

San Diego Regional Water Quality Control Board



Executive Officer's Report

November 14, 2007

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Attachments for B-1, B-2, B-6, and B-7 are included at the end of the report. Also included as an attachment are the Significant NPDES Permits, WDRs and RB Actions.

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

November 14, 2007

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

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

On October 10, 2007, Ben Neill, Peter Peuron and Chad Loflen conducted a joint inspection of the Oaks North Golf Course with Antonius Evans, Corky Patterson and Edward Baskin from the City of San Diego to investigate alleged storm water violations. Consultations with golf course staff continue as inspection reports are being compiled.

Brandi Outwin, of the Northern Watershed Unit, participated in a pre-storm season meeting with staff from the County of Riverside on October 16, 2007. The meeting brought together storm water personnel from several County departments and outside consultants to discuss the previous year's efforts, how to improve, and to receive feedback from the Regional Board.

On October 25, Brandi Outwin participated in the Riverside County MS4 Technical Advisory Committee Meeting.

During the last weeks of October and through the beginning of November, staff from the Watershed Units coordinated with MS4 copermitees to assess wildfire and structure fire damages, identify potential problem areas, pool expertise, and provide input to facilitate a coordinated local response to the recent wildfires.

2. Headwaters to Ocean Conference 2007 *(Jeremy Haas)*

The annual Headwaters to Ocean (H2O) conference was held October 23-25, 2007 in Long Beach, California. This annual conference is organized by the California Shore and Beach Preservation Association, the California Coastal Coalition, the Southern California Wetlands Recovery Project, and the Western Chapter of the Society of Wetland Scientists. The State Water Resources Control Board was a co-sponsor of the H2O conference. The attendees included approximately 150 people from public and private organizations. The H2O conference covered a wide spectrum of coast and ocean issues, including shoreline preservation, water quality, wetland restoration, watershed management, desalination and marine debris. The Regional Board Watershed Branch participated in the conference by giving presentations on the Clean Water Act section 401 certification program (Jeremy Haas) and on the La Jolla Ecological Reserve (Chad Loflen), and organizing a panel session (Lilian Busse) discussing algae as a water quality indicator.

Presentations from the H2O conference will be available on-line at http://www.websurfer.us/coastal/h2o_2007/2007_h2o_conference.htm .

3. Water Environment Federation Technical (WEFTEC) Exhibition and Conference 2007 (*Melissa Valdovinos, Eric Becker, Michelle Mata*)

On October 15 to 17, 2007; the Regional Board Core Regulatory staff (Melissa Valdovinos, Eric Becker, and Michelle Mata) attended the 80th Technical Exhibition and Conference hosted by the Water Environment (WEFTEC) in San Diego. The conference was organized into exhibitions, workshops, facility tours, and over 100 technical sessions to provide water quality education and training opportunities for a record 20,000 attendees. The conference attendees included representatives from U.S. EPA, CalEPA (State and Regional Water Boards), local agencies and water districts, as well as private consulting firms. The conference agenda included presentations of the most recent results from water quality development, research, and updated regulations for treatment and conveyance of water and wastewater.

The Regional Board Core Regulatory Units will apply the information obtained at the workshop by continuing to improve the technical requirements of future permits, and assisting the regulated community to comply with the pretreatment, NPDES and WDR program requirements. The information from WEFTEC 2007 will also assist the Regional Board in its assessment of local programs for addressing: a.) local sewage collection systems problems, b.) new nutrient removal technologies, and c.) addressing water quality issues related to emerging chemicals in their waste discharges.

Additional information on the conference can be found at:

<http://www.weftec.org/home.htm>

4. 2008 Nonpoint Source Conference (*Dave Gibson*)

The 2008 Nonpoint Source (NPS) Conference is scheduled for May 5-7, 2008 in San Diego. The theme of this year's conference is "Integrated Watershed Management: Reducing Nonpoint Source Pollution". The event will offer an opportunity to examine and learn from the numerous NPS pollution control projects that have been supported by state and federal funds, especially Clean Water Act (CWA) Section 319 and Bond Propositions 13, 40 and 50. The conference will include plenary sessions, concurrent sessions, a poster reception, several field trips, training workshops and plenty of networking opportunities. Session topics may include the Integrated Regional Water Management (IRWM) Grant Program and NPS pollutant reduction projects, the environmental effects and agency responses to the wildfires of 2003 and 2007, Low Impact Development (LID) and hydromodification, grant project success and challenges, and education and outreach, and monitoring. The Regional Board Southern Watershed Protection Unit staff (Dave Gibson) is assisting with local organization of the conference and field trips.

Information on the conference can be found at <http://www.waterboards.ca.gov/nps/conference2008.html>.

To submit an abstract to propose a presentation or poster, fill out the online form located at <http://canps.tetratex.com/AbstractSubmission.aspx>. Abstracts are due by November 16, 2007.

5. California State Lands Commission Meeting: San Diego Bay Sediment Cleanup *(Frank Melbourn)*

On October 30, 2007, the California State Lands Commission (Commission) chaired by Lt. Governor John Garamendi, held a meeting at the Port of San Diego (Port). The Commissioners unanimously agreed to send a letter to the Port of San Diego urging it to provide necessary staff resources to support the Regional Board's execution of a Cleanup and Abatement Order (CAO) for polluted sediment in San Diego Bay. The letter also directs the Port to take all reasonable and necessary actions to ensure that its lessees comply with the final adopted CAO. Regional Board staff provided the Commissioners with an overview of the proposed Order of Proceedings for adoption of the CAO. The Commissioners were most interested in the status of record digitization. Bruce Reznik of the San Diego Coastkeeper followed the Regional Board presentation, requesting that the Commissioners take over the sediment cleanup from the Regional Board. The Executive Officer of the State Lands Commission, Paul Thayer responded that the Commission lacks the knowledge and staff resources to address the matter, and recommended that the Commissioners solicit the Port to assist the Regional Board.

6. Industrial Environmental Association (IEA) Conference *(Michael McCann)*

The IEA's annual conference held November 8-9, 2007 in San Diego featured Tam Doduc, Chairwoman of the State Water Resources Control Board, who spoke on the Strategic Plan, Alexis Strauss of the US Environmental Protection Agency, San Francisco office, spoke on USEPA current issues, and John Robertus, Regional Board Executive Officer, spoke on regional challenges. Also staff members Tony Felix, Dat Quach, Peter Peuron, and Mike McCann attended the conference.

7. Personnel Report *(David Barker)*

As of November 2007 the California Regional Water Quality Control Board (San Diego Water Board) has an existing authorized staff size of 77 employee positions. Sixty-seven of these positions are comprised of technical staff in the engineering, engineering geology, and biologist job classifications. Ten of these positions are comprised of staff in administrative office support services and information technology job classifications.

The San Diego Water Board is currently involved in a recruitment effort to fill vacancies resulting from recent staff departures as well as the establishment of

new vacant positions resulting from budget augmentation with additional federal and state program funds. Our current recruitment emphasis is to fill a total of 9 vacancies in the following program areas:

- 1 administrative staff vacancy in Document Management support services.
- 2 administrative staff vacancies in Business Support Services.
- 1 information systems vacancy in Information Technology support services.
- 2 technical staff vacancies in the Brownfield Site Mitigation and Cleanup program.
- 3 technical staff vacancies in the NPDES Storm Water program.

The recruitment and interview of candidates to fill these vacancies is underway at various stages. We will continue the emphasis on recruitment to fill the vacancies until all vacant positions are filled.

PART B **SIGNIFICANT REGIONAL WATER QUALITY ISSUES**

1. Sanitary Sewer Overflows (SSO) *(Eric Becker, Charles Cheng, Joann Cofrancesco, Michelle Mata, Melissa Valdovinos) (Attachment B-1)*

From September 1 to September 30, 2007, there were 13 public sanitary sewer overflows (SSOs) in the San Diego Region, including 3 spills of 1,000 gallons or more, reported on-line pursuant to the requirements of State Board Order No. 2006-0003-DWQ (General Statewide Waste Discharge Requirements for Collection Agencies). Four of the 13 SSOs reached surface waters, drainage ditches, or storm drains. None of these SSOs resulted in closure of recreational waters. The combined total volume of reported sewage spilled from all publicly-owned collection systems for the month of September 2007 was 566,158 gallons.

From October 1 to October 31, 2007, there were 18 public SSOs in the San Diego Region, including 4 spills of 1,000 gallons or more, reported on-line pursuant to the requirements of State Board Order No. 2006-0003-DWQ. Eight of the 18 SSOs reached surface waters, drainage ditches, or storm drains. Two of these SSOs resulted in closure of recreational waters. The combined total volume of reported sewage spilled from all publicly-owned collection systems for the month of October 2007 was 27,492 gallons.

In September 2007, there were 23 discharges of untreated sewage from private laterals reported on-line pursuant to the San Diego Regional Board Order No. R9-2007-0005, "Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region." One of these discharges was 1,000 gallons or more, and 8 of these discharges reached surface waters, drainage ditches, or storm drains. None of the discharges resulted in closure of recreational waters. In October 2007, there were 24 private lateral sewage discharges reported on-line pursuant to the San Diego Regional Board Order No. R9-2007-0005. None of

these discharges was 1,000 gallons or more, and 12 of these discharges reached surface waters, drainage ditches, or storm drains. None of the discharges resulted in closure of recreational waters. The combined total volume of reported private lateral sewage discharges for the months of September and October 2007 was 49,508 gallons.

During September and October 2007, 0.05 and 0.37 inches of rainfall were recorded at San Diego's Lindbergh Field, respectively. For comparison, in September 2006, 21 SSOs and 14 private lateral sewage discharges were reported during a period of time when no rainfall was recorded at Lindbergh Field. Further, in October 2006 there were 11 SSOs and 23 private lateral sewage discharges reported during a period of time when 0.76 inches of rainfall was recorded at Lindbergh Field.

Attached is a table titled "Sanitary Sewer Overflow Statistics", updated through October 31, 2007, which contains a summary of all SSOs by fiscal year (FY) from each agency since FY 2002-2003.

Recent significant SSOs and Regional Board activities include:

- On September 14, 2007, the Santa Margarita Water District reported a discharge of 10,000 gallons of raw sewage into the Christianitos Creek. The Regional Board issued Investigative Order No. R9-2007-0195 to the discharger on September 25, 2007, for this and a previously reported discharge of 20,700 gallons of raw sewage that occurred on August 20, 2007. Both spills occurred from the Talega force main and entered into the Rancho Mission Viejo Ecological Reserve and Christianitos Creek. The investigative Order requires the discharger to submit a technical report to the Regional Board no later than November 9, 2007.
- On September 28, 2007, the Regional Board issued Complaint No. R9-2007-0099 to the City of Vista and the City of Carlsbad for Administrative Civil Liability in the amount of \$1,095,000 for a discharge of 7.3 million gallons of raw sewage into Buena Vista Lagoon that occurred from March 31 through April 3, 2007, in violation of State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.
- On October 12, 2007, the Regional Board issued Investigative Order No. R9-2007-0201 to Rainbow Municipal Water District for a discharge of approximately 540,000 gallons of raw sewage that occurred on or about September 4, 2007. The spill was from a gravity sewer line and discharged near Horse Ranch Creek. The investigative Order requires the discharger to submit a technical report to the Regional Board no later than November 16, 2007.

- On October 17, 2007, the Regional Board issued Complaint No. R9-2007-0101 to Fallbrook Public Utility District for Administrative Civil Liability in the amount of \$29,300 for a discharge of 146,625 gallons of raw sewage into Fallbrook Creek, that occurred from June 17 to June 20, 2006, in violation of Order No. 96-04.
- On October 17, 2007, the Regional Board issued Complaint No. R9-2007-0096 to Eastern Municipal Water District for Administrative Civil Liability in the amount of \$53,500 for a discharge of 1.07 million gallons of raw sewage into Murrieta Creek, that occurred on November 14, 2006, in violation of State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.
- On October 24, 2007, the Regional Board issued a Notice of Violation and Investigative Order No. R9-2007-0199 to the City of San Diego, for a previously reported discharge of approximately 390,720 gallons of raw sewage from a manhole located in a canyon near Escala Drive, east of Interstate 15, into Lake Hodges that was discovered on August 24, 2007. The investigative Order requires the discharger to submit a technical report to the Regional Board no later than November 26, 2007.

Additional information about the Regional Board's SSO regulatory program is available at the Regional Board's web site at <http://www.waterboards.ca.gov/sandiego/programs/sso.html>.

2. Significant Enforcement Actions-October 2007 (Mark Alpert) (Attachment B-2)

The following is a summary of all enforcement actions during the month of October 2007. During this period the Regional Board initiated 11 enforcement actions (1 Staff Enforcement Letter, 3 Notice of Violations, 3 Combined Notice of Violations and Investigative Orders, 1 Cleanup and Abatement Order, 2 Complaints for Administrative Civil Liability, and 1 Administrative Civil Liability Order).

A detailed listing of the most significant enforcement actions undertaken by the Regional Board during the period is attached. Information on sewage spills is provided in a separate discussion topic entitled "Sewage Spills").

AGENCY/ FACILITY NAME	CITY	PROGRAM ¹	ACTION DATE
Staff Enforcement letters			
Schutte and Koerting, Ametek, Ketema cleanup site	El Cajon	SLIC	10/17/2007

AGENCY/ FACILITY NAME	CITY	PROGRAM ¹	ACTION DATE
Notice of Violations			
USMC Camp Pendleton, Waste Water Treatment plants 1,2,3, 13, & South	Camp Pendleton	NPDES	10/03/2007
Waddie and Akhlas Yadago, One Stop Auto Tech	Santee	UST	10/17/2007
Dakota Ranch Development, Dakota Ranch Subdivision	Santee	CER	10/18/2007

Notice of Violations and Investigative Orders			
Rainbow Water District	Horse Ranch Creek, Rainbow	WDR	10/12/2007
Metropolitan Wastewater Dept., City of San Diego	Lake Hodges	WDR	10/24/2007
North County Transit District, Sprinter Rail Construction	North County	CONSTW	10/26/2007
Cleanup and Abatement Orders			
Edwin Bulen Trust Lovett's One Hour Dry Cleaners	Escondido	SLIC	10/15/2007

Complaints for Administrative Civil Liability			
Fallbrook PUD	Dussault Park, Fallbrook	WDR	10/17/2007
Eastern MUD	Diaz Road, Temecula	WDR	10/17/2007
Adopted Administrative Civil Liability Orders			
Terra Vac, Body Beautiful	San Diego	NPDES	10/11/2007

Program Acronyms¹

CER	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

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 and work with the grantees in order to ensure the success of the projects and conformance to the Grant Agreement terms and conditions. During recent years, several 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.

2007 Wildfire Impacts on Grant Funded Projects

Several grant funded projects in the San Diego Region have been seriously impacted by the October wildfires. The Regional Board is working with the State Water Board and Project Directors to identify project impacts from the fires and administrative and technical changes to salvage the projects. Four projects that are being implemented by the Southern California Coastal Water Research Project have been seriously affected by the fires:

- **Grant Agreement 06-294-559-0 - Ensuring Biological Integrity of Nonperennial Streams.** This is probably the most seriously impacted project. Monitoring was already impacted by the drought and low spring and fall stream flows. The fires have burned over many the planned stations. These sites will be seriously impacted by slope erosion in the watershed, sedimentation and siltation in the stream channel with significant changes in hydrology.
- **Grant Agreement 06-375-559-0 - Development of Multimetric Tools for Setting Numeric Nutrient Targets including a Periphyton Index.** This project is seriously impacted by the loss of reference stations by the fire and loss of access due to USFS closures of the Cleveland National Forest and the Los Padres National Forest. Many of the stations will be affected by erosion, sedimentation, and the loss of normal canopy cover over the streams for years to come.

- **Grant Agreement 06-337-559-0 - Creating Tools for Numeric Nutrient Criteria and TMDL Development in San Diego Coastal Lagoons.** The watersheds of the lagoons that are planned to be sampled do not appear to have been directly affected by the fires. However, the watersheds draining into the lagoons are indirectly impacted by the ash-fall from the fires. This is a problem because ash is likely to contain high concentrations of nutrients, and will increase the input of nutrients in the lagoons.
- **Grant Agreement 06-295-559-0 - Development of Tools for Hydromodification Assessment and Management.** Six of the sampling sites for this project are located in the burned areas. These sites were sampled before the wildfires, but impacts from erosion when re-sampling the sites are expected and should be assessed.

Integrated Regional Water Management (IRWM) Grant Program

Round One of the Prop 50 IRWM Grant Program: The State Water Board awarded \$75M on January 18, 2007 for three implementation projects - one grant agreement executed, two pending. On March 20, 2007, the State Water Board awarded an additional \$75M for five implementation projects - all grant agreements are pending.

Round Two of the Prop 50 IRWM Grant Program: For Step 1 of Round Two, twenty eight applications were submitted of which 11 were determined to be incomplete or ineligible. Reviews of the applications to the State Water Board and Department of Water Resources (DWR) have been completed. Competitive applicants were notified November 1, 2007 that they may be invited to submit Full Proposals in Step 2.

The Draft Call Back List for Step 2 was posted on both the DWR and State Water Board web sites. There will be a public meeting to present the Draft Call Back List and accept public comments at 9:00 am on November 16, 2007, at the Cal/EPA Building in Sacramento. DWR and State Water Board staff will be available to answer questions on the 17 evaluations of the competitive proposals. Written public comments on the Draft Call Back List are due by November 19, 2007, and must be sent to DWR_IRWM@water.ca.gov or Tracie Billington, DWR, P.O. Box 942836, Sacramento, CA 94236.

Eight applicants have been invited back to submit Step 2 proposals - four from Northern California and four from Southern California. The four applicants from the North are: County of Humboldt, Kings River Conservation District, Nevada Irrigation District, and Tomales Bay Watershed Council Foundation. The four applicants from the South are: Antelope Valley State Water Contractors Association, County of Orange, San Diego County Water Authority, and County of Santa Barbara. These eight applicants are invited to participate in two upcoming applicant workshops to be held in:

- Sacramento on December 5, 2007 at the Paul Bonderson Building Hearing Room, and
- Riverside on December 6, 2007, at the California Towers Victoria Room.

Both Workshops will begin at 10:00 a.m.

In the San Diego Region, the proposal submitted by the San Diego IRWM Group led by the San Diego County Water Authority received high scores from the review teams and was invited to submit a full proposal. The Upper Santa Margarita Watershed IRWM Group led by the Riverside Flood Control and Water Conservation District proposal received low scores and was not invited to submit a full proposal. The San Diego Regional Board, State Water Board and DWR will continue to work with presently unsuccessful applicants to assist them to prepare more competitive proposals for funding under Proposition 84.

Round two - Step 2 Proposals must be submitted by 5:00 p.m. on January 15, 2008. The IRWM Step 2 Applications will be available on the Financial Assistance Application Submittal Tool (FAAST) no later than November 15, 2007. The FAAST User Manual and Frequently Asked Questions are available at: <https://faast.waterboards.ca.gov/>.

Information on the IRWM Program is available on the State Water Board IRWM web site at <http://www.waterboards.ca.gov/funding/irwmgp/index.html>

319(h) Nonpoint Source (319(h) NPS) Grant Program

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 through the control of 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 models for water quality improvement. The State Water Board began accepting Concept Applications for the 319(h) NPS Grant Program on September 14, 2007. The deadline for applications to the State Water Board was November 1, 2007.

The State Water Board received 58 Concept Proposal applications, requesting a total of \$37.2 million. Approximately \$5.65 million is available for this program. Applications have been screened for eligibility and assigned for review to State Water Board, Regional Water Board, and U.S. EPA staff.

Three out of four proposals submitted in the San Diego Region have been determined to be eligible:

- PIN 13021 - Monitoring, Assessment and Outreach for Watershed Based Pollution Prevention, submitted by San Diego Coastkeeper.
- PIN 13059 - UCSD and Urban Corps of San Diego Pollution Reduction Program, submitted by the Regents of the University of California
- PIN 13062 - Two Urban Water Diversion Unit Installations in Laguna Beach, submitted by the City of Laguna Beach

The State Water Board will complete technical reviews by November 26, 2007. On December 14, 2007, applicants will be notified if their Concept Proposal has been invited back to submit a Full Proposal.

Proposition 84 Storm Water Grant Program

The Proposition 84 Storm Water Grant Program will make \$82.35 million in matching grants available to local public agencies for projects that reduce and prevent pollution of rivers, lakes, and streams from discharges of storm water. Assembly Bill (AB) 739 (Statutes 2007, Chapter 610) provides additional requirements regarding implementation of this program. The State Water Board will hold scoping meetings for this grant program in early 2008.

To receive e-mail updates regarding the Program, interested persons should sign-up on-line for the "Storm Water Grant Program (Proposition 84)" e-mail list at: http://www.waterboards.ca.gov/lyrisforms/swrcb_subscribe.html.

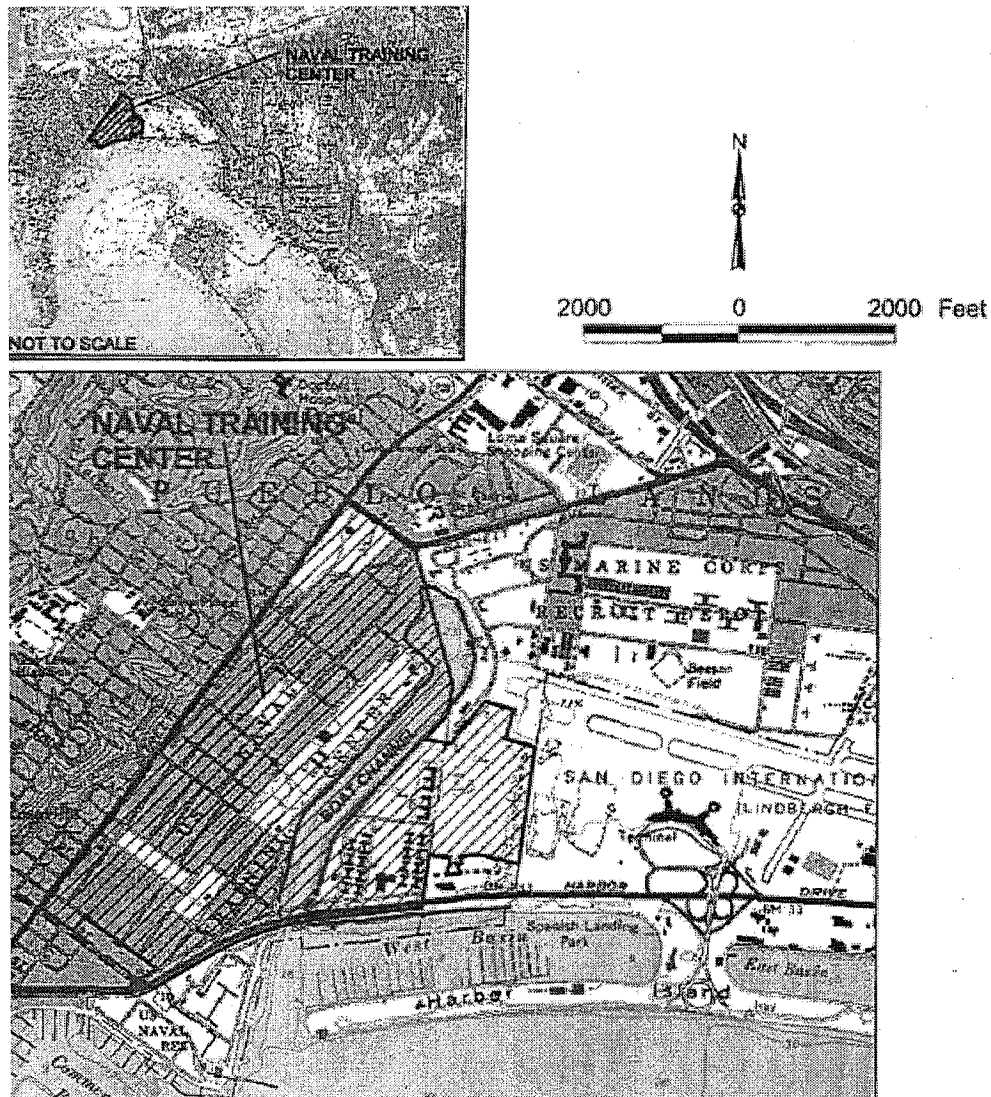
More information on this grant program can be found at:
<http://www.waterboards.ca.gov/funding/prop84.html>

Proposition 84 Areas of Special Biological Significance (ASBS) Grant Program

The ASBS Grant Program will assist local public agencies to comply with the prohibition to discharge wastes into Areas of Special Biological Significance (ASBS) as designated in the California Ocean Plan. Approximately \$33.25 Million will be available for projects. Public workshops were held in September and October 2007 to gather stakeholder input on development of grant guidelines. The State Water Board is in the process of drafting Grant Guidelines for public comment in December and Board Adoption in March 2008.

4. Update - Boat Channel, Former Naval Training Center, San Diego (Sherrie Komeylyan)

The former Naval Training Center (NTC) is located approximately 2.5 miles northwest of downtown San Diego and occupies approximately 540 acres near the northernmost point of San Diego Bay. The Boat Channel divides the property into two sections, with San Diego Bay bordering the property on the south.



In June 1993, NTC was recommended for closure by the Defense Base Closure and Realignment Commission. The U.S. Department of the Navy (DON) was required to close NTC, San Diego by September 1999, in accordance with the Base Closure and Realignment Act. However operational closure of the base occurred early in April of 1997. Due to possible impacts by discharges from the storm water outfalls along the channel, sediments within the Boat Channel were identified in the Base Realignment and Closure Cleanup Plan and consequently designated as Site 12 as part of the Navy Installation Restoration Program (IRP).

Waste generation from various activities immediately surrounding the Boat Channel related to public works, motor transport maintenance, light industrial activities, and surface water runoff discharged through the storm drain system surrounding the Boat Channel have contributed pollutants to the Boat Channel sediments. As a result of these activities sediments within the Boat Channel have been impacted by metals, total sulfides, polynuclear aromatic hydrocarbons

(PAHs), chlorinated pesticides, polychlorinated biphenyls (PCBs), and semi volatile organic compounds (SVOCs).

A draft Remedial Investigation report for the Boat Channel was issued in December 1999. The final version of the Remedial Investigation Report was submitted in October 2003. The Site Mitigation and Cleanup Unit (SMCU), Department of Fish and Game (DF&G), National Oceanic Atmospheric Administration (NOAA), and Office of Environmental Health Hazard Assessment (OEHHA) reviewed the report and submitted comments to the DON. Currently the DF&G, NOAA, and OEHHA are working with the Regional Board to ensure that the DON adequately identifies areas of concern in order to evaluate possible remedial solutions for the former NTC Boat Channel sediments that would be protective of human health and the environment.

Section 120 (h)(3)(C) of CERCLA, commonly known as the "Early Transfer Authority" (ETA) authorizes the deferral of the covenant that requires all necessary remedial action to be completed before federal property is transferred. An existing conveyance authority, such as an economic development conveyance or a public benefit conveyance, will have to be used in conjunction with ETA for the transfer of property where cleanup has not been completed. The Governor must concur with the deferral request for property to be transferred early. The appropriate legal and regulatory requirements will continue to be used for environmental cleanup efforts on real property prior to and after transfer using ETA.

The City of San Diego and the DON are currently in negotiations with the hopes of an "early transfer" of the property from the DON to the City of San Diego at which time the City of San Diego would develop an appropriate remedial solution and complete cleanup and abatement activities for sediments within the Boat Channel.

Once areas of potential concern have been identified and remedial alternative for cleanup at the site have been submitted to the Regional Board, the SMCU will review the proposal and will present the proposed alternative for remediation of the sediments within the Boat Channel to the Regional Board for their consideration and concurrence. (Sherrie Komeylyan)

5. Orange County Municipal Storm Water Permit Update (*Jeremy Haas*)

The Regional Board has taken the following actions concerning tentative Order No. R9-2007-0002, the Orange County Municipal Storm Water Permit:

Date	Action	Public Input/Action
February 9, 2007	Issued tentative Order No. R9-2007-0002 for public review	Hearing: April 11, 2007 By direction of Regional Board, public comments received until April 25, 2007

July 6, 2007	Issued revised tentative Order No. R9-2007-0002	By direction of Regional Board, public comments received until August 23, 2007
September 12, 2007	Tentative Order scheduled for consideration by Regional Board	Postponed agenda item due to lack of quorum of voting Regional Board members.

Consideration of adoption of Tentative Order No. R9-2007-0002 is expected to be scheduled at the next available Regional Board meeting once a voting quorum is available. In the meantime, all written comments have been reviewed and evaluated. The Northern Watershed unit has prepared responses to significant comments received on the July 2007 revision. Those responses and a second revised tentative Order are expected to be distributed shortly. Additional written comments will not be solicited; however, verbal comments are likely to be accepted when the item is scheduled for consideration at a future Regional Board meeting.

6. State Route 125 (*Christina Arias*)

On April 23, 2001, the Regional Board adopted Resolution No. 2001-51 approving *Clean Water Act Section 401 Water Quality Certification for the State Route 125 South Toll Road Project*. This Certification was issued to the California Department of Transportation (Caltrans) and South Bay Expressway (SBX; formerly known as California Transportation Ventures), provided that they would adhere to the stated conditions. State Route 125 is scheduled to open on November 19, 2007.

In July 2007, Caltrans and SBX requested an amendment to the Certification, removing the stated condition that "Caltrans and SBX shall plant permanent landscape material and begin irrigation within one year of ground disturbances. The areas between future Olympic Parkway and Route 54 shall be completely landscaped with appropriate irrigation by opening day of this section of the Toll Road."

In exchange for removing the requirement that all areas be completely landscaped, in August 2007, the Regional Board added the following conditions to the Certification:

"Caltrans and SBX shall complete landscaping and irrigation activities associated with the project in accordance with the August 1, 2007 *Connector and Toll Road Landscaping Schedule* submitted to the Regional Board. Prior to opening of the Toll Road:

- A. All permanent structural treatment best management practices (BMPs) (including vegetated detention basins and bio-swales) will be fully implemented and functional.

B. In areas that have not been permanently landscaped prior to road opening, finished slopes and drainage inlets will continue to be monitored, maintained, and protected in accordance with the approved water pollution control drawings for the project.”

On September 18, 2007, the Southern Watershed Protection Unit staff (Dat Quach and Christina Arias) inspected the site with Caltrans and SBX and found the level of vegetation inadequate to meet compliance with the newly developed Certification language. Furthermore, there appeared to be a high potential for violations of requirements of Order No. 99-06-DWQ, the Caltrans Statewide Stormwater Permit, because of the failure to implement adequate sediment and erosion control. As a result, the Regional Board sent Caltrans and SBX a letter dated September 28, 2007, outlining these concerns (Attachment B-6a). An editorial on this subject was published in the San Diego Union Tribune on October 29, 2007, and response from Caltrans and SBX was subsequently published on October 31, 2007 (Attachments B-6b and c).

Following the receipt of the September 28, 2007 letter, Caltrans and SBX sent the Regional Board a *Vegetated Permanent Best Management Practice Compliance Plan*. After reviewing and commenting on the plan, the Regional Board staff met with Caltrans and SBX on October 31, 2007. At this time, Caltrans and SBX provided the following update on the status of the temporary and permanent BMPs:

- Construction BMPs were much improved from the site inspection on September 18, 2007.
- Thirty four of 38 bioswales had been graded and hydroseeded. Four remaining bioswales (under Sweetwater Bridge) will be constructed after work is completed on utilities and trails associated with the bridge area. These final four swales will be constructed by the end of the year.
- Temporary irrigation had been established in all bioswales located in road medians.
- Water quality monitoring will proceed on schedule, as outlined in the Certification.

At the October 31, 2007 meeting, Caltrans reported that they had procured approximately 6 acres of saltgrass sod from a vendor in the Lompoc area (enough to fully vegetate all of the structural BMPs). However, in an email sent Friday, November 9, 2007, Caltrans reported that efforts to cut and transport the sod were unsuccessful, and therefore they are unable to obtain sod from this source. Caltrans will provide an update on the status of the procurement of suitable vegetation when the Regional Board inspects State Route 125 on November 14, 2007, five days prior to road opening. The site visit will allow the Regional Board to assess progress with construction BMPs and vegetation of the permanent BMPs, and thus compliance with the Certification.

7. Webster School-Former Burn Dump Site Near Chollas Creek (*Christina Arias*)
(Attachment B-7)

The Webster Elementary school is located above a former burn dump site that was operated from approximately 1934 to 1941, and is located in the Pueblo Hydrologic Unit of the Chollas Creek watershed. In December 2001, the San Diego Unified School District (SDUSD) issued a draft Preliminary Endangerment Assessment Report (PEA) that characterized the nature and extent of the burn ash wastes, and estimated the potential threat to public health and the environment. The PEA stated that groundwater was not encountered during the site investigation.

In January 2001, the Regional Board responded to the PEA by submitting comments including concerns over the possible pollution of storm water and groundwater at this site. In April 2002, the SDUSD issued a draft Removal Action Workplan, Operable Unit 1 (draft RAW) that addressed the Regional Board's comments by stating that 1) groundwater is estimated at a depth of 100 feet below ground surface; 2) the solubility of lead at the site appears to be low based on lab results, and 3) no burn ash is exposed to the surface, thereby reducing the possibility of surface water runoff contamination. In February 2002, the Regional Board visited the site. The inspection did not identify problems with the existing containment cap, and did not find any violations of the Water Quality Control Plan for the San Diego Basin (Basin Plan). In the months following the issuance of the draft RAW, the SDUSD and the Department of Toxic Substances Control (DTSC) kept the Regional Board apprised of meetings and follow-up reporting associated with this site. Because the available data did not identify any evidence of a threat to water quality, the Regional Board considered this site low priority.

In September 2007, the SDUSD issued a draft Final Removal Action Work Plan (draft final RAW) that describes strategies for removing the contaminants. Alternative 3, the proposed alternative, involves the utilization of the existing non-Resource Conservation and Recovery Act (RCRA) soil barrier cap along with institutional controls. This alternative would involve the following:

- Maintenance of at least 2 feet of cover fill over the burn ash;
- Extension of the concrete from the lunch court shelter area through the adjacent parking lot;
- Stabilization of the soil between the school fence and 47th Street by planting vegetation and other landscaping;
- Implementation of a request and authorization process for activities on-site that involve penetration of the soil.

The DTSC, as the lead agency pursuant to the California Environmental Quality Act (CEQA), released a draft Notice of Exemption (NOE) stating that the proposed project will not have a significant negative effect on human health and the environment because excavation of soil and burn ash is not proposed.

The Regional Board reviewed the draft final RAW and provided comments (Attachment B-7a). Because the site is located in close proximity to Chollas Creek, an impaired waterbody for metals (*i.e.*, copper, lead, zinc), the Regional Board requested the draft final RAW be revised to incorporate monitoring of the storm drains to identify if, and to what extent, metals are being discharged from the site during storm events. The requested action would also aid in the implementation of the Chollas Creek dissolved metals Total Maximum Daily Load (TMDL), which was adopted by the Regional Board in June, 2007. Comment letters on the draft final RAW from Mr. John Stump and San Diego Coastkeeper, provided to the Regional Board, are attached (Attachments B-7b and c).

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Statewide Policy on Recycled Water (*Melissa Valdovinos*)

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 (Policy). The State Water Board accepted verbal comments on the Policy during the public workshop and written comments until October 26, 2007.

The Regional Board provided written comments on the following issues that should be included or further addressed in the proposed Policy:

- Recommendations on how to address incidental runoff from recycled water use sites
- Requirements to avoid water quality impacts from recycled water impoundments
- A finding acknowledging the issue of applying soil amendments at recycled water use sites in response to low nutrient levels in recycled water
- Development of an irrigation application rate method that is protective of groundwater by taking into account plant nutrient uptake rates
- More aggressive use of State Water Board authority under the California Water Code to limit the wasting of potable water resources
- Recommendations for purveyor vs. user responsibilities, acknowledging that the purveyor and user should be considered as "co-dischargers" for regulatory purposes
- The need to develop a regulatory approach for emerging chemicals
- Reference to indirect potable use
- Expanded language to allow for groundwater monitoring under all appropriate circumstances

The draft Policy and public comments are posted on-line:

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

The State Water Board anticipates scheduling an agenda item, to consider a revised version of the Policy, for their meeting on December 4, 2007. The Regional Board will evaluate the final adopted State Water Board Policy before developing a strategy to implement the Policy in the San Diego Region.

2. Wetlands Recovery Project (*Bruce Posthumus*)

The Southern California Wetlands Recovery Project (WRP) is made up of a number of state and federal agencies, including the San Diego Regional Water Quality Control Board (SDRWQCB). The WRP works cooperatively with local governments, businesses, non-profit organizations, scientists, and other stakeholders to protect and restore wetlands, streams, and rivers in the coastal watersheds of southern California, from Point Conception to the Mexican border.

The WRP Board of Governors is the decision-making body of the WRP. The Board of Governors consists of high level representatives from each member agency. The WRP also includes the Wetlands Managers Group (which consists of staff representatives of all the member agencies), the Science Advisory Panel, the Public Advisory Committee, and task forces in each of the five coastal counties in southern California. The State Coastal Conservancy provides staffing for the WRP.

The efforts of the WRP are guided by the Regional Restoration Strategy and the Work Plan. The Regional Restoration Strategy sets forth long-term goals and specific implementation strategies. The Work Plan consists of high priority wetland acquisition, planning, and restoration projects which the WRP works to implement. The current Work Plan includes several projects in the San Diego region. These projects are located in or related to Laguna Canyon Creek, Wood Canyon Creek, Aliso Creek, Trabuco Creek, San Juan Creek, San Luis Rey River, Buena Vista Creek, Buena Vista Lagoon, Batiquitos Lagoon, Escondido Creek, San Elijo Lagoon, Los Peñasquitos Lagoon, Rose Creek, Famosa Slough, Otay River, south San Diego Bay, Tijuana Estuary, and other areas of the San Diego region.

The WRP Board of Governors will meet on November 29, 2007 at the Ocean Institute in Dana Point. The Board of Governors will consider taking actions to:

- Adopt an updated Work Plan;
- Facilitate implementation of a regional wetlands monitoring and assessment program (known as the Integrated Wetlands Regional Assessment Program or IWRAP); and
- Approve the addition of new members to the Science Advisory Panel.

Dr. Richard Wright represents the SDRWQCB on the WRP Board of Governors. Bruce Posthumus represents the SDRWQCB in the WRP Wetlands Managers Group and the WRP task forces for San Diego County and Orange County.

More information about the WRP is at <http://www.scwrp.org/index.htm>.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

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

NOVEMBER 14, 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/RWG Limits and Monitoring Plan Known	Draft Complete	Public Rev. & Comment	BOARD HEARING & ADOPTION	Consent Item	COMMENTS	Staff
November 14, 2007										
DECEMBER 12, 2007 RB MEETING										
	San Diego Regional Board Office									
	REGIONWIDE BACTERIA TOTAL MAXIMUM DAILY LOAD	TMDL Adoption	NA	NA	100%	80%	December 12, 2007	No	TMDL Workplan FY 2006-06	Arias
	GROUNDWATER EXTRACTION GENERAL PERMIT OTHER THAN SAN DIEGO BAY	NPDES Permit Reissuance	NA	100%	100%	30%	December 12, 2007	No	NPDES Workplan FY 2006-2007	Rodriguez
	SEAWORLD SAN DIEGO FIREWORKS DISPLAY MISSION BAY	NPDES Permit Amendment	100%	80%	50%	20%	December 12, 2007	No		Kelley
	CITIES OF VISTA AND CARLSBAD--SEWAGE DISCHARGE TO BUENA VISTA LAGOON	Hearing: ALC	NA	100%	100%	40%	December 12, 2007	No	Administrative Civil Liability for \$1,095,000	Becker
	FALLBROOK PUBLIC UTILITY DISTRICT SEWAGE DISCHARGE TO FALLBROOK CRK.	Hearing: ALC	NA	100%	100%	40%	December 12, 2007	No	Administrative Civil Liability for \$29,300	Cofrancesco
	EASTERN MUN. WATER DISTRICT SEWAGE DISCHARGE TO MURRIETA CRK.	Hearing: ALC	NA	100%	100%	40%	December 12, 2007	No	Administrative Civil Liability for \$63,500	Cheng
	ASHBY USA, LLC, RORIPAUGH RANCH DEVELOPMENT RIVERSIDE COUNTY	Hearing: ALC	NA	100%	100%	40%	December 12, 2007	No	Administrative Civil Liability for \$546,250	Stewart
	NORTH CO. TRANSIT DISTRICT SPRINTER RAIL PROJECT SITE SAN DIEGO COUNTY	Hearing: ALC	NA	100%	100%	40%	December 12, 2007	No	Administrative Civil Liability for \$160,000	Neill
	SAN MARCOS LANDFILL--RESCISSION OF CEASE AND DESIST ORDER	Rescission: Cease and Desist Order	NA	NA	100%	20%	December 12, 2007	Yes		Grove
	CALTRANS--TECATE TRUCK INSPECTION STATION SAN DIEGO COUNTY	New WDRs	100%	100%	100%	20%	December 12, 2007	Yes		Mata
FEBRUARY 13, 2008 RB MEETING										
	San Diego Regional Board Office									
	MASSCO/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

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
November 14, 2007										
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
	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										
	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
	NPDES GENERAL PERMIT HYDROSTATIC TESTING AND POTABLE WATER DISCH.	NPDES Permit Reissuance	NA	0%	0%	0%	April 9, 2008	No	NPDES Workplan 2006-07	Kelley
MAY 14, 2008 RB MEETING										
	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										
	CITY OF SAN DIEGO POINT LOMA OCEAN OUTFALL PACIFIC OCEAN	NPDES Permit Reissuance	0%	100%	0%	0%	June 11, 2008		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

SANITARY SEWER OVERFLOW STATISTICS (Updated through October 31, 2007)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE ^B Miles	NO. OF SEWAGE SPILLS (LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30)						SPILLS PER 100 MILES (LISTED BY FY)						SPILL VOLUME 2007-08 ^A GAL	NO. OF PRIVATE SPILLS ^D 07-08	VOLUME OF PRIVATE SPILLS ^D GAL				
		02-03	03-04	04-05	05-06	06-07	07-08 ^A	02-03	03-04	04-05	05-06	06-07	07-08 ^A							
ORANGE COUNTY:																				
EL TORO WD	65.1	1	3	3	2	1	0	0	0	0	0	1.8	5.5	5.5	3.6	1.5	0.0	0	0	0
EMERALD BAY SERVICE DISTRICT	6.5	0	0	1	0	0	0	0	0	0	0	0.0	0.0	16.7	0.0	0.0	0.0	0	0	0
IRVINE RANCH WD	36.0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
LAGUNA BEACH, CITY OF	99.5	27	8	12	6	7	1	28.4	8.4	12.6	6.3	7.0	1.0	1.0	1.0	1.0	1.0	2	2	18
MOULTON NIGUEL WD	530.0	1	2	5	1	1	2	0.2	0.4	0.9	0.2	0.2	0.4	0.4	0.4	0.4	0.4	0	0	150
SAN CLEMENTE, CITY OF	185.0	7	2	7	5	7	0	3.9	1.1	3.9	2.8	3.8	0.0	0.0	0.0	0.0	0.0	1	1	150
SAN JUAN CAPISTRANO, CITY OF	548.3	0	1	6	0	2	0	0.0	1.0	6.0	0.0	0.4	0.0	0.0	0.0	0.0	0.0	0	0	0
SANTA MARGARITA WD	702.0	4	5	7	4	4	4	0.7	0.9	1.3	0.7	0.6	0.6	0.6	0.6	0.6	0.6	0	0	0
SOUTH COAST CWD	138.2	8	7	10	3	2	1	6.1	5.3	7.6	2.3	1.4	0.7	0.7	0.7	0.7	0.7	4	4	180
TRABUCO CANYON WD	47.0	0	1	3	0	1	0	0.0	2.3	7.0	0.0	2.1	0.0	0.0	0.0	0.0	0.0	0	0	0
RIVERSIDE COUNTY:																				
EASTERN MWD	1,811.0	3	7	1	3	8	0	0.7	1.7	0.2	0.7	0.4	0.0	0.0	0.0	0.0	0.0	2	2	325
ELSINORE VALLEY MWD	79.6	0	1	1	1	0	0	0.0	1.3	1.3	1.3	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
MURRIETA MWD	200.0	c	1	0	0	0	0	c	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
RANCHO CA WD	81.0	0	1	1	1	2	1	0.0	1.4	1.4	1.4	2.5	1.2	1.2	1.2	1.2	1.2	0	0	0
SAN DIEGO COUNTY:																				
22ND DISTRICT AGRICULTURAL ASSOCIATION ^E	2.7	N/A	N/A	N/A	N/A	N/A	0	0	N/A	N/A	N/A	0	0.0	0.0	0.0	0.0	0.0	0	0	0
BUENA SANITARY DISTRICT	197.9	2	1	0	1	0	0	2.4	1.2	0.0	1.2	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
CALIFORNIA DEPARTMENT OF CORRECTIONS ^F	N/A	N/A	N/A	N/A	N/A	N/A	0	0	N/A	N/A	N/A	0	0.0	0.0	0.0	0.0	0.0	0	0	0
CALIFORNIA STATE UNIVERSITY, SAN MARCOS ^E	N/A	N/A	N/A	N/A	N/A	N/A	0	0	N/A	N/A	N/A	0	0.0	0.0	0.0	0.0	0.0	0	0	0
CARLSBAD MWD	410.8	6	6	17	12	17	2	2.8	2.8	7.9	5.6	4.1	0.5	0.5	0.5	0.5	0.5	4	4	125
CHULA VISTA, CITY OF	460.6	3	1	13	1	3	0	0.8	0.3	3.3	0.3	0.7	0.0	0.0	0.0	0.0	0.0	3	3	325
CORONADO, CITY OF	46.9	2	5	13	11	0	0	3.8	9.4	24.5	20.8	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
DEL MAR, CITY OF	30.8	7	1	5	6	0	1	23.4	3.3	16.7	20.1	0.0	3.2	3.2	3.2	3.2	3.2	1	1	10
EL CAJON, CITY OF	195.0	3	0	3	0	3	3	1.5	0.0	1.5	0.0	1.5	1.5	1.5	1.5	1.5	1.5	2	2	115
ENCINITAS, CITY OF	119.0	6	1	5	0	1	1	5.1	0.8	4.2	0.0	0.8	0.8	0.8	0.8	0.8	0.8	0	0	0
ESCONDIDO, CITY OF	370.7	3	2	3	3	7	0	0.9	0.6	0.9	0.9	1.9	0.0	0.0	0.0	0.0	0.0	5	5	720
FAIRBANKS RANCH COMM SERV DIST	15.5	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
FALLBROOK PUBLIC UTILITY DIST	76.6	22	9	12	8	2	1	30.6	12.5	16.7	11.1	2.6	1.3	1.3	1.3	1.3	1.3	4	4	4,895
IMPERIAL BEACH, CITY OF	44.2	14	2	10	4	3	0	16.7	2.4	11.9	4.8	6.8	0.0	0.0	0.0	0.0	0.0	2	2	5
LA MESA, CITY OF	155.0	3	4	2	0	0	0	1.9	2.6	1.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1	1	90
LEMON GROVE, CITY OF	62.5	4	4	3	0	0	1	5.8	5.8	4.3	0.0	0.0	1.6	1.6	1.6	1.6	1.6	0	0	0
LEUCADIA CWD	207.0	6	1	6	4	1	0	3.2	0.5	3.2	2.2	0.5	0.0	0.0	0.0	0.0	0.0	2	2	35
NATIONAL CITY, CITY OF	97.9	1	2	1	4	1	1	1.0	2.1	1.0	4.1	1.0	1.0	1.0	1.0	1.0	1.0	0	0	0
OCEANSIDE CITY OF WTR UTIL DEP	475.0	23	22	17	7	9	6	5.2	4.9	3.8	1.6	1.9	1.3	1.3	1.3	1.3	1.3	0	0	0
OLIVENHAIN MWD	35.5	2	0	3	0	0	0	12.5	0.0	18.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
OTAY MWD	81.6	3	1	0	1	1	1	3.5	1.2	0.0	1.2	1.2	1.2	1.2	1.2	1.2	1.2	0	0	0
PADRE DAM MWD	246.0	3	3	1	1	1	0	2.0	2.0	0.7	0.7	0.4	0.0	0.0	0.0	0.0	0.0	1	1	300
PAUMA VALLEY COMM SERVICE DIS	11.5	0	0	0	1	0	0	0.0	0.0	0.0	0.0	12.3	0.0	0.0	0.0	0.0	0.0	0	0	0
POWAY, CITY OF	219.0	5	3	1	4	1	0	2.9	1.8	0.6	2.4	0.5	0.0	0.0	0.0	0.0	0.0	0	0	0

SANITARY SEWER OVERFLOW STATISTICS (Updated through October 31, 2007)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE ^B Miles	NO. OF SEWAGE SPILLS (LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30)						SPILLS PER 100 MILES (LISTED BY FY)						SPILL VOLUME 2007-08 ^A GAL	NO. OF PRIVATE SPILLS ^D 07-08	VOLUME OF PRIVATE SPILLS GAL
		02-03	03-04	04-05	05-06	06-07	07-08 ^A	02-03	03-04	04-05	05-06	06-07	07-08 ^A			
SAN DIEGO COUNTY (continued):																
RAINBOW MWD	56.0	2	6	2	1	1	2	3.7	11.1	3.7	1.8	1.8	3.6		2	610
RAMONA MWD	134.0	2	2	4	2	1	0	2.4	2.4	4.8	2.4	0.7	0.0		2	43,020
FRANCO SANTA FE COMM SERV DIST	78.0	1	0	2	0	0	0	1.9	0.0	3.9	0.0	0.0	0.0		0	0
SAN DIEGO CO, PUBLIC WORKS	289.9	11	2	4	5	2	2	2.9	0.5	1.1	1.3	0.7	0.7		1	30
SAN DIEGO, CITY OF, MWWD	5,004.0	193	115	95	71	85	20	6.7	4.0	3.3	2.5	1.7	0.4		28	4,555
SAN DIEGO STATE UNIVERSITY ^F	9.0	N/A	N/A	N/A	N/A	0	0	N/A	N/A	N/A	N/A	0	0.0			
SOLANA BEACH, CITY OF	45.0	1	6	1	0	0	0	1.9	11.5	1.9	0.0	0.0	0.0		0	0
UNIVERSITY OF CALIFORNIA, SAN DIEGO ^E	30.0	N/A	N/A	N/A	N/A	1	1	N/A	N/A	N/A	N/A	3.3333	3.3			
USMC BASE, CAMP PENDLETON	217.0	23	14	14	15	18	8	11.9	7.2	7.2	7.7	8.3	3.7		0	0
US NAVY	122.8	12	11	0	10	14	2	9.8	9.0	0.0	8.1	11.4	1.6		0	0
US MARINE CORPS RECRUIT DEPOT ^F	6.5	N/A	N/A	N/A	N/A	1	0	N/A	N/A	N/A	N/A	15.385	0.0			
VALLEJITOS WD	260.0	5	4	9	4	1	0	2.5	2.0	4.5	2.0	0.5	0.0		2	61
VALLEY CENTER MWD	70.0	3	1	0	0	1	0	6.3	2.1	0.0	0.0	1.4	0.0		0	0
VISTA, CITY OF	416.8	4	7	15	5	4	2	2.0	3.5	7.6	2.5	1.0	0.5		2	140
WHISPERING PALMS COMM SERV DIS	25.0	1	0	0	0	0	0	5.8	0.0	0.0	0.0	0.0	0.0		0	0
REGION 9 TOTAL	14,855	427	275	266	201	214	63	4.4	2.9	2.8	2.1	1.4	0.4		71	55,859
AVERAGE¹																
STANDARD DEVIATION²																
MEDIAN³																

^A Includes available preliminary data. May not include all spills less than 1,000 gallons that did not enter surface waters or storm drains during the period of September 1, 2004 through October 31, 2007. As of January 1, 2007 data reflects reports submitted on-line as required by State Board Order No. 2006-003-DWQ (General Statewide Waste Discharge Requirements for Collection Agencies).

^B Most of the Agencies' System Sizes are based on the online Collection System Questionnaires. The System Sizes for California State University San Marcos, US Navy, and California Department of Corrections are based on the 2003 questionnaire or are not available (N/A) because these agencies have not completed the online Collection System Questionnaires. The System Sizes for El Toro Water District and Irvine Ranch Water District are based on the 2003 questionnaire because the online Collection System Questionnaires for these agencies includes the sewage collection system in Region 8 and 9. The System Sizes includes laterals that the agencies are responsible for and may not have been included in past reports.

^C Included with Eastern Municipal Water District

^D Private spills are listed to indicate their locations. Public sewer agencies are not responsible for private property spills.

^E These agencies were not regulated prior to January 2007 and thus do not have any sewage spill history from July 2002 to December 2006.

¹ The average is the sum of all values divided by the number of values.

² In a normally distributed set of values, 68% of the values are within one standard deviation either above or below the average value.

³ The median is the middle value in a set; half the values are above the median, and half are below the median.

Agency/Entity: Facility:	USMC Camp Pendleton, Waste Water Treatment plants 1,2,3,13, & South Camp Pendleton	10/03/2007
Program:	NPDES	
Enforcement Action:	Notice of Violation	
Description:	Issued for 588 effluent limitation violations reported by the USMC in monitoring reports covering the period of July 2005 through June 2007. Violations of effluent limitations contained in NPDES permits are subject to mandatory minimum penalties required by California Water Code section 13385, except Federal agencies such as USMC. In the future, the Regional Board may consider enforcement actions available for such violations to bring the treatment plants into full compliance with the permit requirements.	

Agency/Entity: Facility:	Terra Vac, Body Beautiful, San Diego	10/11/2007
Program:	NPDES	
Enforcement Action:	Adopted Administrative Civil Liability Order	
Description:	On October 10, 2007, the Regional Board imposed a \$12,000 minimum mandatory penalty on Terra Vac, for effluent limitation violations contained in an NPDES permit. Terra Vac has 30 days (November 10, 2007) to pay the full judgment.	

Agency/Entity: Facility:	Rainbow Water District, Horse Ranch Creek, Rainbow	10/12/2007
Program:	Sanitary Sewer Overflow	
Enforcement Action:	Notice of Violations and Investigative Order	
Description:	Issued for the discharge of approx. 540,000 gallons of untreated sewage to Horse Ranch Creek near I-15 and highway 76 in northern San Diego County as a result of a sewage spill on September 4, 2007. The investigative order requires the district to submit a technical report to be submitted by November 16, 2007, with information about the causes of the discharge, cleanup of the site, and steps taken to correct the collection system.	

Agency/Entity: Facility:	Schutte and Koerting Inc. , and Ametek Inc., Senior Operations (formerly Senior Flexonics), EI Cajon	10/17/2007
Program:	Site Mitigation and Cleanup	
Enforcement Action:	Staff Enforcement letter	
Description:	<p>The purpose of the SEL is to notify Schutte & Koerting, Inc. and Ametek, Inc of their continued failure to collect sufficient data needed to: 1) define the horizontal and vertical extent of pollutants beneath the site; 2) develop a comprehensive Feasibility Study to evaluate appropriate remedial actions; and 3) to cleanup of their discharge of waste to waters of the state to remedy the impacts to human health and the environment. Pollutant concentrations of chlorinated solvents (included Trichloroethylene (TCE), Tetrachloroethylene/Perchloroethene (PCE), Trichloroethane (TCA), Dichloroethylene (DCE), and 1,4 Dioxane) in ground water beneath the former Ketema A&E facility, neighboring Magnolia Elementary School (downgradient to the north of the source zone), and surrounding residential areas continue to be significantly higher than water quality objectives. The Regional Board has unsuccessfully attempted to get Schutte & Koerting, Inc and Ametek, Inc. to complete an investigation and cleanup this release for nearly 18 years.</p>	

Agency/Entity: Facility:	Fallbrook PUD, Dussault Park, Fallbrook	10/17/2007
Program:	Sanitary Sewer Overflow	
Enforcement Action:	Complaint for Administrative Civil Liability No. R9-2007-0101	
Description:	<p>The Administrative Civil Liability Complaint recommends a \$29,300 assessment of civil liability for the discharge of 146,625 gallons of raw sewage into Fallbrook Creek, a water of the United States, from a manhole located at 526 Aviation Road between June 17 and 20, 2006, in violation of Regional Board Order No. 96-04 (General WDR Prohibiting Sanitary Sewer Overflows). A public hearing on this matter is scheduled for consideration by the Regional Board on December 12, 2007.</p>	

Agency/Entity: Facility:	Eastern Municipal Utilities District, Diaz Road, Temecula	10/17/2007
Program:	Sanitary Sewer Overflow	
Enforcement Action:	Complaint for Administrative Civil Liability No. R9-2007-0096	
Description:	The Administrative Civil Liability Complaint No. R9-2007-0096, recommends a \$53,500 assessment of civil liability for the discharge of 1.07 million gallons of raw sewage into Murrieta Creek, a water of the United States, from a ruptured 10-inch sewer force main located in the City of Temecula at 28079 Diaz Road on November 14, 2006, in violation of State Water Resources Control Board Order No. 2006-0003-DWQ, (General WDRs for Sanitary Sewer Systems) and Regional Board Order No. 96-04, (General WDR Prohibiting Sanitary Sewer Overflows). A public hearing on this matter is scheduled for consideration by the Regional Board on December 12, 2007.	

Agency/Entity: Facility:	Edwin Bulen Trust Lovett's One Hour Dry Cleaners, Escondido	10/17/2007
Program:	Site Mitigation and Cleanup	
Enforcement Action:	Addendum No. 4 to Cleanup and Abatement Order	
Description:	The addendum corrects the name of the trust and extends the due date for submittal of the 'Expanded Site Investigation Report to December 19, 2007.	

Agency/Entity: Facility:	Waddie and Akhlas Yadago, One Stop Auto Tech, Santee	10/17/2007
Program:	Underground Storage Tanks	
Enforcement Action:	Notice of Violation	
Description:	Issued for violations of Cleanup and Abatement Order R9-2006-0178 for failure to submit quarterly ground water monitoring reports and failure to submit a Site conceptual model of the likely distribution of waste at the site and potential pathways and receptors of those pollutants. These violations subject the responsible parties to further enforcement, including Administrative Civil Liability.	

Agency/Entity: Facility:	Dakota Ranch Development, Dakota Ranch Subdivision, Santee	10/18/2007
Program:	Water Act Section 401 Certification	
Enforcement Action:	Notice of Violation	
Description:	Issued for failure to remit \$52,000 to the Regional Board pursuant to Administrative Civil Liability Order no. R9-2007-0107. Furthermore, payment of the balance of the civil liability (\$262,500) was suspended until November 6, 2007 if specific mitigation was completed. As of this report, the mitigation has not been completed and the full \$313,600 liability is due and payable. In the future, the Regional Board will consider pursuing judicial collection by assigning this matter to the Attorney General.	

Agency/Entity: Facility:	Metropolitan Wastewater Dept., City of San Diego, Lake Hodges	10/24/2007
Program:	Sanitary Sewer Overflow	
Enforcement Action:	Notice of Violation and Investigative Order	
Description:	Issued for the discharge of approx. 391,000 gallons of untreated sewage into Lake Hodges, a reservoir used for storage for drinking water near I-15 in Escondido as a result of a sewage spill on August 24, 2007. The investigative order requires the City to submit a technical report to be submitted by November 26, 2007, with information about the causes of the discharge, cleanup of the site, and steps taken to correct the collection system.	

Agency/Entity: Facility:	North County Transit District, Sprinter Rail Construction, North San Diego County	10/26/2007
Program:	Construction Storm Water	
Enforcement Action:	Notice of Violation and Investigative Order	
Description:	Issued for violations observed on October 5, 2007 inspection of the light rail line in Northern San Diego County that traverses the Cities of Escondido, San Marcos, Vista, and Oceanside. The investigative order requires the district to submit a technical report to be submitted by November 7, 2007, with information about the causes of the continued violations and steps taken to implement the Storm water pollution prevention plan.	



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Attachment B-6a

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September 28, 2007

In reply refer to:
WPS: 18-1999133.02: carias

Mr. Pedro Orso Delgado
District Director
Department of Transportation, District 11
4050 Taylor Street
San Diego, CA 92110

Mr. Greg Hulsizer
Chief Executive Officer
South Bay Expressway, LP
880 Kuhn Drive
Chula Vista, CA 91914

Dear Mr. Orso Delgado and Mr. Hulsizer:

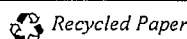
SUBJECT: September 18, 2007 Meeting and Field Visit Regarding Southbay Expressway (SR-125 Toll Road) Post Construction Structural Treatment Best Management Practices (BMPs) Implementation.

On September 18, 2007, representatives of the San Diego Regional Water Quality Control Board (Regional Board) including Christina Arias and Dat Quach met with Laurie Berman and Susanne Glasgow with the California Department of Transportation (Caltrans) and Dave Hawley, Lorenzo Garrido and Greg Hulsizer of Southbay Expressway, LP, to discuss the status of the implementation of post construction storm water treatment BMPs along the SR-125 Toll Road.

Based on the information obtained during the meeting and field visit, I have serious concerns about the lack of progress in establishing vegetation in the extended detention basins and bio-swales, as required by the Section 401 water quality certification (File No. 99C-133) issued for the project. Additionally, the project is clearly not sufficiently prepared at this time for the upcoming rainy season, due to the lack of adequate sediment and erosion control BMPs on a most of the disturbed areas throughout the entire project, as required by the Statewide General Construction Stormwater Permit, Order No. 99-08-DWQ (Construction Stormwater Permit).

During the meeting Mr. Hulsizer stated that Southbay Expressway LP hopes to open the Toll Road for operation within six to eight weeks. Unless immediate action is taken to address the Regional Board's concerns as described below, Caltrans and Southbay Expressway are very likely to be in violation of 401 certification conditions and requirements of the Construction Stormwater Permit.

California Environmental Protection Agency



Implementation of Vegetated Structural Treatment BMPs

In a letter dated August 1, 2007, Caltrans and Southbay Expressway, LP, requested amendment to Condition D.6 of the 401 certification issued for the project. The amendment had been requested because you anticipated that landscape and irrigation activities would not be completed prior to the scheduled road opening. In the August 1, 2007 letter the following was proposed:

“Landscape and irrigation associated with bio-swales and detention basins will be installed to establish vegetation prior to road opening. As required, water quality monitoring associated with the permanent BMPs will commence in accordance with the project’s *Water and Sediment Monitoring Plan* following road opening.”

Based on the commitments made in the August 1, letter, the Regional Board amended Condition D.6 of the certification. Condition D.6 (a) currently requires that **prior** to road opening:

“All permanent structural treatment BMPs (including vegetated detention basins and Bio-swales) will be fully implemented and functional.”

During the Sept. 18 field visit there was little, if any, evidence of attempts to begin vegetation establishment in any of the thirty-eight proposed bio-swales or fourteen extended detention basins located along the Toll Road. Additionally, during the meeting no formalized plan was proposed to address how vegetation establishment in the permanent BMPs would be accomplished prior to the proposed road opening.

Implementation of Effective Erosion and Sediment Controls

Caltrans Statewide Stormwater Permit (Order No. 99-06-DWQ) requires that Caltrans’ construction program comply with the requirements of the Construction Stormwater Permit. The Construction Stormwater Permit requires that:

“At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season. These disturbed areas include rough graded roadways, slopes, and building pads.”

During the Field visit on September 18, 2007, the Regional Board representatives warned that with the start of rainy season approaching (October 1), a majority of the disturbed soil areas along the project alignment lack adequate erosion and sediment

Mr. Orso Delgado, Caltrans
Mr. Hulsizer, Southbay Expressway, LP

- 3 -

September 28, 2007

controls, as required by the General Permit and the March 2003 Caltrans *Construction Site Best Management Practices (BMPs) Manual*.

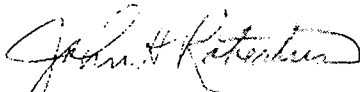
In summary, I urge you to begin immediately establishing vegetation in the bio-swales and extended detention basins in accordance with Caltrans specifications and guidelines. Failure to fully vegetate the permanent treatment BMPs prior to opening the SR-125 Toll Road would be a violation of conditions contained in the Section 401 water quality certification, and requirements contained within the Caltrans Statewide Stormwater Permit, Order No. 99 -06-DWQ. Additionally, it is imperative that immediate actions are taken to ensure that the project will be ready for the approaching rainy season as required by the Construction Stormwater Permit

The potential violations described above may subject your joint entity to possible future enforcement action by the Regional Board.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Questions regarding this Notice should be directed to Ms. Christina Arias. She may be reached by phone at (858) 637-3931, or email at carias@waterboards.ca.gov. Written correspondence pertaining to this Notice should be sent via email to Ms. Arias.

Respectfully,



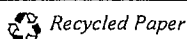
JOHN H. ROBERTUS
Executive Officer

JHR:jo:dg:ca

CC:

Mr. Bruce April
California Department of Transportation
District 11, MS-242
4050 Taylor Street
San Diego, CA 92110

California Environmental Protection Agency



The San Diego Union-Tribune

Rush to open

Toll road fails environmental, safety standards

October 29, 2007

An \$800 million toll road through the South County is three weeks away from opening. Yet, it is out of compliance with environmental regulations for storm water runoff and is potentially unsafe under rainy conditions.

The county's first toll road, known as state Route 125 or the South Bay Expressway, is 13 months late and rushing toward a Nov. 19 announced opening date.

South Bay Expressway, the toll road operator, and Caltrans, which must certify the highway, have been in discussions for more than a year with the San Diego Regional Water Quality Control Board, although the compliance issues have not been disclosed to the public.

The new highway is in violation of standards to keep barren slopes from eroding and to filter pollutants from storm runoff before it reaches drainage systems.

The water quality board weakened its standards for South Bay Expressway so as not to delay its opening further. Yet, after a Sept. 18 field inspection, Executive Director John Robertus wrote, "There was little, if any, evidence of attempts to begin vegetation establishment in any of the 38 proposed bio-swales or 14 extended basins located along the toll road." Robertus warned the two bodies "the potential violations ... may subject your joint entity to possible future enforcement action by the regional board."

At issue, basically, is that no landscaping has been put in and that the highway's nude slopes and medians could erode substantially in a severe rainstorm, overwhelming drains and flooding the road surface.

Further, modern best practices call for bio-swales, earthen hollows, to be planted with thick salt grass to filter out brake pad dust, dissolved metals and oils before they reach the storm water drainage system. Instead, the toll road builder intends to install rolls of fibrous material as a temporary measure.

In a county now covered with ash, some might scoff at the threat of brake dust, metal flakes and oil merging with sources of drinking water or being inflicted upon wild creatures. There is a safety issue as well, the potential for drivers to suddenly hit mud slicks at 65 miles an hour.

The toll road company is under immense pressure to open in time to support the holiday shopping season. New shopping centers in eastern Chula Vista have been dying on the vine for 13 months or more without a transportation link.

The highway's importance can hardly be overstated. It will serve the Otay Ranch shopping mall, three high schools, and will be the most direct route for 1,300 employees commuting to a state prison. It is a natural for trucks entering at the Otay Mesa border crossing and could

facilitate an earlier opening of a third border crossing. The new route is expected to cut Interstate 805 traffic 20 percent to 25 percent.

"Never has so much been expected of one road," said Greg Hulsizer, South Bay Expressway CEO.

Caltrans has as many as 16 inspectors on site yet is inexplicably looking the other way on environmental and potential safety violations. That is appalling.

South Bay Expressway and Caltrans need to level with the public as to what has gone wrong with this highway, including why so much is still unfinished 13 months after its original opening date. The San Diego Regional Water Quality Control Board should not be skittish about protecting the public, including initiating the formal sanctions process if necessary.

"Never has so much been expected of one road."

Yes, but at a minimum Californians expect their new highways to comply with the law and to be safe. Sadly, with the South Bay Expressway, there is no assurance that either is the case.

The San Diego Union-Tribune.

Letters to the editor

October 31, 2007

South Bay Expressway and meeting standards

Regarding "Rush to open / Toll road fails environmental, safety standards" (Editorial, Oct. 29):

South Bay Expressway is committed to building a first class road, which will deliver significant benefits to the entire South Bay region. Our team has worked diligently over the last four years to ensure we deliver a project that not only meets the needs of our customers, but also meets safety and environmental standards. South Bay Expressway has spent an unparalleled \$20 million on the environment and has received awards for its environmental program, including recent honors from the Federal Highway Administration as an Exemplary Ecosystem Initiative and from the Association of Environmental Professions for our environmental training program.

We have been working diligently with Caltrans to ensure that we have all the necessary approvals for opening South Bay Expressway. We invited the Regional Water Quality Control Board to tour our project in September and at that time we received their input. We're now implementing their recommendations.

The safety of our customers is our number one priority, and we take the publication of any news article or editorial questioning this very seriously. This is a hallmark project for the region, and the community has waited a long time for South Bay Expressway to open. Rest assured that when we open on Nov. 19, we will deliver a first class, environmentally responsible, safe expressway.

GREG HULSIZER
Chief Executive Officer
South Bay Expressway
Otay Mesa

An editorial Oct. 29 provided an opinion based on outdated information questioning the safety of the South Bay Expressway (state Route 125 South).

It should be simply understood that this highly anticipated toll road project is still under construction, and in the end will have achieved a series of comprehensive checks and balances to make sure it surpasses all safety and environmental compliances when it opens on Nov. 19.

The California Department of Transportation has oversight on this public-private partnership, and our role is simple: to provide the people of the state of California with a safe, first-rate, highly functional return on their investment. This project had input from various controlling agencies, including the Regional Water Quality Control Board, and is implementing the requirements. This type of critical input was not ignored.

Caltrans has extensive professional expertise in the area of water quality and recently earned the Environmental Protection Agency's 2007 Clean Water Act Recognition for Stormwater Management.

Caltrans and our partners at South Bay Expressway will not allow the toll road to open until we are 100 percent satisfied it is safe. There are still some construction work and inspections ahead of us; however, your readers and the customers who will use this expressway can rest assured that it will have surpassed all the highest safety standards when opening day comes – or it will not open. It's that simple.

PEDRO ORSO-DELGADO
District Director
California Department of Transportation



California Regional Water Quality Control Attachment B-7a

San Diego Region

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<http://www.waterboards.ca.gov/sandiego>

November 2, 2007

Ms. Yvette LaDuke
Public Participation Specialist
Department of Toxic Substances Control
1011 N. Grandview Ave.
Glendale, CA 91201

**SUBJECT: COMMENTS ON THE DRAFT FINAL REMOVAL ACTION WORK PLAN
NOAH WEBSTER ELEMENTARY SCHOOL**

Dear Ms. LaDuke:

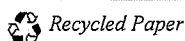
The California Regional Water Quality Control Board, San Diego Region (Regional Board) appreciates the opportunity to comment on the Draft Final Removal Action Work Plan for the Noah Webster Elementary School (RAW). The RAW describes proposed contaminant removal actions for Webster Elementary School, which sits on a former burn dump that was operated from approximately 1934-1941. The preferred removal action involves utilization of the existing non-Resource Conservation and Recovery Act (RCRA) soil barrier cap along with institutional controls.

The Regional Board regulates the discharge of waste to protect the quality of waters of the State, broadly defined as "the chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affects its use." As such, our comments below pertain to the advancement of this goal.

1. The RAW correctly indicates that the site is in close proximity to Chollas Creek, which drains to San Diego Bay. Chollas Creek was placed on the State's Clean Water Act Section 303(d) List of Water Quality Limited Segments in 1996 for impairment due to dissolved metals (copper, lead, zinc). Subsequently, a Total Maximum Daily Load (TMDL) was developed by the Regional Board and adopted on June 13, 2007. TMDL implementation involves the use of structural and non-structural best management practices (BMPs) to reduce the loading of metals from various sources into Chollas Creek.

Given that there are no water quality data characterizing the storm drains associated with Webster School, the Regional Board requests that a monitoring provision be added to the RAW. Monitoring of copper, lead, and zinc during

California Environmental Protection Agency



storm events will allow us to identify if, and to what extent, dissolved metals are leaving the site and discharging to Chollas Creek.

2. A review of San Diego Water Board file number 06-0392N.01 and 06-039N.02 (San Diego Unified School District: Webster School) indicates that Regional Board staff have previously visited the site on February 6, 2002. Staff did not find problems with the existing cover, and found no violations of the Water Quality Control Plan for the San Diego Basin (Basin Plan). The administrative record showing correspondence through 2004 indicates that the Regional Board did not consider this site a high priority because there was no evidence of a threat to water quality. To date, there is no evidence that the Regional Board should raise the priority level of this site.

If you would like clarification on any of our comments, or if we may be of further assistance, please contact Christina Arias at (858) 627-3931 or email at carias@waterboards.ca.gov.

Respectfully,

JOHN R. ODERMATT, P.G.
Senior Engineering Geologist

JRO:dg:ca

John W. Stump
Attorney at Law
4133 Poplar
City Heights, California 92105
619-281-7394
[REDACTED]

October 31, 2007

Ms. Yvette LaDuke
Public Participation Specialist
1011 N. Grandview Ave.
Glendale, CA 91201
Via email: yladuke@dtsc.ca.gov

Re: Noah Webster Elementary School Removal Action Work plan

Dear Ms. LaDuke,

I am providing a fifth set of written comments on the above reference proposed actions by the Department of Toxic Substance Control (DTSC) and the San Diego Unified School District (SDUSD). My previous comments were submitted as part of the review process for the 9 prior studies of this project and a handwritten comment at the community meeting, and three sets of e-mail comments. I represent the Chollas Restoration Enhancement And Conservancy (CREAC) a community based association of individuals living around the project site.

I request written responses to this and all my previous comments. I incorporate by reference the written comments of CoastKeeper on this project and these comments are attached. I also incorporate the investigate reports of San Diego Channel 10 News on the Webster Burn Ash. (See: <http://www.10news.com/investigations/10485869/detail.html>.) The recent investigation report provides clear evidence of the multi-generational use of this toxic landfill area.

I demand that DTSC and SDUSD prepare a complete Environmental Impact Report (EIR) on this project. DTSC and SDUSD have taken steps to carefully avoid consideration of the synergistic connection of this nine (9) acre site to the waters of the State of California less than 1,000 feet below this school, the sensitive environmental setting that surrounds these 9 acres, and that the toxic burn ash pile, at issue, is larger than the School that sits over a large portion of it. Surface burn ash is exposed upwind from the school playground, residential properties adjacent to the site are not capped so that water infiltration can occur from properties next to the project site to the site burn ash in the drainage pattern established by the consultants report, the proponents consultant studies did not consider the condition of existing storm water systems or air infiltration of burn ash.

DTSC and SDUSD have segmented the California Environmental Quality Act (CEQA) review of this site. The current RAW proposal fails to include the multi million dollar

school annex construction, the development of a new parking lot with street access, and the movement and installation of many portable school buildings added to the site during the period of the conduct of this raw and its previous rejected studies. The multi story school annex was constructed as segmented part of the site improvements; even though they were funded with the other site improvements as part of a single plan and scheme. The segmentation of this project provided the SDUSD with the ability to avoid mandated State storm water permits and consideration of that project with the much smaller project at the same school. The segmentation scheme should act against any claims of exemption from full CEQA review. The School districts project was the whole of the improvements at this site and not just individual parts to be studied separately. The definition of the project is broad in order to maximize protection of the environment. CEQA requires that environmental considerations not be concealed by separately focusing on isolated parts, overlooking the cumulative effect of the whole action. CEQA cannot be avoided by chopping up proposed projects into bite sized pieces which, individually considered, might be found to have no significant effect on the environment or to be ministerial." Association for a Cleaner Environment v. Yosemite Community College District (2004) 116 CA4th 629, 638. The Regional Water quality Board has already seen through this scheme when it took an enforcement action during the construction phase for the multi story school annex.

The notice of this project is flawed and inadequate because it fails to adequately describe the complete project with all of its phases. This project segmentation flaw is in addition to the matters identified in my earlier e-mails. I am particularly concerned that the public had little or no accurate notice of the basis and content of the Notice of Exemption (NOE) process or comment period.

Review of the study document raises concerns regarding the premises and scope of the study. Study flaws, errors, and inconsistencies demonstrate the inadequacy of this third study and belie its conclusions. The page paragraph and sentence references presented are to the current NINYO & MOORE study dated September 21, 2007 for project 105338042. These matters are discussed below.

At page one, paragraph 4 the study concludes that "...burn ash is present at the site at depths from 2 to 30 feet below grade surface." ; but earlier the study states, at page 1 paragraph 2, "... finished grade using burned wastes excavated from the eastern portion of the site..." These conflicting statements raise concerns about the technical completeness of the study.

The study chooses to ignore air and water quality impacts. The first phase of the project added a multi story schoolhouse with concrete courtyards and the current phase includes additional impervious surfaces to storm water run off. The stud states at page 2, paragraph 1, that "Groundwater surface water and air are not considered a media of concern at this site." How is this statement possible for a 9-acre site with three storm drains that conduct un treated storm water to an impaired water of the State 1,000 feet below the site? The conclusion might be based on some assurance from an unidentified Regional quality Board staff member who was misled by the nature of the total projects

scale or location. (See page 31 paragraph 2). Since the unknown Regional Board members comments the Board has issued a new stricter Storm Water permit and the extent of coverage for Chollas Creek has been changed to include the section below the school as impaired. Changed circumstances and the larger scope of the true project would invalidate any oral approvals and speak for an expanded EIR.

If groundwater is not a concern, the why would landscape water be cautioned against? (See page 36, number 7.1.1) There was study incorrectly concludes that there are no man made reservoirs within a 1 mile radius, page 8, paragraph 2, ; but this is in error as it does not acknowledge the reservoirs at Greenwood cemetery or Chollas Lake reservoir. The problem may have arisen because the project location maps for the site study area are not centered on the site (See Figure 1); but rather the Figure is centered on a some other place and a 1-mile radius cannot be drawn on the project's principal map.

The "1 Mile Radius" problem has been a consistent problem being carried over from the previous URS study which did not believe that there was any "environmentally sensitive" habitat within a one mile radius. During the scoping for this study, this problem was identified to the DTSC and SDUSD. The researchers were specifically request to review previous recent environmental studies conducted by the City of San Diego within that radius, the September 2007 Weston Storm Water study for the City, and the multiple boxes of reports and studies collected up by SDUSD concerning the toxics at this site. The study's bibliography demonstrates that none of these know sources were consulted to reach the study's conclusions. Previous studies by the DTSC are also missing from the study documents. Pages 10 and 11, of the study lists some of the at least nine prior studies by URS, Geocon, and the California Integrated Waste Management Board; but not included in the studies bibliography, and thus not incorporated into this study by reference. These studies and the other documents need to be incorporated into the record of this site.

Interestingly out of the nine studies listed, none utilize the services of a biologist. Further although repeatedly requested by the community no testing of the up wind air from the exposed burn ash unto the site play grounds was done, Further, the studies avoid a hydrology study of the quantity and quality of the storm water run off fro this 9 acre site.

As previously stated the study admits that there are at 3 storm drains taking water from this 9 acre site to Chollas Creek on the slope to the North west but no hydrology study is present. Regardless the study concludes in figure 7 that there is no pathway for water transfer.. The study does recognize that the burn ash landfill has no lechate control system and no ground water monitoring system (see section 5.5-5.6). All this denial aside one of the required active maintenance measures required in Appendix D pages 31 and 32 are "The inlets will be periodically observed for the presence of sediments to ensure that burn ash is not entering the drain system" and The drain system will be observed for the presence of possible breaches and joint separations that could result in leakage during a major storm event." In other words in the future burn ash could flow in from the surface or storm drain pipe breaks that pass through the burn ash pile; but since we did not think there was a current connection of the site to the Chollas Creek or ground

water we did not study this possibility now. This denial includes ignoring the pattern of metal and biological pollutants identified in the Chollas Creek in the Weston Study for the area of the schools 3 storm drains.

The DTSC needs perform both a biological and hydrology study of this site. The runoff from this site needs to be test for burn ash and the other substances that are polluting the Chollas Creek habitat. Previous studies of the area have identified active California Gnat Catcher habitat in the one mile radius surrounding this site and Chollas Creek (See <http://elibrary.unm.edu/sora/wb/v29n04/p0447-p0452.pdf> and <http://elibrary.unm.edu/sora/wb/v29n04/p0447-p0452.pdf> . Both of these studies and the study done for the Central Police Garage identified the presence of active Gnat Catchers around this site. (These reports are attached and incorporated by reference) At the public hearing local residents recounted stories of seeing birds, rodents and foxes using the site. Study by a biologist is indicated.

Finally, the study identifies that although this site was a large and active landfill there was no post closure plan or monitoring for this site. "A PMP has not been prepared for the subject school site" (appendix D, page 29) the landfill site is bigger than the site the SDUSD want to treat with impervious cap. Adjacent residential lawns are just over the school fence to the Southeast; while water travels to the northwest on this site. A PMP should be prepared and a hydrology study included.

Thank you for your consideration of these comments. Please Include in my comments the comments of the Environmental Health Coalition concerning cumulative lead exposure and those of the Sunshine Baseball Organization; both submitted for your prior comment period.

All the best
John W, Stump, Attorney for CREAC

Ms. Yvette LaDuke
Public Participation Specialist
1011 N. Grandview Ave.
Glendale, CA 91201
Via email: yladuke@dtsc.ca.gov

October 30, 2007

Re: Noah Webster Elementary School Removal Action Workplan

Dear Ms. LaDuke:

I am writing on behalf of San Diego Coastkeeper, a grassroots organization dedicated to protecting and restoring the region's bays, coastal waters and watersheds. We have serious concerns over the adequacy of the Noah Webster Elementary School Removal Action Workplan (RAW). We are concerned with the potential impact of the RAW on the surrounding environment and recommend a full environmental analysis.

The Department of Toxic Substances Control (DTSC) has prepared a draft notice of exemption (NOE) from the California Environmental Quality Act (CEQA) under Cal. Code Regs., tit. 14, § 15061(b)(3), common sense exemption; claiming there is no possibility the activity in question may have a significant effect on the environment.

The legislature intended CEQA to be interpreted in such manner as to afford the fullest possible protection to the environment. West's Ann.Cal.Pub.Res.Code § 21000 et seq. CEQA requires government agencies to consider the environmental consequences of their actions before approving plans and policies or committing to a course of action on a project. 6-46 *Environmental Law Practice Guide* § 46.03.

CEQA's regulatory guidelines establish a "common sense" exemption for projects "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." 14 Cal. Code Reg. § 15061(b)(3). The common sense exemption conforms with the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment. This exemption provides a "short way" for agencies to handle discretionary activities that could arguably be subject to CEQA but that common sense dictates should not be. *Davidson v. San Jose*, 54 C.A.4th 106 (1997). The "common sense" exemption to CEQA is reserved for those obviously exempt projects, where its absolute and precise language clearly applies. 14 CCR § 15061(b)(3).

Several studies have been done on the project area since 2001. (Remedial Investigation/ Feasibility Study (RI/FS) 2006, ES-1). However, most studies have focused on soil quality and burn ash chemicals present in the project area. More studies need to be done to determine the impact the burn ash may have on the environment outside the project area in order to meet CEQA's requirements. Chollas Creek is approximately 1,000 feet northwest of the site. Storm drains running through the project area flow to Chollas Creek. No studies have been done to determine whether water quality has been affected by the presence of the burn ash or whether there is a potential for future harm to the water quality.

Potential impacts to groundwater were not considered a remedial action objective (RAO) because the groundwater is low quality and Chollas Creek is not a source of the local drinking supply. However, Chollas Creek empties into the San Diego Bay. Storm water samples collected by the Regional Water Quality Control Board (RWCQB) between 1994 and 2003 from Chollas Creek found high levels of lead and cadmium, both of which are found in the Noah Webster project area. A reasonable inference can be made that the project area could be a direct cause of the high levels of toxins found in Chollas Creek. Therefore any project has to consider the environmental impacts on Chollas Creek. In addition to the absence of studies on water quality in Chollas Creek, no studies were completed on the storm drains running through the project area. There is a possibility cracks or leaks in the storm drains are a source of entry for metals such as lead and cadmium.

In addition to the lack of Chollas Creek studies, inadequate studies were prepared on groundwater. Though it was determined that most of the time groundwater is deeper than the burn ash, there is a strong possibility

of groundwater rising much closer to the surface during heavy rains. Groundwater was discovered in soil closer to the surface when drilling after a heavy rain. Even though the possibility for the groundwater to rise existed, the Preliminary Endangerment Assessment (PEA) was done during a dry time of the year and the affect on groundwater was not even considered. Instead a study was done on the solubility of burn ash, with one of six samples coming back with a high result. (RI/FS 2006, 3-2). Due to the low amount of samples taken, this one high results shows there is a possibility of an effect on groundwater and further investigation is needed.

Previous studies are not extensive enough to determine whether or not the burn ash site may have an effect on water quality. Chollas Creek has already been found to have high levels of metals such as lead and cadmium. Chollas Creek is listed as an impaired water body by the Total Maximum Daily Load (TMDL) program under the under Clean Water Act (CWA) Section 303(d). High levels of both lead and cadmium are found in burn ash showing there is a possibility the project area has an effect on Chollas Creek. The "common sense" exemption applies when it can be seen with certainty that there is no possibility that an activity may have an effect on the environment. An agency must refute any claim that makes a reasonable argument to suggest a possibility that a project will cause a significant environmental impact to a certainty before finding the exemption applies. *Davidson v. San Jose*, 54 C.A.4th 106 (1997). The project area does not define the relevant environment for purposes of CEQA when a project's environmental effects will be felt outside the project area; thus, agencies have an obligation under CEQA to consider geographically distant environmental impacts of their activities. West's Ann.Cal.Pub.Res.Code § 21060.5. Under CEQA, environmental review must encompass any area that may be affected, not just the project area. It is undisputable that there is a strong possibility that Chollas Creek may be affected by this project and therefore the "common sense" exemption does not apply.

Thank you for the opportunity to comment. Please advise Coastkeeper of any future actions relating to the site.

Sincerely,

Michael Kirkland
Legal Intern
San Diego Coastkeeper

Gabriel Solmer
Supervising Attorney
San Diego Coastkeeper