48,263 linear feet (17.44 acres) of waters of the State. In addition, clarification was sought regarding TCA plans to implement several mitigation measures specified in the project's Environmental Impact Report. Following review of the requested information, the Regional Board may be asked to consider a combined Order for 401 Certification and waste discharge requirements.

Additional information about the proposed project was provided in the September 2006 and June 2007 Executive Officer's Reports.

8. Sewage Spill Complaint: Buena Vista Lagoon (Eric Becker and John Odermatt)
(Attachment B-8)

On September 28, 2007, the Regional Board issued Administrative Civil Liability Complaint No. R9-2007-0099, recommending assessment of a civil liability in the amount of \$1,095,000 against the City of Vista and the City of Carlsbad, for violations of State Water Resources Control Board (SWRCB) Order No. 2006-0003-DWQ: "Statewide General Waste Discharge Requirements for Sanitary Sewer Systems." The complaint alleges that the City of Vista and City of Carlsbad discharged 7.3 million gallons of raw sewage into Buena Vista Lagoon, a water of the United States, from a force sewer main during March/April 2007. Additional information on the complaint can be found under "WATER NEWS" on the Regional Board web page at: <http://www.waterboards.ca.gov/sandiego/>.

On September 29, 2007, news articles were published by the San Diego Union-Tribune and the North County Times (attachment B-8) regarding the complaint. A public hearing on this matter may be scheduled for consideration by the Regional Board on December 12, 2007.

9. 2006 Calendar Year Water Recycling Activities, San Diego Region
(Melissa Valdovinos) (Attachment B-9)

On December 29, 2006 the Regional Board requested that recycled water agencies in the San Diego Region submit an annual summary report on Calendar Year 2006 water recycling activities, including the production, distribution, and use of recycled water for each agency. The summary report satisfies a requirement of the agencies' waste discharge requirements/master reclamation permits. Specific data in a given format was requested for the Calendar Year 2006 report with the intent of gathering more useful recycled water information and to establish a consistent reporting format. The attached table summarizes water recycling activities in the San Diego Region based on the information submitted in the new reports.

The San Diego Region regulates 39 water recycling facilities, 34 of which are currently in service. Twenty-three of these facilities are regulated under master reclamation permits. Over 68,500 acre-feet (22 billion gallons) of recycled water (or potential recycled water) were applied to use sites in the San Diego Region or disposed of during the 2006 calendar year. 72% of this volume was treated to tertiary standards and 28% to secondary standards. Production and storage supplies provided 39,650 acre-feet (13 billion gallons) of recycled water to distributors or directly to use sites, with the principal use of irrigation. Approximately 87% of the recycled water supplied was regulated specifically under master reclamation permits, which allowed direct regulation of use sites by the recycled water agency. 28,850 acre-feet (9 billion gallons) of combined secondary- and tertiary-treated supplies were not recycled but disposed of using groundwater infiltration, spray irrigation, or discharge to an outfall regulated by a National Pollutant Discharge Elimination System (NPDES) permit.

The abovementioned and attached data and statistics are based on information submitted directly by the recycled water agencies. Because this is the first annual summary report requesting specified data in a specified format, minor discrepancies in the compiled data may exist due to interpretation of the requested information. In addition, volumes of recycled water produced and distributed may vary due to storage conditions and to instances of production/distribution between Regional Boards.

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Statewide Policy on Recycled Water (*Melissa Valdovinos and John Odermatt*)
The State Water Resources Control Board (State Water Board) held a meeting on October 2, 2007 at the Metropolitan Water District board room in Los Angeles. The agenda included a public workshop on a proposed statewide water recycling policy. The workshop lasted almost three hours with approximately 100 attendees, including representatives from the regional water boards, municipalities, wholesale water distributors, water and wastewater districts, golf course management, environmental groups, and the general public.

Mr. Jonathan Bishop, State Water Board Chief Deputy Director, began the workshop by summarizing the purpose of the workshop, and explaining the policy making and public participation process. His presentation included a brief discussion of major points of the draft policy, including: salt and nutrient management, the role of the California Department of Public Health in regulating recharge reuse, anti-degradation, maximum benefit to the people of the state, and best practicable treatment or control. These points are discussed in more detail in the draft policy and its associated staff report.

During the public comment portion of the workshop; twenty seven (27) speakers, representing various interests, offered public comments on the draft policy. Most of the speakers agreed that recycled water is an important resource to consider in supplementing threatened raw water supplies. They applauded State Water Board efforts to develop a statewide policy, but they also expressed concerns that the draft version of the policy has remaining deficiencies.

The public comments included several recurring topics: limitations on total dissolved solids (TDS) or salts, groundwater monitoring requirements, anti-degradation, incidental runoff, and contaminants of emerging concern:

- *Groundwater monitoring, runoff restrictions and total dissolved solids (TDS) or salts.* Some participants interpret the draft TDS limitations, potential groundwater monitoring requirements, and runoff restrictions as regulatory hurdles that may impede a significant need to establish more recycled water projects. Other speakers perceive these requirements as essential to ensuring

the proper uses of recycled water, and requested clarification of the requirements to guide the regional water boards in effective regulation of recycled water uses.

- *Emerging contaminants of concern.* These constituents may be present at higher concentrations in wastewater than in raw water. If the secondary or tertiary recycled water treatment processes are not effective in removing these constituents, they may be introduced to use sites at higher concentrations compared to the use of more traditional potable water resources.

The State Water Board is accepting public comments on the draft policy until October 26, 2007. The State Water Board anticipates scheduling an agenda item, to consider a revised version of the Recycled Water Policy, for their meeting on December 4, 2007. Additional information on the public workshop, the draft documents, and status of the draft Recycled Water Policy may be found on the web at:

http://www.waterboards.ca.gov/water_recycling_policy/index.html.

2. State Water Resources Control Board Vacates and Remands ACL Order No. R9-2006-0095 Against the City of Escondido, Hale Avenue Resource Recovery Facility (Mark Alpert)

On October 2, 2007, the State Water Resource Control Board issued an Order vacating the Regional Board's settlement with the City of Escondido (Administrative Civil Liability Order No. R9-2006-0095), for discharge violations that occurred at the Hale Avenue Resource Recovery Facility in Escondido. (See attachment C-2)

The violations alleged in the Regional Board complaint sought \$1.3 million in mandatory minimum penalties (MMPs) and \$462,500 in discretionary liability. The Settlement reflected by ACL Order No. R9-2006-0095 imposed civil liability of \$1,152,150, on the City, of which \$690,000 was deposited in the Cleanup and Abatement Account administered by the State Board, and \$462,150 was deferred when the City submitted two planning reports relating to the treatment capacity of the Hale Avenue Resource Recovery Facility and future flow projections. The Regional Board's Order did not include specific findings as to the merits of the City's assertions or whether they constituted affirmation defenses allowed for in the Water Code.

The State Board Order remands the matter back to the San Diego Regional Board. The basis of the Order is that once violations that are subject to MMPs have been alleged in a complaint, any resulting settlement agreement cannot be for an amount lower than the statutory minimum without a finding that the allegation was made in error or that explain how the defenses established in the water code apply to the violations. Consequently, the Regional Board must either withdraw or revise the complaint, making specific findings as the alleged violations, or hold a hearing and make factual determinations as to any affirmative defenses alleged by the City. The amount of the liability to be

assessed must be no less than the minimum liability required by Water Code section 13385, based on the factual determinations of the Regional Board.

The Regional Board will begin to formulate a plan to implement the State Board's Order and anticipate bringing this before the Regional Board in the near future.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

**SIGNIFICANT NPDES
PERMITS, WDRs, AND
REGIONAL BOARD
ACTIONS**

OCTOBER 10, 2007

APPENDED TO EXECUTIVE OFFICER REPORT

SIGNIFICANT NPDES PERMITS, WDRS, AND RB ACTIONS

DATE OF REPORT	NAME OF PERMIT/WDR/RB ACTION	Action Type	Initial Document Application Complete	Dish./RWQ Limits and Monitoring Plan Known	Draft Complete	Public Rev. & Comment	BOARD HEARING & ADOPTION	Consent Item	COMMENTS	Staff
October 10, 2007	NOVEMBER 14, 2007 RB MEETING San Diego Regional Board Office									
	REGIONWIDE BACTERIA TOTAL MAXIMUM DAILY LOAD	TMDL Adoption	NA	NA	100%	80%	November 14, 2007	No	TMDL Workplan FY 2005-06	Atias
	SAN DIEGO UNIFIED SCH. DIST. - SCRIPPS MIDDLE SCHOOL CONSTR. STORMWATER	Hearing: Admin. Civil Liability	NA	NA	100%	0%	November 14, 2007	No	ACL Complaint \$128,000	Peuron
	GROUNDWATER EXTRACTION GENERAL PERMIT OTHER THAN TO SAN DIEGO BAY	NPDES Permit Reissuance	100%	100%	100%	0%	November 14, 2007	No	Reissuance of NPDES Permit Order No.	Rodriguez
	HUBBS RESEARCH AGUA HEDIONDA LAGOON SAN DIEGO COUNTY	NPDES Permit Reissuance	100%	100%	100%	0%	November 14, 2007	Yes	NPDES Workplan FY 2006-07	Becker
DECEMBER 12, 2007 RB MEETING San Diego Regional Board Office	SEAWORLD SAN DIEGO FIREWORKS DISPLAY MISSION BAY	NPDES Permit	100%	80%	50%	0%	December 12, 2007	No		Kelley
FEBRUARY 13, 2008 RB MEETING San Diego Regional Board Office	2008 FED. CLEAN WATER ACT SEC. 303(d) LIST OF WATER QUALITY SEGMENTS	Hearing: CWA 303(d) WQ List	NA	NA	10%	0%	February 13, 2008	No		Hammer/Monji
	NAASCO/GENERAL DYNAMICS CORP. SHIPYARD SAN DIEGO BAY	NPDES Permit Reissuance	0%	100%	0%	0%	February 13, 2008	No	NPDES Workplan 2007-08	Kelley
	CONTINENTAL MARITIME OF SAN DIEGO SHIPYARD SAN DIEGO BAY	NPDES Permit Reissuance	0%	100%	0%	0%	February 13, 2008	No	NPDES Workplan 2007-08	Kelley
	BAE SYSTEMS SAN DIEGO SHIP REPAIR SHIPYARD SAN DIEGO BAY	NPDES Permit Reissuance	0%	100%	0%	0%	February 13, 2008	No	NPDES Workplan 2007-08	Kelley
	NPDES GENERAL PERMIT HYDROSTATIC TESTING AND POTABLE WATER DISCH.	NPDES Permit Reissuance	NA	0%	0%	0%	February 13, 2008	No	NPDES Workplan 2006-07	Kelley
MARCH 12, 2008 RB MEETING San Diego Regional Board Office	PROPOSED GREGORY CANYON LANDFILL NORTH SAN DIEGO COUNTY	Hearing: New WDRs	100%	85%	85%	0%	March 12, 2008	No		Tamaki

SIGNIFICANT NPDES PERMITS, WDRS, AND RB ACTIONS

DATE OF REPORT	NAME OF PERMIT/WDR/RB ACTION	Action Type	Initial Document Application Complete	Dish./RWQ Limits and Monitoring Plan Known	Draft Complete	Public Rev. & Comment	BOARD HEARING & ADOPTION	Consent Item	COMMENTS	Staff
October 10, 2007										
	CITY OF SAN DIEGO CONVENTION CENTER GROUNDWATER DISCH. TO SAN DIEGO BAY	NPDES Permit Reissuance	0%	100%	0%	0%	March 12, 2008	No	NPDES Workplan 2007-08	Kelley
	S & S FARMS LIVESTOCK RAISING FACILITY RAMONA, SAN DIEGO COUNTY	NPDES Permit Reissuance	0%	100%	0%	0%	March 12, 2008	No	NPDES Workplan 2007-08	Kelley
	OCEAN DISCHARGER RECEIVING WATER MONITORING PROGRAM UPDATES	NPDES Permits Revisions	NA	50%	0%	0%	March 12, 2008	No		Kelley
	APRIL 9, 2008 RB MEETING San Diego Regional Board Office									
	2008 FED. CLEAN WATER ACT SEC. 303(d) LIST OF WATER QUALITY SEGMENTS	Adoption: CWA 303(d) WQ List	NA	NA	10%	0%	April 9, 2008	No		Hammer/Morji
	MAY 14, 2008 RB MEETING San Diego Regional Board Office									
	US NAVY NAVAL BASE PT. LOMA SAN DIEGO BAY	NPDES Permit Reissuance	0%	100%	0%	0%	May 14, 2008	No	NPDES Workplan 2007-08	Kelley
	US NAVY NAVAL BASE SAN DIEGO SAN DIEGO BAY	NPDES Permit Reissuance	0%	100%	0%	0%	May 14, 2008	No	NPDES Workplan 2007-08	Kelley
	US NAVY NAVAL BASE CORONADO SAN DIEGO BAY	NPDES Permit Reissuance	0%	100%	0%	0%	May 14, 2008	No	NPDES Workplan 2007-08	Kelley
	JUNE 11, 2008 RB MEETING San Diego Regional Board Office									
	CITY OF SAN DIEGO POINT LOMA OCEAN OUTFALL PACIFIC OCEAN	NPDES Permit Reissuance	0%	100%	0%	0%	June 11, 2008	No	NPDES Workplan 2007-08	Kelley
	PENDING									
	ORANGE COUNTY MUNICIPAL STORMWATER PERMIT	Adoption: NPDES Permit Reissuance	100%	100%	100%	80%		No	NPDES Workplan FY 2006-07	Smith

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION (Acres) ¹	CERTIFICATION ACTION ²
8/1/07	Silver Gate Yacht Club, San Diego	Silver Gate Yacht Club Marina Renovation	The project is the overall renovation of the marina, including removal of existing docks and shore side infrastructure, dredging to restore and improve navigation access, and construction of new docks and shore side infrastructure.	San Diego Bay	Approximately 4,250 cubic yards of dredge	None. The dredged material is to be discharged at the Imperial Beach nearshore beach nourishment area.	Technically Conditioned Certification & Waiver of Waste Discharge Requirements
8/1/07	Pacific Scene Homes, Lakeside	Meadow Run Subdivision	The project will construct 72 residences on two parcels totaling 16.5 acres.	Unnamed isolated ephemeral drainage	0.06 acre of Streambed (Waters of the State)	Purchase 0.06 acre of creation credits from Jamul Mitigation Bank.	Enrolled in Order No. 2004-04-DWQ
8/4/07	Richard Graham, San Diego	L14800 McComb Grading Plan	The project will grade four pads for single family homes.	Unnamed tributary to Sweetwater River	No impacts to waters of the State are proposed.	No compensatory mitigation is proposed.	Time Expired

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION (Acres) ¹	CERTIFICATION ACTION ²
8/13/07	City of Poway, Public Works Department	Concrete Flood Control Channel Maintenance and Cleaning	The project will perform maintenance by removing sediment, weeds, trash, and debris from concrete channels only.	Rattlesnake Creek, Poway Creek, Concrete Flood Channels that feed to Los Penasquitos Creek and Los Penasquitos Lagoon	0.0123 acre of Streambed (T)	No compensatory mitigation is required.	Low Impact Certification & Waiver of Waste Discharge Requirements
8/17/07	Pulte Homes, Temecula	Morgan Valley/Denha Residential Development (Tract 29473)	The project will construct concrete slope protection along the southern slope of an unnamed drainage to conform to safety standards.	Unnamed tributary to Temecula Creek	Not Applicable	Not Applicable	Withdrawn by the applicant.
8/21/07	Scripps Health, San Diego	Mercy Gardens Slope Repair	The project will repair a slope failure behind the Mercy Garden Apartments.	Unnamed ephemeral drainage to the San Diego River	0.026 acre of Streambed (T)	No compensatory mitigation is proposed.	Technically Conditioned Certification & Waiver of Waste Discharge Requirements

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION (Acres) ¹	CERTIFICATION ACTION ²
8/22/07	City of San Clemente	De La Riviera / Calle Capri Storm Drain Reconstruction	The project will replace and existing storm drain pipe with a subsurface pipe with outlet riprap energy dissipation.	Unnamed drainage in Riviera Canyon to the Pacific Ocean	0.0012 acre (13.5 linear feet) of Waters (P); 0.0037 acre (40 linear feet) of Waters (T)	No compensatory mitigation is proposed.	Technically Conditioned Certification & Waiver of Waste Discharge Requirements
8/22/07	City of San Clemente	Rail Corridor Pedestrian Trail Phase II	The project will construct railroad approved at-grade pedestrian crossings and beach access stairs with concrete landing foundations at two locations, Dije Court and West El Portal.	Pacific Ocean	0.026 acre (60 linear feet) of Ocean (P)	No compensatory mitigation is proposed.	Low Impact Certification & Waiver of Waste Discharge Requirements

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION (Acres) ¹	CERTIFICATION ACTION ²
8/24/07	City of Escondido	Escondido Sewer Outfall Operations and Maintenance Activities	The project is the continued operations and maintenance of the 14.2-mile treated sewer line and infrastructure for the City of Escondido's land outfall.	Escondido Creek	Project impacts are not to exceed: 0.27 acre of Wetland (P); 0.38 acre of Streambed (T)	Mitigation will occur at the following ratios: 3:1 for Southern sycamore-alder riparian woodland, Southern riparian scrub, Southern coast live oak riparian forest, Coastal and Valley freshwater marsh,; 4:1 for Alkali marsh; and 2:1 for Disturbed wetland	Technically Conditioned Certification & Waiver of Waste Discharge Requirements

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION (Acres) ¹	CERTIFICATION ACTION ²
8/29/07	County of Orange, Resources and Development Management Department, Laguna Canyon Wilderness Park	Laguna Canyon Road Multi-Use Trail Project	The project will establish a multipurpose trail to provide recreational, fire and Southern California Edison utility access within the Laguna Canyon Wilderness Park. The trail is approximately 1.41 miles long and, except for the extreme northern portion of the alignment, will generally follow the footprint of an existing access road.	Seven unnamed tributaries to Laguna Canyon Creek	278 linear feet (0.02 acre) of Streambed (P); 33 linear feet of Streambed (T)	Enhancement of 0.99 acre of wet meadow (Wetland)	Technically Conditioned Certification & Waiver of Waste Discharge Requirements

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION (Acres) ¹	CERTIFICATION ACTION ²
9/5/07	North County Transit District	Oceanside Passing Track Extension Project	The project will construct a 1.2 mile long passing track extension, which includes a new pre-cast concrete bridge and replacing a timber trestle bridge with a pre-cast concrete bridge.	Loma Alta Creek	0.075 acre (39 linear feet) of Streambed (P)	Restore 0.010 acre of Wetland and 0.048 acre of Streambed; Enhance 0.23 acre of Wetland; Tidal function will also be improved by the reduction of hydraulic obstructions from 16 to 5.	Technically Conditioned Certification & Waiver of Waste Discharge Requirements
9/17/07	CalTrans, District 11, MS-242	State Route 79 Culvert Improvements	The project will upgrade 13 existing culverts to increase capacity under the roadway and reduce flows across the road and undercutting of the pavement.	Cold Stream	0.004 acre of Wetland (P); 0.01 acre of Wetland (T); 1,390 cubic yards of dredge	Create 0.057 acre of Wetland	Technically Conditioned Certification & Waiver of Waste Discharge Requirements
9/19/07	Roy Sayles, Jamul	L-15009	The project will provide a driveway for a single family residence.	Unnamed ephemeral stream tributary to Jamul Creek	0.005 acre (25 linear feet) of Waters (T)	No compensatory mitigation is proposed.	Low Impact Certification & Waiver of Waste Discharge Requirements

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION (Acres) ¹	CERTIFICATION ACTION ²
9/21/07	Ed Malone, Hidden Valley Ranch	Hidden Valley Ranch	The project will develop 421 acres into 41 single family residences, open space lots, road and utilities infrastructure, and equestrian use and facilities.	Sycamore Creek	Permanent: 0.3 acre (130 linear feet) of Wetland; 0.7 acre (240 linear feet) of Streambed	Create 3.68 acres of Wetland; Enhance 14.8 acres of Wetland	Technically Conditioned Certification & Waiver of Waste Discharge Requirements
9/27/07	New Urban West Management, LLC, San Diego County	Harmony Grove Village	The project will develop a rural residential village consisting of residential-uses, commercial uses, open space, park and recreational uses, a wastewater reclamation facility, and various equestrian facilities, including an equestrian ranch for horse breeding and lessons.	Escondido Creek and Eden Valley Creek	Permanent: 2.45 acres (8,328 linear feet) of Wetland; 0.36 acre (5,630 linear feet) of Streambed; 0.17 acre (68 linear feet) of Waters; 0.16 acre of Isolated Wetland (Waters of the State)	On-Site: Create: 3.24 acres of Wetland, 3.38 acres of Riparian, 3.51 acres of Waters; Enhance: 0.53 acre of Riparian, 0.56 acre of Waters Off-Site: Create 0.52 CDFG Habitat; Enhance 6.07 acres of Riparian	Technically Conditioned Certification & Waiver of Waste Discharge Requirements, and Enrollment in Order No. 2004-04-DWQ

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ACTIONS
FOR THE PERIOD OF AUGUST 1, 2007 THROUGH SEPTEMBER 30, 2007**

1. Wetland refers to vegetated waters of the U.S. and streambed refers to unvegetated waters of the U.S. (P) = permanent impacts. (T) = temporary impacts.
2. Low impact certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the project will adversely impact water quality and suitable mitigation measures are not proposed or possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines. Withdrawn refers to projects that the applicant or Regional Board have withdrawn due to procedural problems that have not been corrected within one year.

Number of Projects Received Between August 1, 2007 and August 30, 2007: 7

Number of Projects Received Between September 1, 2007 and September, 2007: 7

Number of Projects Received Between January 1, 2007 and September 30, 2007: 95

Number of Certification Issued Between January 1, 2007 and September 30, 2007: 53

Number of Projects Withdrawn Between January 1, 2007 and September 30, 2007: 12

Number of Projects Where Time-Expired Between January 1, 2007 and September 30, 2007: 7

Number of Projects Denied Between January 1, 2007 and September 30, 2007: 0

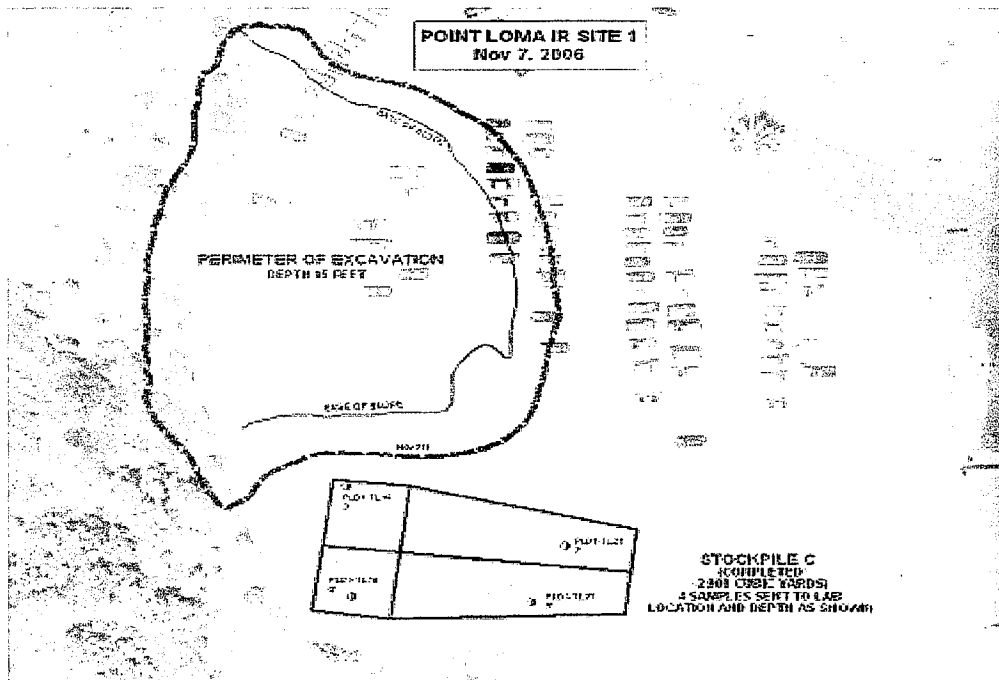
Significant Enforcement Actions in September 2007

Agency/Entity: Facility:	City of San Marcos Bradley Park/Old Linda Vista Landfill.	9/21/2007
Program:	Land Disposal	
Enforcement Action:	Notice of Violation (NOV) No. R9-2007-0196	
Description:	Failure to submit complete Report of Waste Discharge (ROWD) by May 18, 2007, as required by Directive C.1. of Order No. R9-2006-0044.	

Agency/Entity: Facility:	Robert Yanik Private Property in Unincorporated Riverside Co.	9/12/2007
Program:	Clean Water Act Section 401 Certification	
Enforcement Action:	Notice of Violation/Investigative Order No. R9-2007-0056	
Description:	<p>Issued for the discharge fill material in three locations to waters of the United States and/or waters of the State without filing a Report of Waste Discharge (ROWD) or obtaining a Clean Water Act section 401 Water Quality Certification. The discharges occurred during the construction of a road crossing (installation of two culverts) through Temecula Creek.</p> <p>The Order requires the following information to be submitted to the Regional Board prior to October 16, 2007: 1. A description of all activities that resulted in the discharge; 2. Photo documentation of all activities conducted; 3. Status of County of Riverside Conditional Use Permit; 4. Calculation of the total acreage disturbed by the activities; 5. Description of the agricultural status of the property; and 6. A list of previous property owners.</p>	

Agency/Entity: Facility:	Santa Margarita Water District 16" force sewer main near Cristianitos Road and Avenida Pico, San Clemente, California.	9/25/2007
Program:	Sanitary Sewer Overflow	
Enforcement Action:	Investigative Order No. R9-2007-0195	
Description:	<p>Unauthorized discharge of untreated sewage on August 20, 2007 (20,700 gallons) and September 14, 2007 (10,000 gallons) into Cristianitos Creek.</p> <p>The Order requires the District to submit pertinent information concerning the two discharges to the Regional Board no later than November 9, 2007.</p>	

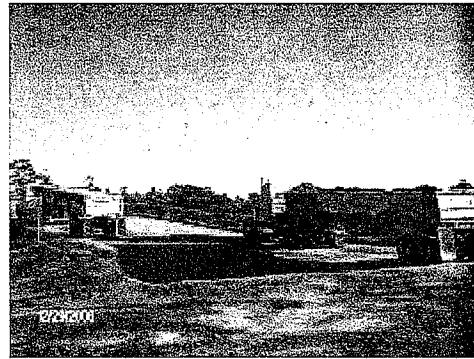
Agency/Entity: Facility:	Cities of Carlsbad and Vista Buena Vista Pump Station at Buena Vista Lagoon	9/28/2007
Program:	Sanitary Sewer Overflow	
Enforcement Action:	Administrative Civil Liability (ACL) Complaint No. R9-2007-0099	
Description:	\$1,095,000 ACL Complaint issued for the discharge of 7.3 million gallons of raw sewage into Buena Vista Lagoon between March 31 and April 3, 2007.	



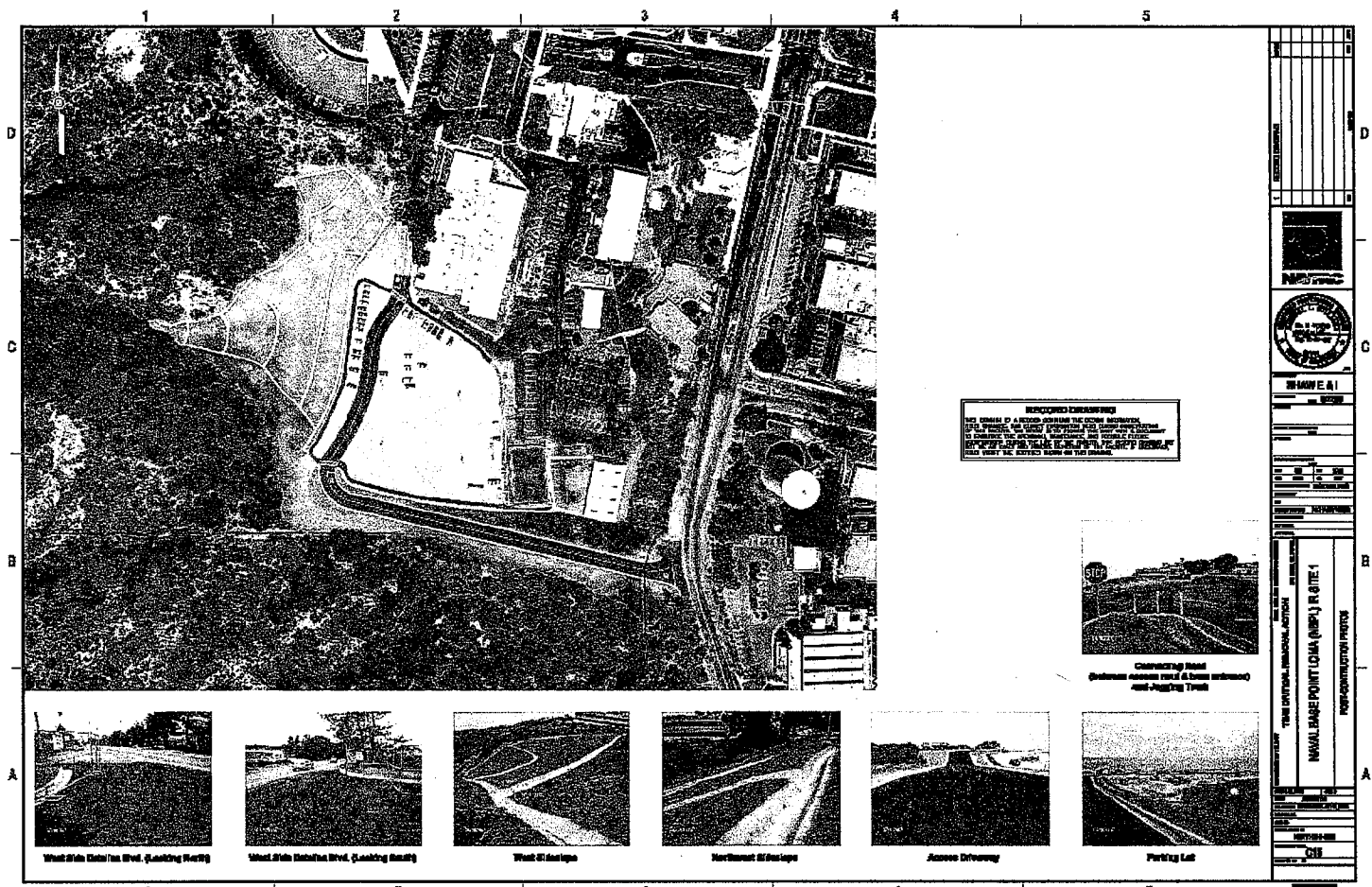
Site map showing perimeter of excavation and position of stockpile C



ASR Loaded In Trucks



Truck with ASR Leaving IR Site 1

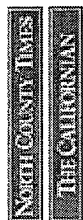


FCTC IR Site 1 - Removal Action Complete

Editions of the North County Times Serving San Diego and Riverside Counties

Monday, October 1, 2007

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Monday, October 1, 2007
Last modified Friday, September 28, 2007 10:48 PM PDT

Vista, Carlsbad could face \$1.1 million fine for sewage spill

By: CRAIG TENBROECK - Staff Writer

VISTA ---- Water quality officials have notified Vista and Carlsbad that the two cities are facing a nearly \$1.1 million fine for a sewer line rupture last spring that dumped 7.3 million gallons of waste into Buena Vista Lagoon.

The cities, which co-own the pipe, can either pay the fine or argue their case at a meeting on Dec. 12, according to the complaint issued Friday by the California Regional Water Quality Control Board.

Discovered by a private citizen on April 1, the spill was one of the largest in county history. About 1,700 fish were killed in the freshwater lagoon on the border of Oceanside and Carlsbad.

Water quality regulators reported spending 140 hours investigating the spill and preparing the complaint. In it, the board faults the cities for failing to effectively monitor the sewer line and for failing to perform preventative measures, such as replacing the sewer line or installing a backup system.

Because Vista owns about 90 percent of the pipe where the breach occurred, it is expected to pick up most of the tab.

Reached by phone Friday afternoon, Vista City Manager Rita Geldert said she had not yet seen the complaint.

"I have to digest that information," she said, adding that a financial hit of that size could potentially lead to increased sewer rates or delays to future projects.

The fine could have been worse. For a spill of that size, the maximum penalty allowed by law was \$73 million, according to the complaint.

When it ruptured in late March, the sewer main, which transports waste to a regional treatment plant, was only halfway through its estimated 50-year lifespan. Analysts determined that a tear in the protective liner encasing the pressurized sewer main allowed "highly corrosive" soil to eat a hole in the

line.

The regional board's complaint came just more than a week after the cities sent the agency a progress report, detailing actions they had taken since the spill, such as evaluating new inspection technologies and installing more sensors to measure pressure and flow.

In the letter, they pledged to speed up replacement of the sewer main, starting the three-year process of planning and design this fiscal year, instead of 2014 as originally scheduled.

The letter also asked for a speedy resolution of any potential fines.

"Uncertainty in the penalties is of concern with respect to bond rating and financing capacity for present and future public projects," the letter stated.

For Vista, there may be another fine on the horizon. Shortly after the Buena Vista Lagoon spill, more than 400,000 gallons of sewage escaped from a separate, Vista-owned line near South Melrose Drive in Carlsbad. External corrosion was again pegged as the culprit.

It's not yet clear if or when the regional board will levy a fine for that incident.

Contact staff writer Craig TenBroeck at (760) 901-4062 or ctenbroeck@nctimes.com.

More North County news

Sewage spill could cost cities nearly \$1.1 million

Agency suggests fine for incident in lagoon

By Matthew Rodriguez
UNION-TRIBUNE STAFF WRITER

September 29, 2007

CARLSBAD – A regulatory agency is considering slapping the cities of Vista and Carlsbad with a \$1.1 million fine over a massive sewage spill that occurred this year at Buena Vista Lagoon.

The spill – one of the largest in the county in recent decades – poured about 7.3 million gallons of raw sewage into the lagoon in late March and early April, killing an estimated 1,700 fish and four birds.

In a complaint issued yesterday, the San Diego Regional Water Quality Control Board suggested a \$1,095,000 fine, saying the spill had “significantly impacted water quality, including short and potentially long-term impacts.”

Vista's city manager said city officials could meet as soon as next week to evaluate the report and discuss ways to approach it. A hearing has been set for 9 a.m. Dec. 12 unless the cities decide to accept the proposed fines.

The spill was caused by a rupture in a 24-inch pressurized sewer main that sends sewage from the Buena Vista Pump Station to the Encina Wastewater Authority's treatment plant in Carlsbad.

Vista owns 90 percent of the iron main and would pay that portion of a fine; Carlsbad owns the other 10 percent.

The report faulted Vista and Carlsbad for failing to take “preventive measures” before the spill and not having “effective monitoring measures” in place. Once the cities overcame initial response delays, however, they responded effectively, the report states.

The report states the maximum fine that could have been imposed was \$73 million. However, even adjusted for inflation, the proposed \$1.1 million is higher than a \$142,000 fine the board levied on Oceanside in 1994 for a 4.75-million-gallon spill into the same lagoon, which lies between Oceanside and Carlsbad.

The complaint states that Oceanside was also assessed nearly \$335,000 in 2000 for a 1.7-million-gallon spill in the area near the most recent spill. Because of the prior spills into Buena Vista Lagoon, the report states, Vista and Carlsbad could have taken more preventive steps.

"With knowledge of the condition of Oceanside's failed force main in 2000 and the extremely corrosive soil in the vicinity of their force main," the report states, "the Dischargers (Vista and Carlsbad) failed to implement any additional measures to evaluate the condition of their force sewer main and identify potential problem areas."

Rita Geldert, Vista city manager, said the city is now working on a 20-year sewer master plan and evaluating sewer rates over the next five to 10 years. She said it was unclear whether fines could postpone any projects or lead to higher sewer rates.

"It could," she said. "I don't know what that would do with the formula yet."

Last week, the cities submitted further information to the board, including a report on why the spill occurred. They could submit further information ahead of a hearing.

Geldert said she wants to evaluate the proposed fine with city officials before deciding how to proceed. "You always want to know what your liability is as soon as possible to plan for it," she said. "But you want to make sure that the decision is made with all of the facts."

■ Matthew Rodriguez: (760) 476-8239; matthew.rodriguez@uniontrib.com

Find this article at:

<http://www.signonsandiego.com/news/northcounty/20070929-9999-1mi29lagoon.html>

Check the box to include the list of links referenced in the article.

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**2006 CALENDAR YEAR WATER RECYCLING ACTIVITIES
SAN DIEGO REGION**

	Volume (acre-feet)				Total
	Undisinfected Secondary ¹	Disinfected Secondary-23 ²	Disinfected Secondary-2.2 ²	Disinfected Tertiary ²	
Amount Supplied to Recycled Water Distributors	0	0	0	7,982	7,982
Amount Supplied Directly to Users	209	1,350	586	29,526	31,670
Amount Used for Groundwater Recharge	704	0	0	1,070	1,774
Amount Discharged to Land	647	0	50	1,131	1,828
Amount Discharged to Waters of the US	15,331	0	0	9,919	25,250
Total Facility Production	34,986	675	653	55,374	91,688

	Volume (million gallons)				Total
	Undisinfected Secondary ¹	Disinfected Secondary-23 ²	Disinfected Secondary-2.2 ²	Disinfected Tertiary ²	
Amount Supplied to Recycled Water Distributors	0	0	0	2,601	2,601
Amount Supplied Directly to Users	68	440	191	9,621	10,320
Amount Used for Groundwater Recharge	230	0	0	349	578
Amount Discharged to Land	211	0	16	369	596
Amount Discharged to Waters of the US	4,995	0	0	3,232	8,228
Total Facility Production	11,400	220	213	18,044	29,877

¹ Level of treatment defined in Title 40, Part 133 of the Code of Federal Regulations

² Level of treatment defined in Title 22, Division 4, Chapter 3 of the California Code of Regulations



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Office of Chief Counsel

1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ www.waterboards.ca.gov



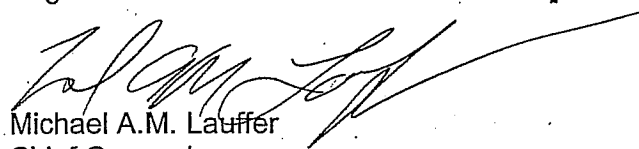
Arnold Schwarzenegger
Governor

Attachment C-2

TO: Dorothy Rice [via email only]
Executive Director

Regional Water Board Executive Officers [via email only]

FROM:


Michael A.M. Lauffer
Chief Counsel

OFFICE OF CHIEF COUNSEL

DATE:

OCT 04 2007

SUBJECT: PETITION OF ESCONDIDO CREEK CONSERVANCY AND SAN DIEGO
COASTKEEPER (ADMINISTRATIVE CIVIL LIABILITY ORDER
NO. R9-2006-0095 FOR CITY OF ESCONDIDO HALE AVENUE RESOURCE
RECOVERY FACILITY), SAN DIEGO REGION:
PRECEDENTIAL DECISION—WQ 2007-0010
SWRCB/OCC FILE A-1796

On October 11, 2006, the San Diego Regional Water Quality Control Board (San Diego Water Board) issued Order No. R9-2006-0095 (Settlement Order). The Settlement Order resolved potential liability by the City of Escondido (City) for violations alleged in its operation of the Hale Avenue Resource Recovery Facility, an activated sludge wastewater treatment facility. Generally, the City discharges secondary treated effluent through the Escondido Land Outfall that runs approximately nine miles along Escondido Creek and the San Elijo Lagoon in accordance with Order No. R9-2005-0101, national pollutant discharge elimination system (NPDES) No. CA0108971. During extreme wet weather conditions, the City discharges tertiary-treated effluent to Escondido Creek pursuant to Order No. R9-2003-0394, NPDES No. CA0108944.

The violations alleged in the San Diego Water Board's complaint sought a total of \$1,335,000 in mandatory minimum penalties (MMPs) and \$462,500 in discretionary liability. The Settlement Order imposed civil liability in the amount of \$1,162,150. Of that amount, the City was to deposit \$690,000 into the State Water Board Cleanup and Abatement Account. The remaining \$462,150 was to be suspended and waived if the City submitted a final copy of two technical studies. The total liability specified in the Settlement Order was less than the mandatory liability identified in the complaint.

A timely petition was filed by the Escondido Creek Conservancy and the San Diego Coastkeeper. The Petitioners claim that the Settlement Order violated the Water Code provisions concerning MMPs. In its defense, the City asserted that two of the statutory defenses to MMPs were applicable. The San Diego Water Board justified its reduced

California Environmental Protection Agency

Dorothy Rice
RWQCB Executive Officers

- 2 -

OCT 04 2007

assessment by explaining in its findings that acceptance of the City's settlement offer would avoid the need for an administrative hearing and possible judicial review; thus, conserving valuable staff resources.

The order notes that the San Diego Water Board did not make any factual findings as to the merits of these assertions or as to whether they constituted affirmative defenses. The order concludes that once MMP violations have been alleged and a complaint issued, any resulting settlement agreement cannot be for an amount lower than the statutory minimum, absent a finding that the allegation was made in error or that one of these defenses applies. It also notes that the City has the burden to prove any such defense.

The order vacates the Settlement Order and remands the matter to the San Diego Water Board. The San Diego Water Board must either withdraw or revise the complaint, making specific findings as to the alleged violations, or hold a hearing and make factual determinations as to any affirmative defenses alleged by the City. The amount of liability to be assessed must be no less than the minimum liability required by Water Code section 13385, based on the factual determinations of the San Diego Water Board or, where appropriate, its Executive Officer.

cc: **[All via email only]**

Regional Water Board Branch Offices
Regional Water Board Attorneys
State Board Water Quality Attorneys