

EXECUTIVE OFFICER SUMMARY REPORT
February 13, 2013

- ITEM: 5
- SUBJECT: Waiver of Waste Discharge Requirements: San Diego State University Research Foundation, Coastal Waters Laboratory (Tentative Order No. R9-2013-0005) (*Michelle Mata*)
- PURPOSE: To issue a conditional waiver of waste discharge requirements for the San Diego State University Research Foundation, Coastal Waters Laboratory.
- RECOMMENDATION: Adoption of Tentative Order No. R9-2013-0005 is recommended.
- KEY ISSUES: The discharge from the Coastal Waters Laboratory to San Diego Bay does not require coverage under a National Pollutant Discharge Elimination System (NPDES) permit as a point source discharge. The San Diego Water Board may regulate the discharge under Tentative Order No. R9-2013-0005 (Tentative Order) pursuant to a conditional waiver of waste discharge requirements.
- DISCUSSION: San Diego State University Research Foundation (SDSURF or Discharger) owns and operates the SDSURF Coastal Waters Laboratory (Facility). The Facility is a non-commercial aquatic research facility that focuses on environmental and ecological problems caused by urbanization in the coastal environment at the land-water interface. The Facility discharges up to 0.288 million gallons per day to an extension of San Diego Bay commonly known as the Navy Training Center Boat Channel.
- Discharges from the Facility are currently regulated under State waste discharge requirements (Order No. R9-2007-0006) serving as a federal NPDES permit since February 14, 2007. On February 24, 2012, the Discharger submitted a request for rescission of the permit. The Discharger submitted information documenting the Facility does not meet the aquatic animal production and feeding threshold criteria for a concentrated aquatic animal production (CAAP) facility as described in Appendix C to Title 40 of the Code of

Federal Regulations, part 122 (40 CFR 122).

On June 30, 2004, USEPA issued new regulations under the Clean Water Act in 40 CFR 451 establishing Effluent Limitations Guidelines and New Source Performance Standards for the CAAP Point Source Category. The regulations contain requirements for wastewater discharges that must be met by new and existing CAAP facilities discharging directly to U.S. waters. In defining CAAP facilities, the NPDES regulations distinguish between warm water and cold water species of aquatic animals and define a CAAP facility by, among other things, the size of the operation and frequency of discharge.

The Discharger reported that the number of aquatic animals at the Facility is not expected to exceed 100 kilograms (kg) (approximately 221 pounds (lbs.)), which falls far below the aquatic animal production and feeding thresholds. Federal regulations specify that the *cold* water aquatic animal species category includes facilities where animals are produced in ponds, raceways, or other similar structures that discharge at least 30 days per year and that produce more than approximately 9,090 harvest weight kg (approximately 20,000 lbs.) of aquatic animals per year. It also includes facilities that feed more than 2,272 kg (approximately 5,000 lbs.) of food to the aquatic animals during the calendar month. The *warm* water aquatic animal species category includes facilities where animals are produced in ponds, raceways, or other similar structures that discharge at least 30 days per year and that produce more than 45,454 harvest weight kg (approximately 100,000 lbs.) of aquatic animals per year. Aquatic animal production and feeding at the Facility do not exceed any of these threshold values. Accordingly, the Facility discharge does not require coverage under an NPDES Permit. The current NPDES Permit for the Facility, Order No. R9-2007-0006, expired on March 1, 2012 and should not be reissued.

The San Diego Water Board may continue to regulate the Facility discharge under the Tentative Order which conditionally waives the issuance of waste discharge requirements for the discharge. The Porter-Cologne Water Quality Control Act (Porter-Cologne) requires a report of waste discharge (ROWD) from every person who discharges waste that could affect water quality. (Water Code § 13260.) Porter-Cologne also requires the Regional Water Boards to issue waste discharge requirements

(WDRs) to dischargers, whether or not the discharger files the ROWD. (Water Code § 13263.) A Regional Water Board can waive the ROWD requirement, the WDRs requirement, or both. (Water Code § 13269.) A waiver must be in the public interest, and must be consistent with applicable water quality control plans, such as the *Water Quality Control Plan for the San Diego Region* (Basin Plan). A waiver may not exceed five years in duration, but may be renewed by a Regional Water Board.

The waiver of waste discharge requirements for the Facility discharge under Water Code § 13269 is consistent with the Basin Plan because the discharge is not expected to adversely affect the quality or beneficial uses of the waters of the state. The waiver is also in the public interest because it will lessen the permitting and resource burden of regulating the Facility discharge for both the Discharger and the San Diego Water Board. This will free up San Diego Water Board permitting resources to address other discharges that pose a greater threat to public health and the environment. The Tentative Order contains appropriate conditions for the waiver, including influent and effluent monitoring to verify the adequacy and effectiveness of the waiver conditions in protecting water quality. If adopted, the Tentative Order will be issued for a fixed term of five years and may be renewed by the San Diego Water Board following receipt of a complete ROWD from the Discharger no later than 180 days prior to the expiration of the Order.

As of January 30, 2013, no comments have been received on the Tentative Order.

COMPLIANCE
RECORD:

During the term of Order No. R9-2007-0006, there were three exceedances for total suspended solids, one exceedance for total nitrogen, and two exceedances for total phosphorus. All exceedances occurred prior to April 2009. Since then, the Discharger has made adjustments to the Facility's treatment process which has allowed it to remain in compliance with permit requirements. It should be noted, that on average, the concentration for each constituent in the effluent is lower than the constituent's influent concentration (See Supporting Document No. 3).

LEGAL CONCERNS:

None

SUPPORTING
DOCUMENTS:

1. Location Map
2. Tentative Order No. R9-2013-0005

3. Compliance Summary Table

PUBLIC NOTICE:

This item was publicly noticed in the Meeting Notice and Agenda for the February 13, 2013 Board Meeting. Notice was also posted on the San Diego Water Board website.