

State of California  
Regional Water Quality Control Board  
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT  
July 14, 2010

- ITEM: 9
- SUBJECT: Approval of the Hydromodification Management Plan for the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority (Tentative Resolution No. R9-2010-0066) (Christina Arias)
- PURPOSE: The purpose of this item is for the San Diego Water Board to consider adoption of Tentative Resolution No. R9-2010-0066 (Supporting Document 1) which would approve the Hydromodification Management Plan for the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority, dated December 29, 2009 (Supporting Document 2).
- PUBLIC NOTICE: Public Notice of this item was originally intended for the Board meeting on June 9, 2010. The Notice was published in the San Diego Union Tribune on April 8, 2010, and a letter was sent electronically to the Interested Persons mailing list on April 7, 2010 (Supporting Document 3). The item was also posted on the San Diego Water Board's web page on April 7, 2010, and noticed in the meeting agenda mailed on May 20, 2010. Because the item was postponed to the July 14, 2010 Board meeting, the item was again noticed in the meeting agenda mailed on June 25, 2010.
- DISCUSSION: Provisions D.1.g and J.2.a of Order No. R9-2007-0001 (the San Diego Municipal Storm Water Permit) require the County of San Diego, the incorporated cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority (Copermittees) to submit a Hydromodification Management Plan (HMP). The purpose of the HMP is to manage increases in runoff discharge rates and durations from all Priority Development Projects (PDPs), where such increased rates and durations are likely to cause increased erosion of channel bed and banks, sediment pollutant generation, or other impacts to

beneficial uses and stream habitat due to increased erosive force. Implementation of an HMP is necessary because it establishes standards for mitigating increases in runoff discharge rates and durations that are caused by land development.

#### HMP Development

The HMP was developed over an extensive 27-month period following adoption of Order No. R9-2007-0001 on January 24, 2007. During this time, the Copermittees formed a Technical Advisory Committee (TAC) consisting of, in addition to all Copermittees, representatives from the environmental community, representatives from the engineering community, and individuals from academia with technical expertise on geomorphology and geotechnical engineering. The TAC met several times throughout the course of HMP development. Although consensus between TAC members was not always reached, the TAC played an instrumental role in providing valuable input for HMP development. The San Diego Water Board also met with the Copermittees several times during the course of HMP development to discuss the Copermittees' proposed approach, to clarify expectations, and ensure the HMP was consistent with requirements set forth in Order No. R9-2007-0001.

On January 21, 2009, the County of San Diego submitted a Draft HMP on behalf of the Copermittees to the San Diego Water Board for review and comment. The Draft HMP was revised and resubmitted on May 1, 2009 in response to San Diego Water Board comments and questions. By letter dated June 29, 2009, the San Diego Water Board provided written comments on the Draft HMP to the Copermittees (Supporting Document 4). The letter identified areas where the Draft HMP failed to meet requirements of Order No. R9-2007-0001 and needed additional clarification. By letter dated December 29, 2009, the County of San Diego submitted a Final HMP on behalf of the Copermittees to the San Diego Water Board. On January 14, 2010, the San Diego Water Board posted the Final HMP on its website and initiated an informal 30-day public review and comment period on the document. The San Diego Water Board received 3 comment letters on the Final HMP, and considered these comments in identifying necessary revisions to the Final HMP as set forth in Tentative Resolution No. R9-2010-0066.

#### HMP Monitoring Plan Revisions

Tentative Resolution No. R9-2010-0066 incorporates revisions to the HMP in order to ensure compliance with Order No. R9-2007-0001. The most notable revision was made to the Final HMP Monitoring Plan to ensure compliance with Provision D.1.g (1)(k) to "...assess the effectiveness of implementation of the HMP."

The Monitoring Plan described in the HMP dated December 29, 2009 included a minimum of 5 monitoring points throughout San Diego County for 2 rainy seasons. The San Diego Water Board found the proposed monitoring to be inadequate for purposes of assessing effectiveness of HMP implementation. The proposed monitoring would not adequately characterize flow rates and sediment concentrations associated with the typical range of channel dimensions and materials, contributing watershed sizes, land uses, vegetative cover, and rainfall patterns throughout San Diego County.

On June 9, 2010, at the direction of the San Diego Water Board, Southern Watershed Unit staff met with interested stakeholders to discuss the HMP Monitoring Plan. A follow-up meeting was held on June 23, 2010. As a direct result of these discussions, on June 30, 2010, the Copermitees submitted an Executive Summary of a revised Monitoring Plan (Supporting Document 8). Once completed, this Monitoring Plan will replace the one included in the Final HMP. The revised Monitoring Plan is much improved over the original submittal because it contains specific study questions and a multi-pronged experimental design that will allow the Copermitees to assess the effectiveness of their program.

#### Other Revisions

The other noteworthy revision to the Final HMP implemented by the Tentative Resolution is the removal of an exemption for urban infill projects. According to the Final HMP, exemptions may be granted where the existing impervious area percentage in the watershed exceeds 40 percent, and if the potential future development in the watershed would increase the watershed's impervious area percentage by less than 3 percent (as compared to existing conditions). However, the potential for future development in each watershed is speculative and highly variable and there is no guarantee that such impacts would result in an increase in

impervious surface limited to less than 3 percent. Therefore, the San Diego Water Board finds that this exemption is not appropriate.

#### Public Comments

Tentative Resolution No. R9-2010-0066 was made available for public review and comment for 12 days, beginning on July 2, 2010. This is in addition to the comment period conducted in preparation for the June 9, 2010 Board meeting, lasting 33 days. The San Diego Water Board received 10 comment letters on Tentative Resolution No. R9-2010-0066 by May 10, 2010 (Supporting Document 5, items a-j). All comments were responded to in writing (Supporting Document 6). Comment letters received after May 10, 2010 are provided in Supporting Document 7, items a-e.

#### Copermittee Comments

The Copermittees disagree that the urban infill exemption is inappropriate, and state that modeling efforts show that discharges from these types of projects would not affect the hydrograph. In their comments, the Copermittees included a case study on how the exemption would be executed.

#### Other Comments

San Diego Coastkeeper and Natural Resources Defense Council (NRDC) submitted a joint letter expressing opposition to certain aspects of the HMP. The letter stated that the methodology presented in the HMP was poorly founded and overly complex, contained too many exemptions, contained an incomplete monitoring program, and should mandate Low Impact Development (LID) design for meeting hydromodification mitigation requirements. The letter also stated that the definition of "pre-project" hydrology should be interpreted as "pre-development, naturally occurring" hydrology. The San Diego Water Board considered these comments and some exemptions were removed from the Final HMP via Tentative Order R9-2010-0066, as well as modifications to the HMP Monitoring Plan, as described above. Tentative Resolution No. R9-2010-0066 was not changed to mandate LID or include the proposed "pre-project" definition since neither was consistent with the requirements of Order No. R9-2007-0001. Both items, however, should be considered by the Copermittees during HMP implementation.

KEY ISSUES: The San Diego Water Board and the Copermitees disagree on whether or not HMP allowed exemptions for urban infill projects are appropriate.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS: (Supporting Documents 2-7 were provided in the EOSR and Supplemental EOSR for the June 9, 2010 Board Meeting and are not included here. They are available on the San Diego Water Board's website at: [http://www.waterboards.ca.gov/sandiego/board\\_info/agendas/2010/jul/Jul14.shtml](http://www.waterboards.ca.gov/sandiego/board_info/agendas/2010/jul/Jul14.shtml). Hard copies are also available upon request.)

1. Tentative Resolution No. R9-2010-0066
2. Hydromodification Management Plan dated December 29, 2009
3. Letter to Interested Persons dated April 7, 2010
4. Letter from San Diego Water Board to Lead Copermitee dated June 29, 2010
5. Comment Letters Received by May 10, 2010
  - a) Sierra Club
  - b) San Diego Coastkeeper/Natural Resources Defense Council
  - c) County of San Diego
  - d) City of Vista
  - e) City of Chula Vista
  - f) City of Encinitas
  - g) City of Santee
  - h) City of Poway
  - i) City of La Mesa
  - j) City of Imperial Beach
6. Response to Comments
7. Comment Letters Received after May 10, 2010
  - a) City of El Cajon
  - b) City of Del Mar
  - c) City of Lemon Grove
  - d) City of San Marcos
  - e) City of Oceanside

8. Revised HMP Monitoring Plan Executive Summary dated June 30, 2010
9. List of Reference Materials submitted into the record on June 9, 2010 from San Diego Coastkeeper and Natural Resources Defense Council. CDs containing Reference Materials are available to Interested Persons upon request.

RECOMMENDATION(S): Adopt Tentative Resolution No. R9-2010-0066.