

San Diego
Regional Water Quality
Control Board



Executive Officer's
Report

October 12, 2005

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SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

October 12, 2005

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. Compliance Workshops Pertaining to Agriculture *(Bob Morris)*

Robert Morris from the Northern Watershed Unit recently participated in two workshops directed towards the agricultural community. The first workshop was conducted on September 8th by the County of San Diego Department of Agriculture, Weights & Measures for the purpose of introducing a new software tool that assists farmers in complying with governmental regulations. The software, *AgComplyIT*, developed by a partnership of state and federal organizations, identifies the regulations that may apply to a particular agricultural operation and help farmers develop a plan to comply. As part of this workshop, the County discussed the importance of implementing effective management measures at agricultural facilities to protect water quality. Mr. Morris supported the County's position by urging the attendees to be proactive to encourage and support voluntary efforts to develop and implement good water quality protection practices at agricultural facilities. He noted that the Regional Board regulates discharges of waste and pollutants in runoff from irrigated agricultural operations under a conditional waiver of waste discharge requirements. He pointed out, however, that the Regional Board could prescribe in the future more stringent waiver conditions similar to those that other regional boards recently issued in response to changes in the California Water Code.

On September 22nd, the City of Oceanside conducted a workshop on agriculture and surface water quality issues in the San Luis Rey River watershed. Speakers from the City of Oceanside's Clean Water Program, the County Department of Agriculture, Weights & Measures, the University of California Cooperative Extension Farm Advisors Program, the U.S. Department of Agriculture National Resource Conservation Service (NRCS) and the San Diego Regional Water Quality Control Board discussed the potential water quality problems caused by pollutants in runoff from nurseries and agricultural operations in the watershed and identified best management practices for preventing or minimizing those pollutants. The attendees at this workshop had several questions regarding role of the Regional Board and the potential impacts of its regulatory programs, especially the application of total maximum daily loads (TMDLs), on their agricultural operations. Mr. Morris explained that the Regional Board is hopeful that the current educational efforts by the cities, the County of San Diego, UC Extension, NRCS and the Resource Conservation Districts are successful in reducing pollutant loading from agricultural sources, but if their efforts are not productive, a more regulatory approach might need to be taken in the future.

2. Presentation at Erosion and Sediment Control Course, Temecula (*Eric Becker*)

On August 29, 2004, Inland Erosion Control, Inc. sponsored an erosion and sediment control course to familiarize the development community in southern Riverside County on effective Best Management Practices (BMPs) for construction sites. During the course, Eric Becker presented lessons learned from the last rainy season, an overview of the new municipal storm water permit, BMP requirements under the state permit, and the potential for effluent limits in the next construction storm water permit. The course also explained what to expect from increased local oversight at construction sites as required by the municipal storm water permit. Mr. Becker answered site specific questions, emphasized pollution prevention, provided examples of erosion control BMPs that were effective, and provided examples of recent Regional Board enforcement actions. The workshop, attended by over 150 people, garnered significant interest from the development community, municipal staff.

3. Industrial Storm Water Outreach (*Don Perrin*)

On September 23, 2005, Don Perrin, of the Industrial Compliance Unit, attended the annual meeting of the San Diego County Office of Education's School Bus Maintenance Facility Operators. Mr. Perrin gave a 35-minute talk on the controversial issues delaying the reissuance of the Industrial Storm Water Permit. He also addressed a number of discrepancies noted in his review of the 25 Annual Reports for 2004-2005 submitted by the maintenance facility operators. The talk was well received and generated several questions regarding the permit reissuance and the annual reports.

4. ASTSWMO Soil Vapor Intrusion Workshop (*John Odermatt and Brian McDaniel*)

During September 26 and 27th, the Regional Board staff (Mr. John Odermatt) attended the "Soil Vapor Intrusion Workshop" sponsored by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO see web site at <http://www.astswmo.org/>). The conference agenda covered a range of topics relevant to the assessment of soil vapor intrusion into commercial and residential buildings from contaminated properties (i.e., emphasis on leaking underground storage tank - UST sites). The general technical sessions were lead by Dr. Blayne Hartman (H&P Mobile GeoChemistry), Dr. Dominic Digiulio (USEPA Ada Research Lab), Mr. Victor Kremesec (BP-ARCO). The general technical sessions included a number of topics: overview of vapor intrusion, principles of vapor migration, review of State and Federal guidance, methods to assess vapor risk, and soil gas sampling and analysis methods. Some site-specific experiences were discussed from U.S. Environmental Protection Agency, State of Colorado, Montana Department of Environmental Quality, Michigan Department of Environmental Quality, and Vermont Department of Natural Resources. The workshop attendees were primarily State and Federal regulatory agency staff but also included participants from the County of San Diego Department of Environmental Health and a representative from BP-ARCO. The topic of vapor intrusion has risen in national visibility as a result of related litigation in the State of Colorado. In California, the Department of Toxic Substances Control has developed vapor intrusion protocols in their "Interim Final Guidance on the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air" (available on-line at

[http://www.dtsc.ca.gov/ScienceTechnology/HERD POL Eval Subsurface Vapor Intrusion interim final.pdf](http://www.dtsc.ca.gov/ScienceTechnology/HERD_POL_Eval_Subsurface_Vapor_Intrusion_interim_final.pdf)). The Regional Board groundwater cleanup programs will probably find it necessary to require technical evaluations of vapor intrusion at contaminated sites where the contaminants of concern include volatile constituents.

5. Spill Response Exercise at Mission Valley Terminal (*Kelly Dorsey*)

On September 14, 2005, Regional Water Board staff, Ms. Kelly Dorsey and Ms. Jody Ebsen, took part in an Emergency Response Tabletop Drill at Kinder Morgan's Mission Valley Terminal. The scenario for the drill was the failure of the largest tank (containing 4 million gallons of gasoline) in the tank farm located in the northern part of the facility. Additionally, the drill included a release of less than 1,600 gallons of the fuel spilled from the tank went into Murphy Canyon Creek and the San Diego River. The simulation covered the first 2-3 days of emergency response, so the main objectives of the simulation were to implement effective actions to prevent further releases of fuel products from the facility, recover gasoline product released from the tank farm and into the surface water, and prevent the creation of conditions that could create fire and explosion hazards. The emergency response exercise began at 9:00 a.m. and concluded shortly after 1 p.m. The participating agencies were the Kinder Morgan, Regional Water Quality Control Board, San Diego Fire Department, County of San Diego Hazardous Materials, California Department of Fish and Game, National Response Center, and Levine Fricke LFR Inc.

6. Regional Board Tour of United States Coast Guard, San Diego Sector (*Tony Felix*)

On September 22, 2005 twelve Regional Water Board representatives from various units and programs toured the U.S. Coast Guard Station, Sector San Diego. The tour was initiated at the request of Mr. Jim Mayfield and Lt. Jeremy Altendorf of the Coast Guard Incident Management Division to improve communication and to facilitate the exchange of environmental information pertaining to matters affecting San Diego Bay.

The state-of-the-art Command and Control Center of the Coast Guard Station oversees all of the bay's activities and responds to oil spills, chemical spills, and illegal dumping of hazardous wastes that could have potential impacts to human health and aquatic life in the bay.

The meeting helped to improve the exchange of environmental information to ensure the reasonable protection of the beneficial uses of San Diego Bay.

7. Plastic Debris Conference (*Bruce Posthumus*) (*Attachment A-7*)

The "Plastic Debris, Rivers to the Sea" conference was held September 7-9, 2005 in Redondo Beach. The conference was part of a project of the same name that is being conducted by the Algalita Marine Research Foundation (AMRF), with funding from a SWRCB grant overseen by the Los Angeles RWQCB. Bruce Posthumus attended the conference.

Debris in the marine environment includes wastes that are intentionally discarded as well as materials and products that are inadvertently lost. An estimated 6.4 million tons of

litter enter the oceans of the world annually. Although significant amounts and types of marine debris originate from marine sources (such as overboard disposal of vessel wastes, lost vessel cargo, and lost fishing gear), it is estimated that nearly 80% of anthropogenic marine debris originates from land-based sources. Consequently, such debris moves through and can adversely affect watersheds and inland waters as well as coastal and open ocean waters. An estimated 60-80% of marine debris consists of plastic. In addition to being aesthetically undesirable, plastic debris damages habitat and has direct adverse effects on marine life, including endangered and threatened species of marine mammals, sea birds, and sea turtles (e.g., as a result of entanglement and ingestion). Because of the durability of plastics, the effects of plastic debris are long lasting and can occur far from where the debris first enters the environment.

Although various legal requirements govern disposal of trash on land and at sea, the movement of marine debris across jurisdictional boundaries and the difficulty of identifying the source(s) of any particular assortment of marine debris complicates both creation of effective legal requirements and enforcement of legal requirements. Prohibitions in the SDRWQCB Basin Plan (which are enforceable whether or not they are included in waste discharge requirements) and/or requirements in storm water permits could be used to address the problem of plastic debris (and other trash) in the marine environment (and elsewhere).

Development of an "action plan" to address the problem of plastic debris in the marine environment is part of the "Plastic Debris, Rivers to the Sea" project.

Additional information about the problem and efforts to address it is available at a number of websites (see attached list).

8. California Ocean Protection Council (*Bruce Posthumus*)

The third meeting of the California Ocean Protection Council was held on September 23, 2005 at Scripps Institution of Oceanography. Bruce Posthumus attended the meeting.

The 2004 report of the U.S. Commission on Ocean Policy and the 2003 report of the Pew Oceans Commission documented serious declines in the health of oceans and coastal areas, severe degradation of resources that depend on healthy oceans and coasts, and significant threats to economic activities based on those resources. Over-fishing, invasive species, pollution, and loss of wetlands were among the major problems identified. Both reports provided recommendations and emphasized the urgent need for action.

The California Ocean Protection Act (SB 1319), which was signed into law in 2004, established the California Ocean Protection Council (Council). The Council is tasked with the following responsibilities:

- Coordinate activities of ocean-related state agencies to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations.
- Establish policies to coordinate the collection and sharing of scientific data related to coast and ocean resources between agencies.

- Identify and recommend to the Legislature changes in law.
- Identify and recommend changes in federal law and policy to the Governor and Legislature.

The Council also has the ability to direct funding to certain kinds of activities, including projects that:

- Eliminate or reduce threats to coastal and ocean ecosystems, habitats, and species.
- Foster sustainable fisheries.
- Improve coastal water quality.
- Increase public access to ocean and coastal resources.
- Improve management, conservation, and protection of coastal waters and ocean ecosystems.
- Provide monitoring and scientific data to improve state efforts to protect and conserve ocean resources.
- Acquire, install or initiate monitoring and enforcement systems.
- Purchase vessels, equipment, licenses, harvest rights, permits, and other rights and property to reduce threats to ocean ecosystems and resources.
- Address coastal water contamination from biological pathogens.

The Secretary of the Resources Agency (Mike Chrisman) chairs the Council. The other voting members are the Secretary of the California Environmental Protection Agency (Alan Lloyd) and the Chair of the State Lands Commission (Lieutenant Governor Cruz Bustamante). A member of the state Senate (Sheila Kuehl) and a member of the state Assembly (Pedro Nava) are nonvoting *ex officio* members of the Council.

Additional information related to the Council is available at the following websites.

U.S. Commission on Ocean Policy: <http://www.oceancommission.gov/>

Pew Oceans Commission: <http://www.pewoceans.org/>

California Ocean Protection Act:

http://resources.ca.gov/copc/3-21-05_meeting/cal_ocean_protection_act.pdf

California Ocean Protection Council: <http://resources.ca.gov/copc/>

California Ocean Action Strategy:

http://resources.ca.gov/ocean/Cal_Ocean_Action_Strategy.pdf

California Ocean Resources Management Program: <http://resources.ca.gov/ocean/>

Committee on Ocean Policy: <http://ocean.ceq.gov/>

U.S. Ocean Action Plan: <http://ocean.ceq.gov/actionplan.pdf>

newspaper articles:

<http://www.signonsandiego.com/news/metro/20050922-9999-1m22ocean.html>

<http://www.signonsandiego.com/news/science/20050701-9999-1n1ocean.html>

9. California Stormwater Quality Association (CASQA) Hydromodification Training Workshop and 2005 Stormwater Conference (Robert Morris)

On October 3, 2005, the California Stormwater Quality Association (CASQA) conducted a workshop to discuss the key technical and management issues associated with hydromodification. Hydromodification is generally defined as the "alteration of the

hydrologic characteristics of surface waters, which in turn could cause degradation of water resources." The steady increase in impervious surfaces resulting from increased urban development and population growth statewide has adversely affected the state's watercourses by increasing erosion and sedimentation and degrading riparian habitat and water quality. Increased impervious surfaces increase rainfall runoff volumes, flow rates, and runoff duration in ways that damage watercourses and habitat and prevent improvements to water quality.

Hydromodification is one of the most critical emerging issues in stormwater regulation and management. Speakers at the workshop included national and local experts, regulators, and managers, who identified key technical issues, management needs, and future directions of hydromodification research and management tool development. The Executive Officer of the San Diego Regional Board presented the regulatory perspective on this issue. Information presented about programs and measures being implemented elsewhere in the State and the Country will be useful in developing appropriate regulatory direction during the next round of MS4 stormwater permits.

Following the workshop, CASQA conducted a two-day conference on various topics related to stormwater treatment, operations, research, and management. The importance of low impact development design for addressing source reduction was emphasized in several sessions. Some of the other topics presented included the increasing environmental significance of pyrethroid pesticides; regional approaches to research and monitoring; management of pathogens associated with stormwater discharges; and nitrogen and selenium management. As with the hydromodification workshop, the CASQA conference provided information that should benefit stormwater programs in the San Diego Region.

PART B **SIGNIFICANT REGIONAL WATER QUALITY ISSUES**

1. Sanitary Sewer Overflows (SSO) (*Charles Cheng, and Victor Vasquez*) (*Attachment B-1*)
From September 1 to September 30, 2005, there were 13 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 5 of these spills reached surface waters or storm drains, none of which resulted in closure of recreational waters. Of the total number of overflows from public systems, five were 1,000 gallons or more. The combined total volume of reported sewage spilled from all publicly owned collection systems for the month of September 2005 was 47,382 gallons.

There were also 3 sewage overflows from private property reported in September 2005. None of these spills reached surface waters or storm drains, nor resulted in closure of recreational waters. Of the total number of overflows from private property, none was 1,000 gallons or more.

The total rainfall amount for September 2005 recorded at San Diego Lindbergh Field was 0.1 inches. For comparison, in August 2005, a "Trace" amount of rainfall was recorded, and 19 public SSOs were reported. Also for comparison, in September 2004, "Trace" amount of rainfall was recorded at San Diego's Lindbergh Field and 23 public SSOs were reported.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through September 30, 2005, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2001-2002.

It should be noted that the data for spill volume per volume conveyed (GAL/MG) could be easily misinterpreted. For a sewer agency that has a small system size but experienced a spill of a few hundred gallons or more, the value may show high. Also, for a sewer agency that has a large system size, a high volume spill event may not result in a high value for this statistic. Hence, these numbers by themselves are not sufficiently representative of the measures being taken by a sewer agency to prevent SSOs, nor can the numbers be compared directly between agencies. The data does represent a different way to review and analyze SSO volume data as it relates to system size.

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

One Notice of Violation (NOV) was issued in September for recent significant overflows. The NOV was issued for the events described below:

US Marine Corp Base Camp Pendleton

- A 2,100-gallon sewer overflow from the Base's wastewater collection system near 52 Area that occurred on August 29, 2005. The Base reported that this overflow occurred due to excessive pressure in the force main and failure of an air relief valve. The Base reported that the overflow percolated into the ground without reaching surface water.
- A 34,920-gallon sewer overflow from the Base's wastewater collection system at Lift Station 14179 that started on September 11, 2005 and ended on September 13, 2005. The Base reported that this overflow occurred due to pump station failure. The Base reported that the overflow entered an adjacent flowing creek that flows to Lake O'Neil. Warning signs were posted around Lake O'Neil.
- A 300-gallon sewer overflow from the Base's wastewater collection system at Lift Station 14179 that occurred on September 20, 2005. The Base reported that this overflow occurred due to a power failure. The Base reported that the overflow entered an adjacent flowing creek that flows to Lake O'Neil. Warning signs were posted around Lake O'Neil.

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in September 2005 (Bob Morris) (Attachment B-2)

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a Section 404 permit from the Army Corps of Engineers, for filling or armoring of creeks and streams. See attached table (B-2).

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.waterboards.ca.gov/sandiego/programs/401cert.html>.

3. Grants Update (Dave Gibson)

Status of Proposition 13 and 319(h) Grant Program Projects

On September 15, 2005, the Department of Finance approved the extension requests for the Proposition 13 Phase II grants that it previously rejected. Eight projects in the San Diego Region will be extended for one year.

The Regional Board is continuing to work with several grantees currently in breach of contract to return their projects to good standing. The approval of the one-year extension request is critical for several projects, but timely action to address the issues (e.g. CEQA and project permitting) delaying the projects will be equally critical if these projects are to be successfully completed.

Proposition 50 Integrated Regional Water Management (IRWM) Grant Program

The preliminary evaluation results for the IRWM Planning Grants were posted on the Department of Water Resources (DWR) and State Water Resources Control Board (SWRCB) websites on September 16, 2005. A public meeting was held to accept comments on the evaluation results on September 23, 2005 at the Cal/EPA Building. The Public Comment Period closed on September 30, 2005. The recommended funding list will be developed and presented at the SWRCB Workshop on October 5, 2005. Final approval of the grant awards by DWR and the SWRCB is expected on October 20, 2005.

Fifty Step 1 IRWM Implementation Grant Proposals were submitted in July 2005. Technical Reviews for these proposals were submitted to the SWRCB and DWR on September 23, 2005. The multi-agency consensus reviews currently underway will be completed by October 7, 2005 and the subsequent joint SWRCB and DWR review process and callback list will be completed by December 2, 2005.

Consolidated Proposition 40 and Proposition 50 Grants Program

SWRCB and the Regional Boards, US EPA, and partner agencies are continuing to develop the draft Guidelines. Draft staff-level documents prepared for the 2005-06 Consolidated Grants Program (e.g., draft Concept Proposal) are available on the SWRCB

website so that stakeholders can provide early feedback on the 2005-06 Consolidated Grants process.

Funding Fair

The SWRCB will host a one-day Funding Fair on November 4, 2005 in Sacramento. The purpose of the Funding Fair is to provide an overview of current and upcoming funding opportunities and tips for completing applications, negotiating grant agreements, and managing grants. Updates will be provided on recent improvements to our grant process. The SWRCB has invited partner agencies to share information about a broad range of funding opportunities available to interested stakeholders. Interested parties can sign-up for the "State Water Board Funding Fair" e-mail list on-line at:
http://www.waterboards.ca.gov/lyrisforms/swrcb_subscribe.html

Dairy Water Quality Grant Program

The SWRCB posted the solicitation notice for the Dairy Grant Program on August 2, 2005. Applications must be submitted using the Financial Assistance Application Submittal Tool (FAAST) system by October 3, 2005. Individual applications may request between \$250,000 and \$3 million in grant funds. The total available is \$5 million (Prop. 50). Agencies, nonprofits, and private dairy operators are eligible to apply.

State Revolving Fund (SRF) Program

The SWRCB adopted amendments to the SRF policy and authorized the sale of \$300 million in revenue bonds to support the SRF Program at its September 22, 2005 meeting. The SWRCB will resume making preliminary funding commitments to projects.

Small Community Groundwater Grants

The proposal submittal period closed on August 19, 2005. Forty-eight proposals, totaling approximately \$48.2 million were submitted. The total available funding is \$9.5 million. The SWRCB is working with Dept of Health Services to develop the Competitive Project List, which will be considered for adoption by the SWRCB in November 2005.

Clean Beaches Initiative Grant Program

The SWRCB will continue to accept applications for projects at beaches included on the Competitive Location List adopted in April 2005. All projects submitted by September 30, 2005 will be reviewed at the October 12, 2005 Clean Beaches Task Force meeting.

4. Sky Ranch (Greystone Homes/Lennar) Water Quality Certification (Mike Porter)

During the public forum of the September 14, 2005 Regional Board meeting, Mr. David Hogan and Mr. Van Collinsworth urged the Regional Board to deny water quality certification for the proposed Sky Ranch residential development project in Santee. In response to their request, Chairman Minan requested that the action on the application for water quality certification be brought before the Regional Board for their decision. Executive Officer John Robertus stated that the action could be brought before the Regional Board during the October 12, 2005 Regional Board Meeting.

As of September 27, 2005, the revised post-construction storm water plans had not been received by the Regional Board. Because of the absence of this plan and timing relative to the October 12, 2005 Regional Board Meeting, the recommended action on this application for water quality certification has been postponed to the November 9, 2005 Board Meeting.

Mr. Rob D' Amaro (Greystone Homes/Lennar) and Mr. Van Collinworth have been informed that action on this water quality application has been re-scheduled for the November 9, 2005 Regional Board Meeting.

5. City of San Diego Fox Canyon Park Mitigated Negative Declaration (*Mike Porter*)
(Attachment B-5)

During the public forum period of the September 14, 2005 Regional Board meeting, Mr. John Stump requested that Regional Board review the City of San Diego's draft Mitigated Negative Declaration (MND) for the Fox Canyon Neighborhood Park project. The comment period for this MND ended on September 22, 2005.

As described in the MND, City has proposed a project design that avoids impacts to Auburn Creek with the project footprint. The City is planning to use a span for a proposed crossing over Auburn Creek. Spans are a good environmental design because they generally do not result in hydromodifications detrimental to water quality or beneficial uses. Typically, any proposed hydromodification of a watercourse requires extensive permitting, including a Clean Water Act (CWA) section 404 from the U.S. Army Corps of Engineers, a CWA section 401 Water Quality Certification and Waste Discharge Requirements (or waiver thereof) from the Regional Board.

A letter dated September 21, 2005 (attached), was sent to Mr. John Stump on September 21, 2005, informing him of the Regional Board's review. The letter stated that a review of the MND was performed by the Regional Board and found that the project doesn't trigger the need for a Clean Water Act section 401 Water Quality Certification; however, it will be subject to the state-wide construction permit and the San Diego County Municipal Storm Water Permit. No Regional Board comment is needed or warranted for this MND.

6. Alternative Approaches to Storm Water Quality Control Report (*Phil Hammer*)

In June 2004, members of the faculties at the University of Southern California and University of California at Los Angeles developed a report titled "Alternative Approaches to Storm Water Quality Control" for the Los Angeles Regional Water Quality Control Board. Focusing on the Los Angeles area, the report reviews present federal and state regulations and regulatory policy to determine whether advanced ultra-filtration treatment of the entire runoff flow is required to meet water quality standards, or whether compliance can be achieved through the widespread adoption of the various best management practices (BMPs) more commonly used for runoff quality control. The work identified and analyzed alternative measures that can be employed to meet present federal and state water quality standards. Particular attention was paid to strategies that concern

infiltration, pollutant source control, and runoff detention, capture, and BMP treatment. These strategies are similar to the approaches used by the San Diego Regional Water Quality Control Board in its storm water programs.

The report reviews possible approaches for controlling runoff water quality and presents a conceptual regional plan for managing storm water. The objective of the study was to outline a complete solution to storm water quality problems, i.e. the conceptual regional plan that is presented is intended to meet the requirements of the local storm water permit and Total Maximum Daily Loads and provide acceptable water quality for the area. The alternatives chosen were BMP implementation for control of individual pollutants (source control), and if necessary, a system of wetlands and infiltration facilities to provide final treatment and groundwater replenishment. The report shows that such approaches, if implemented, can achieve high levels of compliance with current federal water quality standards.

The report also contemplates the costs and benefits of implementing the proposed conceptual regional plan. Benefits considered include reduced flood control needs, augmentation of groundwater supply, increased property values, improved beach tourism, and reduced dredging needs in bays and harbors, among other benefits. The report concludes that, on the whole, the benefits of implementation of the proposed conceptual regional plan for storm water would outweigh its estimated costs.

The report is available for download at:

http://www.waterboards.ca.gov/sandiego/programs/sd_stormwater.html.

7. Mission Valley Terminal Groundwater Cleanup (*Kelly Dorsey*)

On April 13, 2005, the Regional Board adopted Addendum No. 5 to Cleanup and Abatement Order (CAO) 92-01 establishing requirements for cleanup and abatement of petroleum wastes, discharged into soil and groundwater, from the fuel supply and storage operations at Mission Valley Terminal (MVT) (see Item 7 at <http://www.waterboards.ca.gov/sandiego/rb9board/Apr-05.html>).

On September 9, 2005, the Regional Board received Kinder Morgan's *Site Conceptual Model and Off-Site Corrective Action Plan* (off-site SCM/CAP), *Site Conceptual Model and On-Site Corrective Action Plan* (on-site SCM/CAP), and the *Final Health Risk Assessment, On-Terminal Areas* for the MVT. The on-site and off-site SCM/CAPs were due to be submitted to the Regional Board on September 9, 2005 (pursuant to Directive No. 5 of Addendum No. 5 to CAO No. 92-01). These technical reports are currently under review by the Regional Board staff and our technical consultants (Drs. Margaret Eggers and Paul Johnson).

On September 28, 2005, the Regional Board staff and our technical consultants observed field staff from LFR, Inc as they conducted sampling of vapors from the existing vapor extraction remediation system and vapor monitoring probes located in the northeast parking lot at Qualcomm Stadium. The purpose of the site visit was to make field

observations and develop recommendations for adjusting existing vapor-sampling protocols in order to improve the quality of monitoring data derived from the MVT cleanup project. The Regional Board staff and our technical consultants will forward the results of field observations and recommendations to Kinder Morgan and LFR, Inc. for their use.

8. Local Oversight Program Case: Petition Review Meeting (*John Odermatt*)

The State Water Board manages a statewide contract with selected local agencies (Local Oversight Program or LOP) to provide regulatory oversight for site investigation and cleanup of groundwater pollution from leaking underground storage tanks (USTs). Under the terms of the contract with the LOP agencies, the Regional Boards get 30-days to review LOP case closure summaries to determine if they concur with the issuance of a no-further action (case closure) letter for LOP cases. If a Regional Board does not concur with the proposed closure, the Executive Officer must send written notification of that determination to the affected LOP agency. The Discharger (or Responsible Party) has the right to appeal regulatory decisions/actions by the LOP agency or the Regional Board to the State Water Board.

On January 3, 2005, the Regional Board received a Case Closure Summary from the County of San Diego Department of Environmental Health (DEH/LOP) for a leaking UST case located at 2015 East Valley Parkway in Escondido (QWIK KORNER, LOP Case No. H03183-001). On February 1, 2005, the Regional Board Executive Officer notified the San Diego DEH/LOP staff of remaining concerns with their proposed closure of that LOP case and that: 1.) the Regional Board did not concur with the proposed case closure at this time, and 2.) the Regional Board needed additional information from the San Diego DEH/LOP staff to further evaluate the proposed closure of the LOP case. The DEH/LOP staff provided additional information to the Regional Board on March 8, 2005. On May 20, 2005, the Regional Board Executive Officer sent written notification to the DEH/LOP denying concurrence with a proposed closure of a San Diego LOP case referenced above. The rationale for not concurring with the proposed closure is detailed in the May 20th letter to the DEH/LOP and included the following outstanding considerations:

Missing Information. The supporting information, provided by the DEH/LOP, did not include any technical analyses to support their conclusion that residual groundwater MTBE pollution would reasonably be expected to attenuate within the asserted timeframe (from 30 to 100 years). The highest reported residual concentrations of fuel related pollutants measured groundwater samples (2004) and the applicable water quality objectives are listed below:

Pollutant	MW-6 Observed Concentration $\mu\text{g/L}$	Water Quality Objective (WQO) $\mu\text{g/L}$	% of Applicable WQO
Methyl- tertiary-butyl ether (MTBE)	15,000	13	1,150%
Benzene	6,800	1	6,800%
Toluene	3,500	150	2,300%
Ethylbenzene	1,800	300	600%
Total Xylenes	7,100	1,750	400%

Plume Stability. Based on the technical reports submitted by the consultant, the DEH/LOP staff asserts that the MTBE plume is stable. The Regional Board staff performed an evaluation of available groundwater data (1996 – 2004) using analytical methods from the State Water Resource Control Board and U.S. Environmental Protection Agency sponsored training course (2005) - "Level of Information Necessary to Make Technical Decisions Regarding Site Cleanup and Closure." Based upon the results of that analysis of available data, the Regional Board staff was unable to concur that the groundwater pollution was stable and/or decreasing in extent at this time.

Immediate Proximity of Storm Drain Conveyance System (MS4). Available information indicates that the historic ground water table has been, and continues to be, in constant contact with the trench and three municipal storm drains located immediately west of the site. The response provided by the DEH/LOP, failed to provide an evaluation of: a) the possible entry of polluted ground water into the storm drains and eventual discharge into Escondido Creek and b) the potential creation of a fire and explosion hazard from the accumulation of fuel related vapors inside the storm drain. The highest residual concentrations of groundwater pollutants (in well MW-6 tabulated above) are located approximately 15 feet from the three storm drainpipes.

Electronic Reporting. The Regional Board staff reviewed the Geotracker database and concluded that the Responsible Party has not complied with the minimum electronic reporting requirements. Electronic reporting requirements have applied to leaking UST sites since 2001 (see Part C, Item 1 of the Executive Officer Report dated September 14, 2005).

Public Notification of Property Owners. It is not clear that the DEH/LOP staff provided the required public participation/notification of their intent to close the LOP case to the affected fee interested owners of affected properties [per Health and Safety Code section 25296.20(a) and 25296.20(b)]. The existing groundwater pollution is known to extend off the subject property, and on-to adjacent parcels not currently owned or controlled by the Responsible Party. Those residual concentrations of groundwater

pollutants would presumably remain in-situ for a significant period of time after case closure.

On September 9, 2005, the Regional Board staff met with representatives of the State Water Board, County of San Diego DEH/LOP, and the Responsible Party(ies) for the LOP case. The objective of the meeting is to discuss the outstanding issues related to this LOP case. It was determined that the Responsible Party would develop a work plan to further address the issues raised in the Regional Board's letter dated May 20, 2005.

9. U.S. Marine Corps Camp Pendleton, Las Pulgas Landfill (*John Odermatt*)

This item supplements information already provided to the Regional Board on emerging waste containment problems at the Las Pulgas Class III Landfill (see Executive Officer Report for January 12, 2005 and March 9, 2005).

Based on the information provided to the Regional Board, it was determined that the integrity of the liner in the Phase I waste management unit of the Las Pulgas Landfill has been compromised, and that the liner system will not function as required by the waste discharge requirements (Order 2000-54). The U.S. Marine Corps (USMC) has attributed the more recent observations of leachate seep(s) apparently discharging liquid wastes from the sideslope, to the leaking of leachate into the storm drain conveyance pipe located at the face of the Phase I unit. However, the Regional Board staff cannot rule out a malfunction in the leachate conveyance system (via the operations layer and leachate collection and removal system or LCRS) resulting from a failure to construct the operations layer according to engineering specifications (EMCON, 1997).

On September 20, 2005, the Regional Board staff attended a meeting with the USMC, County Local Enforcement Agency (LEA), and the California Integrated Waste Management Board (CIWMB) concerning compliance issues at the Las Pulgas Landfill. The LEA expressed concerns about the appearance of landfill gas (LFG) above the threshold limits allowed by CCR Title 27 at the edge of the Phase I waste management unit. The LEA requests that the USMC conduct an investigation of the extent of LFG migration at the facility. The USMC and LEA are continuing to work through the issues related to monitoring and control of LFG.

The USMC has a contract in place to dispose of 300,000 gallons of liquid (appears to be a combination of leachate and rainwater) collected from their Leachate Collection and Removal System (LCRS). The USMC has been accumulating and storing this liquid on-site pending a resolution of their disposal options for LCRS liquid containing tritium (radioactive isotope of hydrogen).

The USMC plans to initiate design of the Phase II waste management unit during the next several months. They plan to solicit input from the Regional Board and LEA staffs on their preliminary design during December 2005 to January 2006. The USMC hopes to begin construction of the new Phase II waste management unit near the end of 2006. The Regional Board management is currently reviewing a formal enforcement action

requiring the USMC to address the violations for the Phase I waste management unit at the Las Pulgas Landfill.

10. Palomar Airport Landfill: Gas Extraction Well Fire (*Amy Grove*)

On September 25, 2005 the County of San Diego Department of Public Works (DPW) notified the Regional Board that a subterranean fire was burning at the Palomar Airport Landfill. The fire was discovered when Airport staff observed steam/smoke rising from the vault of a landfill gas extraction well (N-14) in the Unit 2 landfill area. Well N-14 was not operational at the time of the fire. High temperatures (greater than 190° F) were measured in the vault, the high-density polyethylene (HDPE) piping below the wellhead was melted and bent over, and smoke was emanating from the interior of the vault. The County DPW staff ensured that the affected well was then isolated from the rest of the landfill gas extraction system but other more distant parts of the landfill gas extraction system remain operational.

The situation has been continually monitored since the fire was discovered on September 23, 2005. As a precaution, the other gas extraction wells in proximity to the affected well have been shut down so as not to influence the area surrounding well N-14. Because this well has been isolated from the rest of the landfill gas extraction system and elevated temperatures still exist near the surface of well N-14; the County DPW staff plans to decommission well N-14 with work beginning the week of September 26, 2005. The County DPW staff estimates that decommissioning well N-14 will take approximately a week to complete. The County of San Diego DPW staff will continue to keep the Regional Board informed about the situation and any further developments. The staff will continue to update the Regional Board in future Executive Officer Reports.

11. Anza Sanitary Landfill Closure and WDR Update (*Amy Grove and John Odermatt*)

The Anza Sanitary Landfill is a 50-acre facility located at 40329 Terwilliger Road in the City of Anza. The unit has an estimated capacity of 400,000 cubic yards with landfill operations occurring from 1955 until May 1999. After May 1999, the waste management unit stopped receiving waste and became an inactive facility. Currently, the landfill is an inactive, unlined facility with evidence of a release of waste constituents creating a condition of groundwater pollution. The landfill is located over a fractured rock aquifer where groundwater is used to support municipal and domestic beneficial uses of drinking water. According to information provided by the County of Riverside, there are over 100 wells, most being identified as having domestic uses, located within 1 mile of the Anza Landfill.

On February 10, 2003, the Regional Board notified the County of Riverside that their Joint Technical Document/Report of Waste Discharge was complete for the closure, post-closure monitoring, and maintenance of the Anza Sanitary Landfill. The Anza Sanitary Landfill is subject to both State (CCR Title 27) and Federal (40 CFR Part 258) closure, post-closure, and corrective action requirements. The Regional Board staff is preparing revised waste discharge requirements (WDRs) for the Anza Sanitary Landfill and planning to schedule an agenda item for the Regional Board to consider adoption of those

waste discharge requirements as tentative Order No. R9-2005-0183. If adopted, tentative Order No. R9-2005-0183 will supercede the existing waste discharge requirements (Order Nos. 87-53, Order 93-86 and addenda thereto) and establish requirements for closure, post-closure maintenance, corrective action, and monitoring at the Anza Landfill by the County of Riverside.

The Regional Board staff plans to schedule an agenda item for consideration by the Regional Board during the regularly scheduled meeting on December 14, 2005. The applicable public participation requirements for adopting WDRs for non-hazardous solid waste management units are found in Title 27, Section 21730. Interested persons may contact Mrs. Amy Grove at (858) 637-7136 or via e-mail at agrove@waterboards.ca.gov for information regarding the future agenda item and issuance of tentative Order No. R9-2005-0183.

12. Lake Elsinore Advanced Pumped Storage Project (*Jeremy Haas*)

The proposed Lake Elsinore Advanced Pumped Storage project is a 500 Megawatt pumped storage hydroelectric facility to be located in unincorporated Riverside County. Lake Elsinore would serve as the lower reservoir, and a new 100-acre upper reservoir would be built in the upper San Juan Creek watershed. In addition, a 29-mile 500 KV transmission line project would be built concurrently or independently, depending on a decision from the Federal Energy Regulatory Commission (FERC). The upper reservoir and approximately 16 miles of transmission line would be built within the San Diego Regional Board's jurisdiction. Lake Elsinore and the northern 13 miles of transmission line are in areas subject to the Santa Ana Regional Board. The project proponents are the Elsinore Valley Municipal Water District and the Nevada Hydro Company.

The applicants have submitted an application for Clean Water Act Section 401 water quality certification to the State Water Resources Control Board because the project involves a Federal Energy Regulatory Commission (FERC)-licensed facility and would discharge fill material into waters of the State within two Regional Board jurisdictions. As such, the role of the Regional Boards in Section 401 certification is advisory. The San Diego Regional Board has been asked by the State Board to review the proposal and provide comments as necessary.

Project activities subject to the Section 401 water quality certification in the San Diego Region include construction of the upper reservoir canyon site and other fill activities associated with approximately twenty road crossings and placement of transmission towers. Two particular concerns include the following: 1) The applicant's preference for locating the upper reservoir is in Morrell Canyon, which contains a vigorous and rare spring-fed riparian community; and 2) there is high potential to transport eroded sediment during the construction and post-construction phases of the transmission line corridor into numerous undisturbed streambeds, including ones in the San Mateo Creek watershed that support rare species. The Regional Board has met with the applicants and provided written comments to both FERC and the applicants. FERC is expected to release a draft Environmental Impact Statement in Fall 2005, and additional disclosure may be necessary

to meet CEQA requirements. The project proponents are expected to introduce this project to the Regional Board during the public forum session at the October 12 Regional Board meeting.

13. Review of Notices of Violation Issued to the San Diego County Copermittees for Watershed Urban Runoff Management Program Implementation (Phil Hammer) (Attachment B-13)

The San Diego Regional Water Quality Control Board (Regional Board) has reviewed the issuance of Notices of Violation to the twenty-one San Diego County Municipal Storm Water Copermittees (Copermittees) regarding implementation of their Watershed Urban Runoff Management Programs (WURMPs). The Notices of Violation allege that the Copermittees are not adequately implementing their WURMPs to effectively address the high priority water quality problems in the watersheds. A report has been generated detailing the review process and its findings (attached). The report describes Regional Board expectations for WURMP implementation and addresses previous Regional Board efforts to improve WURMP implementation. Also included is a review of the contents of the Notices of Violation, as well as a review of the contents of the WURMP annual reports submitted by the Copermittees. Options for addressing the Copermittees' request for rescission of the Notices of Violation are also provided in the report.

PART C
STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Numeric Effluent Limits Panel (Ben Neill) (Attachment C-1)

On September 14 and 15 in Sacramento, State Water Resources Control Board members, Peter Silva and Jerry Secundy, convened a panel of storm water experts to discuss the feasibility for development and compliance with numeric effluent limits in storm water discharge permits. The panel heard presentations from the environmental community and the regulated community. The environmental community, represented by Natural Resource Defense Council, took the position that current permits without numeric effluent limits do not improve water quality and compliance is poor. It was also pointed out that numeric effluent limits have been developed for a few unique storm water discharge permits and regulations. In response, the regulated community argued that numeric effluent limits will be difficult to develop and to comply with and will have major economic ramifications. As an alternative to numeric effluent limits, the regulated community proposed quantifiable measures and objective criteria for compliance. For more information about this panel meeting, see the attached memo and the State Board's website at: <http://www.swrcb.ca.gov/stormwtr/index.html>.

2. Science, Engineering, and Water Board Decision Making (Bruce Posthumus)

In a memorandum to the Chair of the State Water Resources Control Board in March 2005, the Secretary of the California Environmental Protection Agency requested that the SWRCB work with Cal/EPA to address a number of technical and policy issues, one of which was to "assure the appropriate integration of science in decision making, including policies, regulations, basin plans, and permits."

In September 2005, William A. Vance, a consultant to the State Water Resources Control Board, completed a report entitled "Role of Science and Engineering in Decision-Making Within the State and Regional Water Boards." The report discusses the responsibilities and activities of the water boards and how science and engineering enter into decision making by the water boards. The report also includes thirty recommendations provided by the RWQCBs and SWRCB on how to improve the science and engineering used in decision making by the water boards. The report indicates that a "desired outcome" is to "provide impetus for: enhancing research and monitoring programs; further improving staff capabilities; and, finding ways to expand and share the technical expertise available within the water boards."

The report indicates that it "attempts to demonstrate the extensive use of science and engineering in the decision-making processes of the State and Regional Boards." Accordingly, the report appears intended not to critique the use of science and engineering in decision making by the water boards, but to affirm that science and engineering play a significant role in decision making by the water boards.

The report is not available on the web at this time.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

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

October 12, 2005

APPENDED TO EXECUTIVE OFFICER REPORT

SIGNIFICANT NPDES PERMITS, WDRS, AND RB ACTIONS

DATE OF REPORT October 12, 2005	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 9, 2005 RB MEETING San Diego Regional Board Office									
	CITY OF SAN DIEGO SOUTH BAY WATER RECLAMATION FACILITY	NPDES Permit Reissuance	100%	90%	0%	0%	November 9, 2005	No	NPDES Workplan FY 2005-06	Kelley
	DAKOTA RANCH DEVELOPMENT CO. SANTEE SAN DIEGO COUNTY	Hearing: Admin. Civil Liability	NA	NA	100%	20%	November 9, 2005	No	ACL Complaint issued for \$140,000	Meibourn
	SKYLINE RANCH COUNTRY CLUB WASTEWATER TREATMENT PLANT VALLEY CENTER	WDRs Revision	100%	80%	80%	0%	November 9, 2005	Yes		Vasquez
	BASIN PLAN AMENDMENT--ADD UNNAMED WATERBODIES AND BENEFICAL USES	Basin Plan Amend. Adoption	NA	NA	0%	0%	November 9, 2005	Yes	Triennial Review Issue No. 3	Parady
	BASIN PLAN AMENDMENT--AUTHORIZE TIME SCHEDULES IN WDRs FOR NPDES REGULATIONS ADOPTION	Basin Plan Amend. Adoption	NA	NA	0%	0%	November 9, 2005	Yes	Triennial Review Issue No. 6	Parady
	DECEMBER 14, 2005 RB MEETING San Diego Regional Board Office									
	REGIONWIDE BACTERIA TOTAL MAXIMUM DAILY LOAD	Hearing: TMDL	NA	NA	50%	0%	December 14, 2005	No	TMDL Workplan FY 2005-06	Arias
	FALLBROOK PUBLIC UTILITY DISTRICT OCEAN OUTFALL DISCHARGE	NPDES Permit Reissuance	100%	90%	90%	50%	December 14, 2005	No	NPDES Workplan FY 2004-05	Vasquez
	DRISCOLL CUSTOM BOATS SAN DIEGO BAY	NPDES Permit Reissuance	100%	90%	0%	0%	December 14, 2005	No	NPDES Workplan FY 2005-06	Felix
	DRISCOLL WEST BOATYARD SAN DIEGO BAY	NPDES Permit Reissuance	100%	90%	0%	0%	December 14, 2005	No	NPDES Workplan FY 2005-06	Felix
	KOEHLER KRAFT BOATYARD SAN DIEGO BAY	NPDES Permit Reissuance	100%	90%	0%	0%	December 14, 2005	No	NPDES Workplan FY 2005-06	Felix
	NIELSEN-BEAUMONT BOATYARD SAN DIEGO BAY	NPDES Permit Reissuance	100%	90%	0%	0%	December 14, 2005	No	NPDES Workplan FY 2005-06	Felix
	SHELTER ISLAND BOATYARD SAN DIEGO BAY	NPDES Permit Reissuance	100%	90%	0%	0%	December 14, 2005	No	NPDES Workplan FY 2005-06	Felix
	SOUTH BAY BOAT YARD SAN DIEGO BAY	NPDES Permit Reissuance	100%	90%	0%	0%	December 14, 2005	No	NPDES Workplan FY 2005-06	Felix
	KNIGHT & CARVER BOATYARD SAN DIEGO BAY	NPDES Permit Reissuance	100%	90%	0%	0%	December 14, 2005	No	NPDES Workplan FY 2005-06	Felix

**SIGNIFICANT NPDES
PERMITS, WDRS, AND RB ACTIONS**

DATE OF REPORT October 12, 2005	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
	GREYSTONE HOMES--SKY RANCH PROJECT SANTÉE SAN DIEGO COUNTY	Section 401 Certification	100%	80%	80%	0%	December 14, 2005	No		Porter
	ANZA SANITARY LANDFILL CO. OF RIVERSIDE	WDRs Update	100%	80%	80%	0%	December 14, 2005	No	WDRs for Landfill Closure	Grove
	CANTARINI RANCH / HOLLY HILLS SECTION 401 CERTIFICATION CARLSBAD	WDRs New	80%	50%	20%	0%	December 14, 2005	No		Haas
	RESCISSON ORDER--PRE MIX CONCRETE CO. CARLSBAD AND SLOAN CYN SAND CO. DEHESA	WDRs Rescission	NA	NA	100%	10%	December 14, 2005	Yes		Ghoram
	FEBRUARY 8, 2006 RB MEETING San Diego Regional Board Office									
	REGIONWIDE BACTERIA TOTAL MAXIMUM DAILY LOAD	Adoption TMDL	NA	NA	50%	0%	February 8, 2006	No	TMDL Workplan FY 2005-06	Arias
	GROUNDWATER EXTRACTION GENERAL PERMIT FOR SAN DIEGO BAY	NPDES Permit Reissuance	NA	50%	0%	0%	February 8, 2006	No	NPDES Workplan FY 2004-05	Kelley
	CABRILLO LLC ENCINA POWER PLANT CARLSBAD	NPDES Permit Reissuance	100%	100%	75%	0%	February 8, 2006	No	NPDES Workplan FY 2004-05	Kelley
	OCEANSIDE MARINE CTR. OCEANSIDE HARBOR	NPDES Permit Reissuance	100%	90%	0%	0%	February 8, 2006	No	NPDES Workplan FY 2005-06	Felix
	DRISCOLL MISSION BAY BOATYARD	NPDES Permit Reissuance	100%	90%	0%	0%	February 8, 2006	No	NPDES Workplan FY 2005-06	Felix
	DANA POINT BOATYARD_DANA POINT HARBOR	NPDES Permit Reissuance	100%	90%	0%	0%	February 8, 2006	No	NPDES Workplan FY 2005-06	Felix
	JACK AND MARK STIEFEL DAIRY RIVERSIDE COUNTY	NPDES Permit Reissuance	80%	90%	90%	0%	February 8, 2005	No	NPDES Workplan FY 2004-05	Kelley
	FRANK J. KONYN DAIRY SAN PASQUAL VALLEY	NPDES Permit Reissuance	0%	90%	0%	0%	February 8, 2006	No	NPDES Workplan FY 2005-06	Ghoram
	OAK TREE RANCH MOBILE HOME PARK FACILITY EXPANSION SAN DIEGO COUNTY	WDR Revision	0%	0%	0%	0%	February 8, 2006	Yes		Quach
	FALLBROOK PUBLIC UTILITY DISTRICT FALLBROOK RECLAMATION PROJECT	WDRs Update Mast. Reclamation	NA	100%	80%	0%	February 8, 2006	Yes	Master Reclamation Reqtis	Vasquez
	MARCH 8, 2006 RB MEETING San Diego Regional Board Office									
	SAN DIEGO COUNTY MUNICIPAL STORMWATER PERMIT	NPDES Permit Reissuance	100%	90%	0%	0%	March 8, 2006	No	NPDES Workplan FY 2005-06	Hammer

SIGNIFICANT NPDES PERMITS, WDRS, AND RB ACTIONS

DATE OF REPORT October 12, 2005	NAME OF PERMIT/WDR/RB ACTION	Action Type	Initial Document Application Complete	Dish/RWO Limits and Monitoring Plan Known	Draft Complete	Public Rev. & Comment	BOARD HEARING & ADOPTION	Consent Item	COMMENTS	Staff
	SOUTH ORANGE COUNTY WASTEWATER AUTHORITY--ALISO CREEK OCEAN OUTFALL	NPDES Permit Reissuance	0%	90%	0%	0%	March 8, 2006	No	NPDES Workplan FY 2005-06	Kelley
	SOUTH ORANGE COUNTY WASTEWATER AUTHORITY--SAN JUAN CREEK OCEAN OUTFALL	NPDES Permit Reissuance	0%	90%	0%	0%	March 8, 2006	No	NPDES Workplan FY 2005-06	Kelley
	KAMPEN BROS. (fmr.DeJAGER/BOERSMA) DAIRY RIVERSIDE COUNTY	NPDES Permit Reissuance	0%	90%	0%	0%	March 8, 2006	No	NPDES Workplan FY 2005-06	Ghoram
	APRIL 12, 2006 RB MEETING San Diego Regional Board Office									
	POSEIDON RESOURCES DESALINATION PROJECT CARLSBAD	New NPDES Permit	0%	80%	0%	0%	April 12, 2006	No	NPDES Workplan FY 2005-06	Kelley
	T.D. DAIRY (VAN TOL DAIRY) RAMONA	NPDES Permit Reissuance	0%	90%	0%	0%	April 12, 2006	No	NPDES Workplan FY 2005-06	Ghoram
	PENDING / UNSCHEDULED ACTIONS									
	PROPOSED GREGORY CANYON LANDFILL NORTH SAN DIEGO COUNTY	New WDRs	100%	20%	30%	10%			Public Workshop scheduled for May 19, 2005	Tamaki

Additional information about the problem and efforts to address it is available at a number of websites, including the following.

U.S. Commission on Ocean Policy – final report – chapter 18 “Reducing Marine Debris”
http://www.oceancommission.gov/documents/full_color_rpt/18_chapter18.pdf

Algalita Marine Research Foundation

“Plastic Debris, Rivers to the Sea” project

<http://www.plasticdebris.org/index.html#>

http://www.algalita.org/state_water_project.html

“Plastic Debris, Rivers to the Sea” conference

<http://www.conference.plasticdebris.org/>

http://www.algalita.org/rivers_to_sea_conference.htm

LARWQCB - TMDLs for trash

http://www.waterboards.ca.gov/losangeles/html/meetings/tmdl/tmdl_pollutant_trash.html

SWRCB – “Erase the Waste” public education campaign

<http://www.waterboards.ca.gov/erasethewaste/index.html>

California Coastal Commission

<http://www.coastal.ca.gov/publiced/marinedebris.html>

University of California, Davis Wildlife Health Center - SeaDoc Society

<http://mehp.vetmed.ucdavis.edu/derelectgear.html>

National Oceanic and Atmospheric Administration

http://hawaiihumpbackwhale.noaa.gov/special_offerings/sp_off_imdc/imdc_spoiff.html

<http://www.publicaffairs.noaa.gov/oceanreport/marinedebris.html>

USEPA

<http://www.epa.gov/owow/oceans/debris/>

<http://www.epa.gov/owow/oceans/debris/moreinfo.html>

<http://www.epa.gov/owow/oceans/treasure/pg7.html>

U.S. Coast Guard

<http://www.uscg.mil/hq/g-m/nmc/mardeb.htm>

Smithsonian Institution – “Ocean Planet” exhibition

http://seawifs.gsfc.nasa.gov/OCEAN_PLANET/HTML/peril_marine_debris.html

American Plastics Council – “Operation Clean Sweep”

<http://www.opcleansweep.org/>

Society of the Plastics Industry

<http://www.socplas.org/outreach/environment/2121.htm>

Canada

<http://www.ec.gc.ca/marine/debris/homeeng.htm>

<http://www.ns.ec.gc.ca/udo/cry.html>

Australia <http://www.lpe.nt.gov.au/enviro/Fact/faq5.htm>
<http://www.cleanup.com.au/main.asp?RequestType=Doc&DocID=269&CatID=130>

United Nations <http://www.marine-litter.gpa.unep.org/>

National Geographic Society
http://news.nationalgeographic.com/news/2002/04/0429_020429_marinedebris.html

Pacific Whale Foundation <http://www.pacificwhale.org/childrens/fsdebris.html>
<http://www.pacificwhale.org/printouts/fsdebris.html>

The Ocean Conservancy
"Pocket Guide to Marine Debris"
<http://sacoast.uwc.ac.za/education/resources/marinedebris/index.htm>
"National Marine Debris Monitoring Program"
http://www.oceanconservancy.org/site/PageServer?pagename=mdm_debris#
"International Coastal Cleanup"
http://www.coastalcleanup.org/pub1/index.cfm?task=pub_shared_main&PageID=pub1_MarineDebris&RegionID=1CE1ADFF-E018-F888-D037DF83073FF578

grants

http://www.nmfs.noaa.gov/habitat/restoration/projects_programs/crp/partners_funding/callforprojects2.html

<http://fedgrants.gov/Applicants/DOC/NOAA/GMC/NMFS-HCPO-2006-2000351/Grant.html>

California legislation <http://www.audubon-ca.org/AB586.htm>
http://www.leginfo.ca.gov/pub/03-04/bill/asm/ab_0551-0600/ab_586_bill_20040219_status.html

federal legislation <http://www.govtrack.us/congress/bill.xpd?bill=s109-362>
<http://releases.usnewswire.com/GetRelease.asp?id=43029>

SANITARY SEWER OVERFLOW STATISTICS (Updated through September 30, 2005)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE ^B		NO. OF SEWAGE SPILLS (LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30)					SPILLS PER 100 MILES (LISTED BY FY)					SPILL VOLUME 2005-06 ^A	
	Miles	MGD	01-02	02-03	03-04	04-05	05-06 ^A	01-02	02-03	03-04	04-05	05-06 ^A	GAL	GAL/MG ^P
ORANGE COUNTY:														
EL TORO WD	55	2.2	3	1	3	3	0	5.5	1.8	5.5	5.5	0.0	0	0.0
EMERALD BAY SERVICE DISTRICT	6	0.09	0	0	0	1	0	0.0	0.0	0.0	16.7	0.0	0	0.0
IRVINE RANCH WD	36	2.0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0	0.0
LAGUNA BEACH, CITY OF	95	2.4	10	27	8	12	1	10.5	28.4	8.4	12.6	1.1	250	0.3
MOULTON NIGUEL WD	530	13.0	2	1	2	5	0	0.4	0.2	0.4	0.9	0.0	0	0.0
SAN CLEMENTE, CITY OF	179	4.5	6	7	2	5	0	3.3	3.9	1.1	2.8	0.0	0	0.0
SAN JUAN CAPISTRANO, CITY OF	100	3.4	0	0	1	2	0	0.0	0.0	1.0	2.0	0.0	0	0.0
SANTA MARGARITA WD	546	10.7	12	4	5	6	0	2.2	0.7	0.9	1.1	0.0	0	0.0
SOUTH COAST CWD	132	4.0	5	8	7	4	1	3.8	6.1	5.3	3.0	0.8	120	0.1
TRABUCO CANYON WD	43	0.72	0	0	1	3	0	0.0	0.0	2.3	7.0	0.0	0	0.0
RIVERSIDE COUNTY:														
EASTERN MWD	421	9.5	1	3	7	0	0	0.2	0.7	1.7	0.0	0.0	0	0.0
ELSINORE VALLEY MWD	80	2.0	0	0	1	3	0	0.0	0.0	1.3	3.8	0.0	0	0.0
MURRIETA MWD	25	0.5	E	E	1	0	0	E	E	4.0	0.0	0.0	0	0.0
RANCHO CA WD	71	2.9	2	0	1	2	0	2.8	0.0	1.4	2.8	0.0	0	0.0
SAN DIEGO COUNTY:														
BUENA SANITARY DISTRICT	84	1.9	0	2	1	2	0	0.0	2.4	1.2	2.4	0.0	0	0.0
CARLSBAD MWD	214	7.2	15	6	6	10	1	7.0	2.8	2.8	4.7	0.5	0	0.0
CHULA VISTA, CITY OF	400	16.0	6	3	1	5	1	1.5	0.8	0.3	1.3	0.3	200	0.0
CORONADO, CITY OF	53	3.8	5	2	5	0	0	9.4	3.8	9.4	0.0	0.0	0	0.0
DEL MAR, CITY OF	30	1.1	2	7	1	0	2	6.7	23.4	3.3	0.0	6.7	5,850	14.2
EL CAJON, CITY OF	198	9.1	2	3	0	3	0	1.0	1.5	0.0	1.5	0.0	0	0.0
ENCINITAS, CITY OF	118	4.1	2	6	1	5	0	1.7	5.1	0.8	4.2	0.0	0	0.0
ESCONDIDO, CITY OF	350	10.8	14	3	2	4	2	4.0	0.9	0.6	1.1	0.6	268	0.1
FAIRBANKS RANCH COMM SERV DIST	15	0.21	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0	0.0
FALLBROOK PUBLIC UTILITY DIST ^C	72	2.0	17	22	9	10	3	23.6	30.6	12.5	13.9	4.2	5,500	7.5
IMPERIAL BEACH, CITY OF	84	2.2	1	14	2	8	2	1.2	16.7	2.4	9.5	2.4	425	0.5
LA MESA, CITY OF	155	5.8	12	3	4	3	0	7.7	1.9	2.6	1.9	0.0	0	0.0
LEMON GROVE, CITY OF	69	2.4	9	4	4	3	0	13.0	5.8	5.8	4.3	0.0	0	0.0

SANITARY SEWER OVERFLOW STATISTICS (Updated through September 30, 2005)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE ^B		NO. OF SEWAGE SPILLS (LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30)					SPILLS PER 100 MILES (LISTED BY FY)					SPILL VOLUME 2005-06 ^A	
	Miles	MGD	01-02	02-03	03-04	04-05	05-06 ^A	01-02	02-03	03-04	04-05	05-06 ^A	GAL	GAL/MG ^D
	SAN DIEGO COUNTY (continued):													
LEUCADIA CWD	185	4.2	5	6	1	5	0	2.7	3.2	0.5	2.7	0.0	0	0.0
NATIONAL CITY, CITY OF	97	5.1	0	1	2	1	0	0.0	1.0	2.1	1.0	0.0	0	0.0
OCEANSIDE, CITY OF, WTR UTIL DEP	446	13.0	17	23	22	14	3	3.8	5.2	4.9	3.1	0.7	2,035	0.4
OLIVENHAIN MWD	16	0.39	1	2	0	3	0	6.3	12.5	0.0	18.8	0.0	0	0.0
OTAY MWD	86	1.4	0	3	1	0	0	0.0	3.5	1.2	0.0	0.0	0	0.0
PADRE DAM MWD	150	5.1	4	3	3	1	0	2.7	2.0	2.0	0.7	0.0	0	0.0
PAUMA VALLEY COMM SERVICE DIS	8	0.07	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0	0.0
POWAY, CITY OF	170	4.0	1	5	3	0	1	0.6	2.9	1.8	0.0	0.6	50	0.0
RAINBOW MWD	54	0.74	2	2	6	2	0	3.7	3.7	11.1	3.7	0.0	0	0.0
RAMONA MWD	83	1.3	5	2	2	3	0	6.0	2.4	2.4	3.6	0.0	0	0.0
RANCHO SANTA FE COMM SERV DIST	52	0.44	1	1	0	2	0	1.9	1.9	0.0	3.9	0.0	0	0.0
SAN DIEGO CO, PUBLIC WORKS	380	11.0	4	11	2	2	1	1.1	2.9	0.5	0.5	0.3	12500.0	3.1
SAN DIEGO, CITY OF, MWWD	2,894	170	226	193	115	96	27	7.8	6.7	4.0	3.3	0.9	19,540	0.3
SOLANA BEACH, CITY OF	52	1.2	2	1	6	0	0	3.8	1.9	11.5	0.0	0.0	0	0.0
USMC BASE, CAMP PENDLETON	194	3.1	18	23	14	10	5	9.3	11.9	7.2	5.2	2.6	44,720	40.2
US NAVY	123	4.0	24	12	11	13	4	19.5	9.8	9.0	10.6	3.3	3,900	2.7
VALLECITOS WD	202	6.1	4	5	4	5	0	2.0	2.5	2.0	2.5	0.0	0	0.0
VALLEY CENTER MWD	48	0.32	0	3	1	1	0	0.0	6.3	2.1	2.1	0.0	0	0.0
VISTA, CITY OF	198	6.5	4	4	7	9	0	2.0	2.0	3.5	4.6	0.0	0	0.0
WHISPERING PALMS COMM SERV DIS	17	0.26	1	1	0	0	0	5.8	5.8	0.0	0.0	0.0	0	0.0
REGION 9 TOTAL	9615	363	445	427	275	266	54						95,358	
AVERAGE¹								4.6	4.4	2.9	2.8	0.6		1
STANDARD DEVIATION²								5.0	7.0	3.4	4.4	1.3		6
MEDIAN³								2.4	2.4	2.0	2.5	0.0		0

^A Includes available preliminary data for July 1, 2005 through September 30, 2005, and may not include all spills less than 1,000 gallons that did not enter surface waters or storm drains

^B As of June 2003.

^C Does not include 11 SSOs in 2000-2001 which occurred from private property but are the responsibility of the Fallbrook PUD according to its own existing policies at the time.

^D Volume of spills for the period in gallons divided by the amount conveyed for the period in million gallons

^E Included with Eastern Municipal Water District

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.

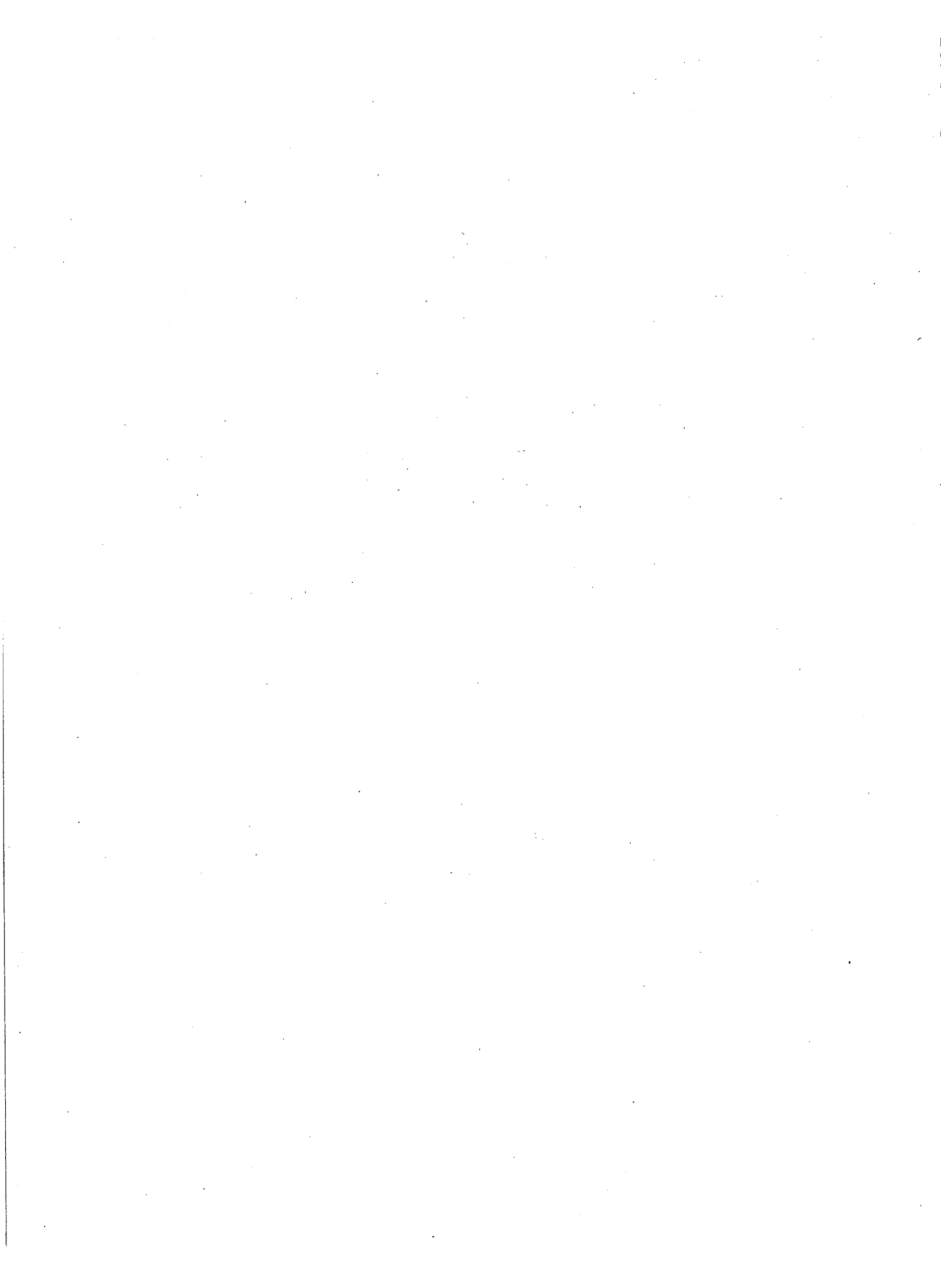
³ The median is the middle value in a set; half the values are above the median, and half are below the median.

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION	CERTIFICATION ACTION ²
9/30/05	PARDEE CONSTRUCTION COMPANY	Pacific Highlands Ranch, Phases 5&6	Development of 541 acres into 1,327 single-family homes, schools and amenities	Gonzales Canyon Creek & McGonigle Canyon Creek and their tributaries.	Wetland (P) 0.6 acres Streambed (P) 1.27 acres Streambed (T) 0.07 acres	Mitigation was constructed under prior certifications for earlier phases of the project. A total of 15.75 acres wetland and riparian habitat were created.	Technically Conditioned
9/30/05	CITY OF CORONADO	409-413 First Street Shoreline Protection	Removal of existing shoreline protection and replacement with engineered riprap.	San Diego Bay	Shoreline (T) 0.08 acre	None required	Low Impact Certification
9/29/05	RICHARDSON PARTNERS	ESCO-MIXED USE (SHOPKEEPERS COTTAGES)	CONSTRUCTION OF MULTI-FAMILY AND RETAIL BUILDINGS	UNNAMED TRIBUTARY TO SAN DIEGUITO CREEK	Wetland (P) 0.04 acre	Restoration of 1.8 acre of wetland	Time expired, certified by default
9/19/05	SESI GROUP	SESI Property Landfill Closure Project	To provide closure for a former landfill in order to prevent future impacts to surface water and groundwater	Spring Creek	Not Applicable	Not Applicable	Pre-certified by SWRCB
8/31/05	SANTEE PARTNERS, LLC	THE RIVERWALK PROJECT	Residential development on 20.7 acres of 218 multi-family units, 16 common use lots including 1.8 acres of open space	WOODGLEN VISTA CREEK, TRIBUTARY TO SAN DIEGO RIVER	Wetland (P) 0.09 acre	Creation of 0.3 acre of wetland and 0.38 acre of riparian habitat	Time expired

8/30/05	TEMPLE ADAT SHALOM	TEMPLE ADAT SHALOM	AS PART OF THE EXPANSION OF THE TEMPLE, THE PROJECT WILL GRADE AND IMPROVE THE VACANT PROPERTY TO THE NORTH AND EAST ADJOINING THE EXISTING DEVELOPMENT ALONG POMERADO ROAD.	ISOLATED, UNNAMED TRIBUTARY	Riparian (T) 0.06 acre	Non required	Low Impact Certif
8/29/05	CITY OF DANA POINT	CAPISTRANO BEACH STORM DRAIN PRIORITY I PHASE II PROJECT MAINTENANCE COMPONENT	CONSTRUCTION OF A STORM DRAIN & ASSOCIATED INLET STRUCTURES IN THE CAPISTRANO BEACH AREA TO CONNECT TO AN EXISTING MS4 LINE, EXTENDING OUTFALL TO 140 FEET. INSTALL A LOW-FLOW DIVERSION TO THE SANITARY SEWER AT CURRENT TERMINUS OF STORM DRAIN PIPE.	PACIFIC OCEAN	Ocean (T) 0.05 acre	None Required	Low Impact Cert

8/24/05	COUNTY OF SAN DIEGO, DEPARTMENT OF PUBLIC WORKS	COLLIER WAY BRIDGE REPLACEMENT PROJECT	REPLACEMENT OF THE EXISTING 22.4 FT WIDE BRIDGE OVER HARBISON CANYON CREEK WITH A NEW 35 FT WIDE CONCRETE BRIDGE SUPPORTED BY TWO ABUTMENTS 45 FT APART. THE PROJECT INCLUDES THE WIDENING OF THE CREEK AND INSTALLATION OF ROCK/CONCRETE SLOPE PROTECTION	HARBISON CANYON CREEK	Wetland (P) 0.01 acre Wetland (T) 0.14	Creation of 0.02 acre of wetland and restoration of temporary impacts	TECHNICALLY CONDITIONED
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1. Wetland refers to vegetated waters of the U.S. and streambed refers to unvegetated waters of the U.S. (P) = permanent impacts. (T) = temporary impacts.
2. Low impact certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the project will adversely impact water quality and suitable mitigation measures are not proposed or possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines. Withdrawn refers to projects that the applicant or Regional Board have withdrawn due to procedural problems that have not been corrected within one year.





California Regional Water Quality Control San Diego Region

ATTACHMENT B-5



Alan C. Lloyd, Ph.D.
Agency Secretary

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

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(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

September 21, 2005

In reply refer to:
WPUS:CEQA # 8474:portm

John W. Stump
4133 Popular Street
San Diego, CA 92105

Dear Mr. Stump:

**SUBJECT: FOX CANYON NEIGHBORHOOD PARK
DRAFT MITIGATED NEGATIVE DECLARATION**

During public forum of the September 14, 2005 Regional Board Meeting, you requested that the Regional Board review the City of San Diego's draft Mitigated Negative Declaration for the Fox Canyon Neighborhood Park project.

Staff reviewed the Mitigated Negative Declaration and found the proposed enhancements to areas flanking and a crossing over Auburn Creek are not subject to the Clean Water Section 401 Water Quality Certification (401) because a Clean Water Act section 404 permit (404) is not needed from the U.S. Army Corps of Engineers. Creek crossings typically trigger the need for 401 and 404 permits because of fill placed in the creek (waters of the U.S.) to create the crossing. However, the crossing proposed by the City on this project is a span with abutments that are out of waters of the U.S. The Regional Board believes the City selected this type of crossing in response to a pre-application meeting with the City on February 8, 2005. At that meeting, the Regional Board recommended the use of a span to avoid impacts to Auburn Creek.

Finally, the Regional Board will regulate storm water quality during the construction and post-construction phases of this project through the Construction Storm Water Permit (<http://www.swrcb.ca.gov/stormwtr/construction.html>) and the San Diego County Municipal Storm Water Permit (http://www.swrcb.ca.gov/rwqcb9/programs/sd_stormwater.html).

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.

California Environmental Protection Agency

Mr. John Stump
Fox Canyon Neighborhood Park

- 2 -

September 21, 2005

Respectfully,



JOHN H. ROBERTUS

Executive Officer

JHR:mpm:mgp

California Environmental Protection Agency

**Review of Notices of Violation
Issued to the San Diego County Copermittees for
Watershed Urban Runoff Management Program Implementation**

San Diego County Municipal Storm Water Permit – Order No. 2001-01

By Phil Hammer
San Diego Regional Water Quality Control Board
October 6, 2005

**Review of Notices of Violation
Issued to the San Diego County Copermittees for
Watershed Urban Runoff Management Program Implementation**

San Diego Regional Water Quality Control Board
October 6, 2005

Introduction

During the public forum session of the September 30, 2005 San Diego Regional Water Quality Control Board (Regional Board) meeting, Mr. Randy Voepel, Mayor of Santee, requested that Notice of Violation (NOV) No. R9-2005-0191 issued to the City of Santee be rescinded. The NOV was issued on June 17, 2005 and alleged that the City of Santee was in violation of section J.2.d of Order No. 2001-01, the San Diego Municipal Storm Water Permit (Permit), for failure to "implement activities which effectively address the highest priority water quality problems" in its watershed. The Copermittees are required to develop Watershed Urban Runoff Management Plans (WURMPs) and implement activities which address and mitigate the highest priority water quality problems within their watersheds by sections J.1 and J.2.d of the Permit.¹

NOVs similar to the one issued to the City of Santee were issued to all twenty-one of the San Diego County Copermittees. Following Mr. Voepel's request, the City/County Manager's Association of San Diego County requested in a September 19, 2005 letter that eighteen of the NOVs be rescinded. Other Copermittees also requested individually that their specific NOVs be rescinded. It appears that the City of San Diego, the San Diego Unified Port District, and the San Diego County Regional Airport Authority have not expressly requested rescission of their NOVs, though the Port and Airport Authority maintained in a September 8, 2005 letter that they are not in violation of the Permit.²

In response to the NOV rescission requests, the Regional Board reviewed the issuance of the City of Santee NOV. Since all of the NOVs are similar, the City of Santee NOV is largely representative of all of the NOVs that were issued. Based on the review, it was found that the NOVs were accurate in their assertion that the Copermittees' water quality activities implemented as part of their WURMP programs will not effectively address the highest priority water quality problems within each watershed. However, it was also determined during the review that the NOVs themselves lacked specificity in specifically identifying the noncompliance. The review, however, found that the record supporting the NOVs, while not referenced in the NOVs, clearly supports their issuance.

The findings of the Regional Board's review are discussed further below. Based on these findings, the Regional Board has several options for addressing the Copermittees' requests for rescission of the NOVs, including:

¹ The Permit's WURMP requirements are provided as Attachment 1.

² Letters from the Copermittees are provided as Attachment 2.

1. Recall or rescind the NOV's, with the purpose of revisiting the issue when the next Copermittee WURMP annual reports are submitted. The recall or rescission could be based on (1) a finding of Copermittee compliance, or (2) a finding that the NOV's contained inadequate supporting information. The next WURMP annual reports can be reviewed, and NOV's can be issued with additional supporting information at that time if non-compliance is determined. This approach will allow the Regional Board and Copermittees to work together on the matter, while also allowing the Regional Board to continue focusing on its highest priority at present – the reissuance of the municipal separate storm sewer system (MS4) Permit for San Diego County.
2. Hold the NOV's in abeyance, with the purpose of making a decision on the status of the NOV's after the next Copermittee WURMP annual reports are submitted. The decision to hold the NOV's in abeyance could be based on a finding that the NOV's contained inadequate supporting information. While held in abeyance, the NOV's can be considered inactive. The NOV's can either be reissued with supporting information or rescinded following review of the next WURMP annual reports, depending on the results of the review of those annual reports. Similar to the option above, this option would allow the Regional Board and Copermittees to work together on the issue, and also allow the Regional Board to continue to focus on reissuance of the MS4 Permit.
3. Allow the NOV's to stand, based on the supporting information included in this report. If utilized, this option would clarify that the Copermittees' WURMP's are inadequate and in need of improvement.
4. Allow the NOV's to stand, provided that supporting information for the NOV's for each of the watersheds is provided to the Copermittees. As with item no. 3, this option would clarify that the Copermittees' WURMP's are inadequate and need improvement. This approach would also temporarily redirect Regional Board efforts away from reissuance of the MS4 Permit.
5. Hold a hearing on the NOV's, where the Regional Board members can take formal action on the NOV's. This option would involve a formal determination of compliance or non-compliance. This option would also shift the Regional Board's focus away from Permit reissuance in order to prepare for the hearing.

The following sections of this report respond to the Copermittees' three main contentions regarding the NOV's: (1) the Copermittees were not notified of why they were found to be in violation and how they can take correction action; (2) the NOV's are unwarranted because the Copermittees are in compliance; and (3) the NOV's were issued prematurely. By responding to these contentions, this report will explain the issuance of the NOV's and further make clear Regional Board expectations regarding the Copermittees' WURMP programs.

Notification of Violations and Potential Corrective Actions

The Copermittees have contended that the issuance of the NOV's was "unnecessarily heavy-handed, threatening, and counterproductive." They have also contended that it is impossible for them to understand what part of their programs need improvement and what corrective actions can be taken. Just looking at the NOV documents, it is true that the NOV's are brief. However, when viewed in the context of an ongoing process between the Copermittees and the Regional Board, the issuance of the NOV's is a logical progression in a compliance oversight process that should be familiar to the Copermittees.

The NOV issued to the City of Santee for the San Diego River watershed states the following:

"You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While efforts to address bacteria at the mouth of the San Diego River have been conducted, sources and pollutant loadings contributing to this water quality problem in other portions of the watershed have not been addressed on a watershed basis."³

Though brief, this excerpt does indicate in detail to what extent the Copermittees' WURMPs need improvement. Namely, the Copermittees were found to have not implemented "effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed." Further, it was stated that the Copermittees need to address "sources and pollutant loadings contributing to this water quality problem in other portions of the watershed," and not just at the mouth of the San Diego River.

To provide an additional perspective, the Regional Board's Compliance Assurance Unit reviewed the level of detail included in the NOV's by the Southern Watershed Protection Unit. The Compliance Assurance Unit found that:

"NOV's are considered one of the lowest levels of enforcement available to the Regional Board before progressing to more formal enforcement actions. The purpose of the NOV is to quickly bring a violation to the discharger's attention and to give the discharger an opportunity to return to compliance as soon as possible. The June 2005 NOV fulfilled this role to notify the discharger of a non-

³ The NOV's issued to the City of Santee and the County of San Diego are provided as examples of the issued NOV's in Attachment 3.

compliance situation. Typical of most Regional Board NOVs, it contained only a brief summary of the violations rather than a detailed description. However, because it contained only a brief summary of the violation, the NOV did not identify what steps the City would need to initiate in order to be in compliance without referring to previous correspondence. [...] [B]ecause of the contentious nature of issues surrounding Copermittee responsibilities for storm water particularly regarding watershed wide program, the Regional Board could have re-iterated their concerns and provided more specificity in the NOV.”

While additional information could have certainly been added to the NOVs, the Copermittees were made fully aware of needed improvements to their WURMP programs in much more detail during previous efforts. Prior to the issuance of the NOVs, the Regional Board underwent an ongoing process to communicate and collaborate with the Copermittees on how to improve their watershed programs. The process that was utilized by the Regional Board is exactly the type of process that the Copermittees now request. The process focused on collaborative approaches such as comment letters and meetings. Only after those approaches had failed to generate improvement in the Copermittees’ WURMP programs were the NOVs issued.

On January 31, 2003, the Copermittees submitted their initial WURMPs. The Regional Board reviewed the WURMPs and provided each Copermittee with an identical comment letter on March 10, 2003.⁴ The purpose of the letter was for the Regional Board to “offer comments and guidance regarding its expectations for future WURMP implementation.” Item 6 of the letter addressed the issue of water quality activities by stating:

“The WURMPs generally describe broad planned actions to be implemented to address identified water quality problems. These broad planned actions often do not specifically address likely sources of water quality problems. While broad planned actions may be appropriate in situations where no likely sources of water quality problems have been identified, specific actions directly targeting identified likely sources of water quality problems are also needed. This particularly applies to impaired water bodies found on the Clean Water Act section 303(d) list. The water quality problems in these water bodies have been validated and pollution sources have often been identified.”

During the following year, the Regional Board frequently attended and participated in Copermittee watershed group meetings. On January 31, 2004, the Copermittees submitted their first WURMP annual reports, for fiscal year 2002-2003. The Regional Board reviewed the reports in September and October of 2004 and held meetings with each watershed group, for a total of nine meetings. The purpose of the meetings was for the Regional Board to explain its expectations for the WURMPs and identify where the programs needed improvement. Implementation of water quality activities, the issue for which the NOVs were ultimately issued, was expressly discussed at each of the meetings. As a follow-up to those meetings, the Regional Board issued 13267 information requests

⁴ Provided as Attachment 4.

to each watershed group of Copermittees.⁵ These letters identified what parts of the Copermittees WURMP programs needed improvement and identified what steps the Copermittees could take to ensure compliance. The letters included similar statements such as:

“The Regional Board views the Water Quality Activities section as a key section which should be a primary focus of the Annual Report. As stated in Finding No. 31 of the Permit, the Regional Board finds that “it is essential for the Copermittees to coordinate their water quality protection and land use planning activities to achieve the greatest protection of receiving water bodies.” To achieve this goal, the Copermittees must identify and implement activities to eliminate sources and reduce loading of the pollutants causing the identified high priority water problems within the watershed.

While the “water quality activities” identified in Section 2.0 of Section II of the Annual Report are a good first step, some of the activities do not specifically address likely sources of water quality problems within the watershed. The activities should be reassessed in light of the watershed’s high priority water quality problems, and reworked and expanded where appropriate. In your response, please identify the short and long-term activities that will be conducted to specifically target likely sources of water quality problems in the San Diego River watershed (include an implementation schedule). It is recommended that the Copermittees generate a list of activities which can be conducted to address the sources of the watershed’s high priority water quality problems. The list can then be evaluated to identify effective and efficient activities to be implemented. An example list is provided as Attachment 2.”

In addition, the 13267 letters included an attachment which provided an example list of activities the Copermittees could implement to ensure compliance. The attachment was also clear that failure to implement such activities could constitute a violation.⁶ This attachment stated:

“Implementation of water quality activities which eliminate sources and reduce the loading of pollutants which are causing high priority water quality problems within a watershed is a critical component of the WURMPs. Listed below are examples of the types of activities that can be conducted to address high priority water quality problems and meet the maximum extent practicable standard, as it is outlined in the requirements of section J.2.d of San Diego Regional Water Quality Control Board Order No. 2001-01 (the San Diego County Municipal Storm Water Permit). The lack of implementation of a selection of these types of activities (or their equivalent) during future reporting periods may constitute a violation of Order No. 2001-01.”

⁵ San Diego River Watershed letter provided as example at Attachment 5.

⁶ The attachment to the 13267 letters is also provided in Attachment 5.

As indicated above, the Copermittees on multiple occasions were notified that their WURMP implementation needed improvement. These notifications were collaborative, utilizing a progressive approach that only increased in formality over several years. In addition, the Copermittees have also been provided with examples of what needed to be implemented for compliance to be achieved. Moreover, they were also put on notice that failure to improve could result in enforcement action.

Copermittee Compliance Status

The Copermittees contend that they are in compliance with the WURMP requirements of the permit. Sections J.1 and J.2.d essentially require that the Copermittees implement activities which will address and mitigate the high priority water quality problems in each watershed. When reviewing the Copermittees' WURMP annual reports and 13267 responses, the Regional Board used the following criteria to assess whether the water quality activities proposed by the Copermittees would address and mitigate the high priority water quality problems in each watershed:

1. Activities implemented to meet jurisdictional urban runoff management plan permit requirements were not considered watershed water quality activities. These jurisdictional efforts were not considered watershed water quality activities because they are implemented in the same manner throughout a jurisdiction, without regard for differences in watersheds. Activities implemented in compliance with jurisdictional requirements are a baseline level of effort which does not change based on watershed conditions; watershed activities should differ from jurisdictional activities by providing additional focus on high priority water quality problems within a watershed.
2. Watershed education activities implemented in compliance with permit section J.2.g were not considered watershed water quality activities required under J.2.d. Section J.2.g focuses on education, while section J.2.d focuses on activities that will reduce and abate pollutant discharges causing high priority water quality problems in watersheds. The requirements in these two sections of the permit are separate, requiring separate activities to be implemented.
3. Watershed planning activities implemented in compliance with permit section J.2.h were not considered watershed water quality activities required under J.2.d. Section J.2.h focuses on planning, while section J.2.d focuses on activities that will reduce and abate pollutant discharges causing high priority water quality problems in watersheds. The requirements in these two sections of the permit are separate, requiring separate activities to be implemented.
4. Projects that will only be completed and reduce pollutant discharges after the current permit cycle has expired were not counted as full compliance with watershed water quality activity requirements. While the permit does require long-term activities to be implemented, short-term activities which will reduce

pollutant discharges during this permit cycle are also required.

5. Activities that were only implemented in one small portion of a watershed by one Copermittee within the watershed were not counted as full compliance with watershed water quality activity requirements. An effective watershed program will involve all Copermittees within the watershed, and will address pollutant sources throughout a watershed.
6. Activities that would not reduce the discharge of pollutants were not considered watershed water quality activities in compliance with watershed requirements. Sections J.1 and J.2.d require activities that will mitigate and address high priority water quality problems within a watershed; this involves pollutant discharge reductions.

Following the City of Santee's request that its NOV be rescinded, the Regional Board reviewed the issuance of its NOV. Since all of the Copermittees' watershed annual reports and NOVs are similar, the review of the City of Santee's situation is largely representative of the circumstances for the other Copermittees and watersheds. The review was conducted by both the Southern Watershed Protection Unit, which issued the NOVs, and the Compliance Assurance Unit. The Compliance Assurance Unit reviewed the NOVs, correspondence, case history, and the San Diego River Watershed annual report and 13267 responses, concluding the following:

"The NOV was reasonable in that the dischargers failed to comply with the MS4 permit requirements for implementing activities to effectively deal with the highest priority water quality problems within the watersheds of San Diego County after specifically notified both in meetings and writing prior to the issuance of the NOV."

The Southern Watershed Protection Unit reviewed the San Diego River Watershed annual report and 13267 responses on which the NOV was based. Each watershed water quality activity reported by the San Diego River Watershed Copermittees in their annual report and 13267 responses is listed below, together with the Southern Watershed Protection Unit's findings regarding the reported activity.

1. The first activity described in the annual report is "Data Collection and Analysis." The data collection and analysis described in the report is a reformatting of the dry weather field screening that the Copermittees conduct on a jurisdictional basis, without regard for watershed issues. Moreover, data collection and analysis itself will not reduce pollutant discharges.
2. The second activity described in the annual report is "Erosion Control Measures." As with item no. 1, this is a reformatting of an activity implemented by the Copermittees on a jurisdictional basis, without regard for watershed issues.

3. The third activity described in the annual report is the Prop 13 Forester Creek Improvement Project. This is a long-term project that has not yet begun and likely will not reduce pollutants during the current permit cycle. However, once constructed, it will increase assimilative capacity of Forester Creek. It is unclear what the connection is between this project and the identified high priority water quality problems in the watershed.
4. The fourth activity is the Prop 13 Woodside Avenue Low Flow Water Quality Basin and Arundo Removal Project. This is a long-term project that has not yet begun and likely will not reduce pollutants during this permit cycle. However, once constructed, it will remove pollutants in urban runoff leaving the area. It is unclear what the connection is between this project and the identified high priority water quality problems in the watershed.
5. The fifth activity is the Prop 13 Porous Pavement and Model Municipal Operations Center Demonstration Project. While this project is underway, the municipal yard addressed by this project is not likely to be a significant source of the pollutants causing high priority water quality problems of the watershed.
6. The sixth activity is the Prop 50 Integrated Regional Water Management Grant Program projects. It appears these projects are only planned and have not been implemented. No information is given regarding the projects.

In addition to the annual report, the Copermittees' 13267 response includes information on activities conducted and planned activities for the current permit cycle.

7. Source investigation, storm drain and diversion system improvements, and kelp and dog waste management plan at Dog Beach. The source investigation and kelp and dog waste management plan have been implemented. The storm drain and diversion system improvements will likely not be completed during this permit cycle.
8. "Re-assess watershed organization and direction." This was not implemented at the time of reporting and will not directly reduce pollutant discharges causing high priority water quality problems.
9. "Compile list of reports." This was not implemented at the time of reporting and will not directly reduce pollutant discharges causing high priority water quality problems.
10. "Review existing data." This was not implemented at the time of reporting and will not directly reduce pollutant discharges causing high priority water quality problems.
11. "Develop pollutant focused solutions and activities." This was not implemented at the time of reporting. Note that only development of solutions and activities is

proposed – implementation is not mentioned. Development of solutions and activities itself will not directly reduce pollutant discharges causing high priority water quality problems; implementation is also needed.

12. “Continue to Participate in Watershed Management Plan.” This is a planning activity required under another section of the permit. Participation itself will not directly reduce pollutant discharges causing high priority water quality problems; implementation is also needed.
13. “Generate a watershed-based education program outline.” This is an education activity required under another section of the permit.
14. “Generate a list of indicators for River Health Assessment.” This was not implemented at the time of reporting and will not directly reduce pollutant discharges causing high priority water quality problems.

When the Copermittees’ reported watershed water quality activities listed above are considered, it is clear that only items 3, 4, and 7 have the potential to significantly reduce pollutant discharges that are causing high priority water quality problems within the watershed. However, both items 3 and 4 will likely not be completed during this permit cycle. Activities that will not reduce pollutants within the timeframe of the permit are not considered to be in full compliance with the permit. In addition, item 7 is implemented in a very small portion of the watershed, and similar efforts should be conducted at other likely sources elsewhere in the watershed. Moreover, the activity is only implemented by one Copermittee, rather than all Copermittees in the watershed. All other activities reported by the Copermittees are either (1) activities implemented without regard for watershed issues or activities required by other permit sections; (2) activities that will not reduce the discharge of pollutants and address or mitigate high priority water quality problems; or (3) activities that have not been implemented or will not be completed during the current permit term.

In summary, only one activity was implemented by the Copermittees in the San Diego River Watershed that can be expected to significantly reduce pollutant discharges during this permit cycle. Unfortunately, this activity was limited in its scope and only implemented by one Copermittee in one location. Because of the limited nature of the watershed water quality activities implemented, the Copermittees in the San Diego River watershed were found to be in violation of the MS4 Permit.

Timeliness of the NOVs

The Copermittees have claimed that the NOVs were issued prematurely. Their contention is based on the fact that the Regional Board provided its last comments regarding the WURMPs in a 13267 letter in October 2004, after the reporting period for the WURMP annual reports had closed in July 2004, thereby preventing the Copermittees from reporting updated compliance information in their annual reports. The Regional Board’s 13267 information request, however, was not limited to the time period ending

July 2004. The 13267 information request covered the time period through January 2005, well after October 2004 when the Regional Board's last WURMP comments were issued. The Regional Board reviewed both the Copermittees annual reports and their 13267 responses in determining compliance with the Permit's WURMP requirements. Therefore, the Copermittees' WURMP compliance was assessed based on their efforts conducted up to January 2005, well after the Regional Board's October 2004 comments. Previous comments by the Regional Board dating back to March 2003 regarding the Copermittees' need to improve their WURMP programs also provided the Copermittees with ample time to improve their programs.

Conclusion

Watershed efforts are critical for an effective urban runoff management program. They provide a means to focus on the most important water quality problems in each watershed. By focusing on the most important water quality problems, watershed efforts can maximize protection of beneficial uses in an efficient manner. Because watershed efforts have the potential to maximize effectiveness of urban runoff management programs, the Regional Board plans to bolster the watershed requirements of the reissued Permit. The Copermittees have made significant efforts to identify high priority water quality problems; however, implementation of activities which directly reduce pollutant discharges causing high priority water quality problems is also needed. The strong reaction of the Copermittees to the recently issued NOV's reveals a misconception by the Copermittees of what is necessary to implement an effective WURMP. It is clear that a great deal of work is needed by both the Regional Board and the Copermittees in identifying how watershed efforts can be implemented and assessed. These issues are anticipated to be directly addressed during the Permit reissuance process.

Attachment 1

**Review of Notices of Violation
Issued to the San Diego County Copermittees for
Watershed Urban Runoff Management Program Implementation**

Order No. 2001-01, San Diego Municipal Storm Water Permit requirements:

J. WATERSHED URBAN RUNOFF MANAGEMENT PROGRAM

1. Each Copermitttee shall collaborate with other Copermitttees within its watershed(s) as shown in Table 4. below to identify and mitigate the highest priority water quality issues/pollutants in the watershed(s).
2. Each Copermitttee shall collaborate with all other Copermitttees discharging urban runoff into the same watershed to develop and implement a Watershed Urban Runoff Management Program (Watershed URMP) for the respective watershed. Each Watershed URMP shall, at a minimum contain the following:
 - a. An accurate map of the watershed (preferably in Geographical Information System [GIS] format) that identifies all receiving waters (including the Pacific Ocean); all Clean Water Act section 303(d) impaired receiving waters (including the Pacific Ocean); land uses; MS4s, major highways; jurisdictional boundaries; and inventoried commercial, construction, industrial, municipal sites, and residential areas.
 - b. An assessment of the water quality of all receiving waters in the watershed based upon (1) existing water quality data; and (2) annual watershed water quality monitoring that satisfies the watershed monitoring requirements of Attachment B;
 - c. An identification and prioritization of major water quality problems in the watershed caused or contributed to by MS4 discharges and the likely source(s) of the problem(s);
 - d. An implementation time schedule of short and long-term recommended activities (individual and collective) needed to address the highest priority water quality problem(s). For this section, "short-term activities" shall mean those activities that are to be completed during the life of this Order and "long-term activities" shall mean those activities that are to be completed beyond the life of this Order;
 - e. An identification of the Copermitttee(s) responsible for implementing each recommended activity, including the selection of the Lead Permittee(s) and the time schedule for implementation. In the event that a Lead Permittee is not selected and identified by the Copermitttees in a watershed, the Copermitttee identified in Table 4 as the Lead Permittee for that watershed shall be responsible for implementing the requirements of the Lead Permittee in that watershed by default;
 - f. A mechanism for public participation throughout the entire watershed URMP process;

- g. A watershed based education program;
- h. A mechanism to facilitate collaborative "watershed-based" (i.e., natural resource-based) land use planning with neighboring local governments in the watershed.
- i. Long-term strategy for assessing the effectiveness of the Watershed URMP. The long-term assessment strategy shall identify specific direct and indirect measurements that will track the long-term progress of Watershed URMP towards achieving improvements in receiving water quality. Methods used for assessing effectiveness shall include the following or their equivalent: surveys, pollutant loading estimations, and receiving water quality monitoring. The long-term strategy shall also discuss the role of monitoring data in substantiating or refining the assessment.

Attachment 2

**Review of Notices of Violation
Issued to the San Diego County Copermittees for
Watershed Urban Runoff Management Program Implementation**

September 19, 2005

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court
San Diego, CA 92123-4340

RE: Watershed Notices of Violation

Dear Mr. Robertus:

On behalf of the City/County Managers Association (CCMA) of San Diego County we want to register our objections to the numerous Notices of Violation (NOVs) that were issued last June, including to the County of San Diego, and the cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Marcos, Santee, Solana Beach, and Vista.

We appreciate the opportunity we had last month to meet with you on this matter, and for the presentation that you made this month to the CCMA at its regular monthly meeting. As you could tell, among the group of city managers there is widespread displeasure regarding the issuance of the NOVs. In particular, we object to the seemingly generic form and content of the notices, and the obvious lack of specificity regarding the nature of the violations. If, as you stated at the September 8th CCMA meeting, your primary intent was to provide a sort of "courtesy notification" of the Regional Board's concern regarding a lack of measurable progress in reducing pollutants in the watersheds, we feel that using this approach to achieve that was unnecessarily heavy-handed, threatening, and counterproductive. Further, lacking adequate specificity, it is impossible from the NOVs for us to discern what "illegal" or "improper" conduct we are being charged with, if any, and what appropriate corrective actions we should take.

That said, the Copermittees are committed to the improvement of their stormwater/watershed protection programs, and the identification of high priority pollutants of concern and their abatement to the maximum extent practicable. While we agree that additional work is needed, we respectfully disagree with your conclusion that we are in violation of Permit No. 2001-01. Further, we believe that the Copermittees have implemented programs and activities that meet both the spirit and letter of the Municipal Permit, and that specifically address high priority pollutants of concern.

An illustrative example is what has occurred in the Carlsbad watershed. The 2005 Carlsbad WURMP Annual Report includes information on high priority water quality problems and activities implemented during fiscal year 2003-2004 to address problems

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SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD
9174 SKY PARK COURT
SAN DIEGO, CA 92123-4340

within the watershed. As discussed in the WURMP Annual Report, the major water quality problems identified in the Carlsbad Watershed are:

1. Bacteria
2. TSS and turbidity (Sediment/Siltation); and
3. Diazinon

The methodology and reasoning used to identify and prioritize water quality problems in the Watershed, as well as a description of the most beneficial water quality activities available, given the potential sources of each pollutant, is also discussed in the Annual Report. The Annual Report then goes on to give a detailed description of the specific watershed activities conducted during the 2003-2004 reporting period, including targeted projects such as: a bacteria study in the Agua Hedionda sub-watershed (funded through a RWQCB Grant Program); grant applications for additional source identification for bacteria sources through Proposition 50; development of a common, inter-jurisdictional system for tracking of SUSMP projects (addressing sedimentation); and a grant-funded project for monitoring Diazinon in the watershed. Finally, a Summary Table, including the objective of each activity, the priority pollutants addressed by each activity, and the implementation schedule, was included as an attachment to the Report.

Based on the information as described in annual reports submitted in January 2005, we believe the Stormwater Permit requirements for implementing activities that address water quality problems in the watershed were fulfilled during the 2003-2004 reporting period. Unfortunately, the NOV's are without adequate specificity to both understand the unlawful or improper conduct and to enable us to take appropriate corrective action.


In addition, we feel that the Agency's staff fails to acknowledge the work that was and is being done by the Copermittees to address watershed based water quality problems on a jurisdiction-by-jurisdiction basis. That may in part be due to the fact that, in preparing the last annual reports, the Copermittees were specifically instructed by Regional Board staff to not include any information regarding efforts already covered in their respective Jurisdictional Urban Runoff Management Plans (JURMPs). This is unfortunate since the efforts currently being undertaken under each JURMP include elements that will benefit each watershed as a whole. It seems obvious to us that significant accomplishments are going unrecognized, or are simply lost in the volumes of reporting material we are required to submit to you on an annual basis.


As a case in point, you were surprised to learn at the CCMA meeting you recently attended that the six point measurement of effectiveness model which you so highly touted was actually developed by the Copermittees here in San Diego, and was included in a previous report submitted to your staff (see attachment). While we admit that developing and implementing these complex programs for the first time has taken several years, this revelation is evidence of the excellent work that the Copermittees have undertaken on behalf of the watersheds over the past several years, and those efforts are continuing.

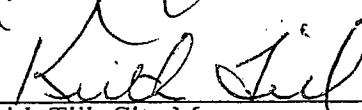
Finally, you stated in our meeting in August that the NOV's were issued after a series of "warnings" in the form of comment letters issued over the past few years to which the Copermittees have failed to adequately respond. On the contrary, we believe that we have continually responded in a proactive manner to each and every request for change and modifications based on both your staffs' written requests and subsequent conversations with them. Attached is a brief chronology that shows that the violations alluded to but not specified in the NOV's relate to programs that have or will be implemented this year and documented in the next annual report due in January 2006. At best then, in our opinion, the NOV's were sent prematurely without consideration of the progress that will be reported in January.

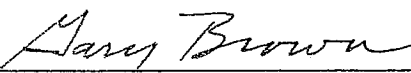
In conclusion, if we understand correctly from our prior meetings with you, your real concern is that the Copermittees demonstrate measurable progress in reducing high priority pollutants in the watersheds and that they work together to accomplish that. We agree that this must be addressed in the next phase. We agree that a high level of collaboration will be required, and that the agency's collaborative involvement with the Copermittees is critical. However, we feel that the issuance of generic NOV's as a "courtesy" is inconsistent with collaboration. To that end, we respectfully request that the NOV's be withdrawn and that we embark on a continuous dialogue, complementary to that which is occurring at the staff level, among the Regional Board, you and the local policymakers to determine the most constructive way to promote cooperation in resolving issues and ensuring that high priority pollutants are abated to the maximum extent practicable.

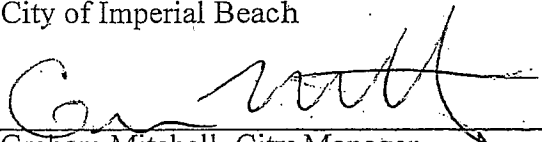
Sincerely,

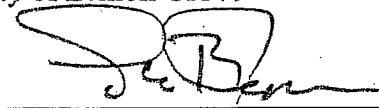

Kerry Miller, Chair of CCMA
City Manager, City of Encinitas


Barry Johnson, City Manager
City of Solana Beach


Keith Till, City Manager
City of Santee


Gary Brown, City Manager
City of Imperial Beach


Graham Mitchell, City Manager
City of Lemon Grove


Steven Jepsen, City Manager
City of Oceanside

CC:
Chair and Members of the RWQCB
City Managers
County Manager
Copermittees

Chronology of RWQCB Comments and Actions

- January 2003 Copermittees submit their Watershed Urban Runoff Management Programs, outlining their respective programs
- March 2003 Minor comments regarding these programs are received from RWQCB staff
- January 2004 Comments from RWQCB staff are incorporated into the Fiscal Year (FY) 2002-2003 Annual Report
- October 2004 RWQCB sends a "Directive Issued Pursuant to California Water Code Section 13267" for information on the implementation of the WURMPs. *These comments are received after the close of the fiscal year (FY 2003-04) and therefore could not be acted on in the annual report submitted in January 2005*
- January 2005 Copermittees submit the required 13267 Technical Responses, along with a discussion of specific programmatic changes and their implementation schedules, for each Watershed and the FY2003-2004 WURMP Annual Reports. Again, since the RWQCB staff's 13267 Directive comments are received after the close of the fiscal year (FY2003-04), the specific changes to the Programs that are requested cannot be implemented until fiscal year FY 2004-2005, and as such, these changes will not appear until January 2006
- June 2005 RWQCB issues a NOV as a response to the WURMP Annual Reports and 13267 Technical Reports submitted in January 2005.



County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA 92101-2472

GM 9/28
Mike McComm 9/30
pls include in EA Report

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COUNTY OF SAN DIEGO
CHIEF ADMINISTRATIVE OFFICE

September 23, 2005

Mr. John H. Robertus, Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

NOTICE OF VIOLATION NO. R9-2005-0196; WDID NO. 9-0000510S1; SDRWQCB ORDER NO. 2001-01, NPDES NO. CAS01087578

Dear Mr. Robertus:

As Regional Lead Copermitee under San Diego Regional Water Quality Control Board (SDRWQCB) Order No. 2001-01 (Municipal Permit), the County of San Diego is formally responding to the eight (8) Notices of Violation (NOVs) that SDRWQCB issued regarding the Watershed Urban Runoff Management Program (WURMP) Annual Reports. Other jurisdictions may also choose to respond separately.

We are writing to express concern with two (2) specific aspects of the NOVs: their assertion that our programs have not implemented activities to address high priority pollutants of concern, and the timing of their issuance. We have attached a copy of one of the NOVs for your reference. The other NOVs are substantially the same, with the only difference being the reference to the particular watershed.

1) Implementation of Activities Addressing High Priority Pollutants of Concern

While it can always be argued that additional work is needed to improve our programs, we respectfully disagree with RWQCB staff's assertion that we are in violation of the Municipal Permit. Further, the County believes that it has moved forward with programs and activities that meet both the spirit and letter of the Municipal Permit, and which specifically address High Priority Pollutants of Concern. These are clearly listed in each of the WURMP Annual Reports. The Annual Reports describe the methodology and reasoning used to identify and prioritize water quality problems in the Watershed, and provide a description of the most beneficial water quality activities available, given the potential sources of each pollutant.

In addition, each Annual Report includes a detailed description of the specific watershed activities conducted during the 2003-2004 reporting period, clearly listing how they address the specific pollutants of concern.

Finally, each Annual Report includes specific "Summary Tables", including the objective of each activity, the priority pollutants addressed by each activity, and the implementation

schedule. As an illustrative example, we have included a copy of the Summary Table from the San Diego Bay WURMP Annual Report as an attachment to this letter for your reference. Based on the information described in the 2005 Annual Report, we believe the Stormwater Permit requirements for implementing activities that address water quality problems in our watershed were fulfilled during the 2003-2004 reporting period. Unfortunately, the NOV's are without adequate specificity to both understand the unlawful or improper conduct and to enable us to take appropriate corrective action.

Further, we believe that the NOV's failed to acknowledge the work that is being done by the Copermittees to address watershed-based water quality problems on a jurisdiction-by-jurisdiction basis. In preparing these Annual Reports, the Copermittees were specifically told by RWQCB staff not to include any information regarding efforts already covered in their respective Jurisdictional Urban Runoff Management Plans (JURMPs). In many cases, impacts and constituents of concern identified at a watershed-scale are currently being addressed by each jurisdiction. It must be acknowledged that state law limits us to implementing activities within our own jurisdiction. As such, the efforts currently being undertaken under each JURMP include elements that will benefit each watershed as a whole. We believe that an analysis of the Copermittee's efforts must include greater consideration of how the JURMP and WURMP activities overlap.

2) Timing of the Notices of Violation

The Copermittees respectfully assert that these NOV's were prematurely issued by the RWQCB. As you stated in a meeting on September 8, these NOV's were issued after a series of "warnings" in the form of comment letters issued over the past few years. However, we believe that we have continually responded in a positive, proactive, and timely manner to each and every request for change and modifications based on both the written requests and subsequent conversations with your technical staff. The following provides a brief chronology of the comments received and the Copermittees actions in response.

January 2003	Copermittees submit their Watershed Urban Runoff Management Programs, outlining their respective programs
March 2003	Minor comments regarding these programs are received from RWQCB staff
January 2004	Comments from RWQCB staff are incorporated into the Fiscal Year (FY) 2002-2003 Annual Report
October 2004	RWQCB sends a "Directive Issued Pursuant to California Water Code Section 13267" for information on the implementation of the WURMPs. <u><i>These comments are received after the close of the fiscal year (FY 2003-04) and therefore could not be acted on in the annual report submitted in January 2005.</i></u>
January 2005	Copermittees submit the required 13267 Technical Responses, along with a discussion of specific programmatic changes and their implementation schedules, for each Watershed and the FY2003-2004 WURMP Annual Reports. Again, since the RWQCB staff's 13267 Directive comments are received after the close of the fiscal year (FY 2003-04), the specific changes to the Programs that are requested cannot be implemented until fiscal year (FY 2004-2005), and as such, these changes will not appear until the January 2006 report.

June 2005

RWQCB issues an NOV as a response to the WURMP Annual Reports and 13267 Technical Reports submitted in January 2005.

The NOV's assert that the Copermittes were in violation of Section J.2.d of the Municipal Permit, which states:

"An implementation [schedule¹] of short and long-term recommended activities (individual and collective) needed to address the highest priority water quality problem(s). For this section, "short term activities" shall mean those activities that are to be completed during the life of this Order and "long term activities" shall mean those activities that are to be completed beyond the life of this Order."

Each Annual Report has presented the requested implementation schedule of short and long-term activities to address highest priority water quality activities. Further, we have been consistently moving forward with the implementation of activities we have identified as addressing high priority pollutants in the watersheds.

Conclusion

We want to reiterate our firm commitment to the identification of high priority pollutants of concern, and then to their abatement to the maximum extent practicable as required under the Clean Water Act, and the National Pollutant Discharge Elimination System (NPDES). Indeed, the County of San Diego is committed to the improvement of our watershed programs. We take our responsibilities seriously, and will continue to go above and beyond the requirements of the Municipal Permit. For example, in your recent presentation before the City and County Manager's Association (CCMA) on September 8, 2005, you lauded work of the Effectiveness Assessment Subcommittee of CASQA, and I'm pleased to note that the recently published CASQA Framework Document was, in fact, the work of the San Diego County Copermittes, led by Jon VanRhyn with the County's Watershed Protection Program. This document, which arose out of the Copermittes' concern for our responsibilities under the Municipal Permit, is just one example of our dedication to improving our programs and to the clean-up of the County's watersheds.

Accordingly, we request that the NOV's be withdrawn and that we embark on a permanent dialogue among the Regional Board, its staff, and the policymakers of the cities and the County to determine the most constructive way of resolving issues in the future and ensuring that high priority pollutants are identified and abated.

Sincerely,



Robert R. Copper
Deputy Chief Administrative Officer
Land Use Environment Group

RRC/ew

Attachments

cc: Jack Minan, Chairman, Regional Water Quality Control Board, San Diego Region
Michael P. McCann, Supervising Water Resource Control Engineer, Regional Water Quality Control Board, San Diego Region

¹ The quoted section of the permit included in the NOV inadvertently left out "schedule".



California Regional Water Quality Control Board San Diego Region

UUCG



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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Phone (858) 467-2952 • FAX (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

June 17, 2005

IN THE MATTER OF)
)
Mr. Walt Ekard)
Chief Administrative Officer)
County of San Diego)
1600 Pacific Highway, Room 209)
San Diego, CA 92101)
)

**NOTICE OF VIOLATION
NO. R9-2005-0196**

**WDID NO.
9 0000510S1**

Order No. 2001-01, NPDES No. CAS0108758

Subject: Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in San Diego Regional Water Quality Control Board (Regional Board) Order No. 2001-01, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District. Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The Regional Board has reviewed the Watershed Urban Runoff Management Program 2003-2004 Annual Reports and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information. Review of these documents exhibits that the County of San Diego (County) is in violation of Order No. 2001-01 for failure to implement adequate Watershed Urban Runoff Management Programs.

SUMMARY OF VIOLATIONS

I. San Diego River Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program

California Environmental Protection Agency

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2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While efforts to address bacteria at the mouth of the San Diego River have been conducted, sources and pollutant loadings contributing to this water quality problem in other portions of the watershed have not been addressed on a watershed basis.

II. San Dieguito Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

III. Penasquitos Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While efforts to address erosion resulting from fires have been conducted, sources and pollutant loadings contributing to this water quality problem in other portions of the watershed have not been addressed on a watershed basis. Moreover, activities addressing other high priority water quality problems, such as bacteria, have not been implemented.

IV. San Diego Bay Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant

loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While monitoring efforts addressing total maximum daily loads and other water quality problems have been conducted, sources and pollutant loadings contributing to these water quality problems have not been addressed on a watershed basis.

V. Tijuana River Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

VI. Carlsbad Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring, and public education efforts have been conducted and/or planned that focus on watersheds and high priority constituents of concern, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

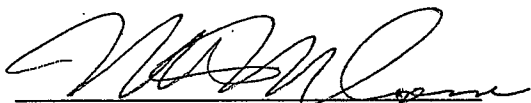
VII. San Luis Rey Watershed Urban Runoff Management Program

You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring, and public education efforts have been conducted and/or planned that focus on watersheds and

high priority constituents of concern, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

Questions pertaining to the issuance of this Notice of Violation should be directed to Phil Hammer at (858) 627-3988 or phammer@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Michael P. McCann
Supervising Water Resource Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340



Michael P. McCann
Supervising Water Resource Control Engineer

6/17/05
DATE

CC: Chandra Waller
Assistant Director
Department of Public Works
County of San Diego
5201 Ruffin Road (MS-0336)
San Diego, CA 92123-4310

Jon Van Rhyn
DPW Watershed Protection Program
County of San Diego
9325 Hazard Way
San Diego, CA 92123

Cid Tesoro
DPW Watershed Protection Program
County of San Diego
9325 Hazard Way
San Diego, CA 92123

Mr. Walt Ekard

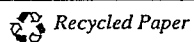
Page 5

June 17, 2005

Joe DeStefano
County of San Diego
9325 Hazard Way
San Diego, CA 92123

Certified Mail No. 7005 0390 0005 2954 2979

California Environmental Protection Agency



Attachment 1

Watershed URMP Amendments

2004-2005 San Diego Bay Watershed Education Activities

Long-term Activity	Short-term Activity	Objectives	Priority Pollutants Addressed	Implementation Schedule	
Education Action Plan	Public Presentations and Media/Watershed Element	Jurisdiction stormwater-specific events	All*	Ongoing	
		Jurisdiction-hosted events	All*		
		Community-hosted events	Watershed concept		
	School Programs	Festival participation	Watershed concept	Watershed concept	Ongoing
			Print Media	Watershed concept	
		Public Service Announcements	Watershed concept; bacteria	Watershed concept	
			Jurisdiction staff presentations	All*	
	IPM Campaign	Jurisdiction-sponsored presentations	All*	Ongoing	
		Field trips	Watershed concept	Ongoing	
		Project SWELL	All*	Ongoing	
	Project Clean Water Website	Regional program	Diazinon	Through 2007	
		Information related to surface water issues, watersheds, and pollutants	All*	Ongoing	
	Partners in Clean Water	Cleanup Events	Watershed concept	Ongoing	
Citizen monitoring / training		All*			
Storm drain stenciling events		Watershed concept			
Chollas Creek Enhancement Plan – Education Tasks	Common Ground Grant	All*	Through 2007		
	Develop and implement water quality-based education and outreach campaign	Diazinon			

*Improved data management will improve evaluations of all priority pollutants within the watershed.

2004-2005 San Diego Bay Watershed Planning Activities

Long-term Activity	Short-term Activity	Objectives	Priority Pollutants Addressed	Implementation Schedule
Individual Jurisdictional Planning	General Plan Updates	Provide water quality protections by controlling the type and placement of activities allowing in critical areas; provide a framework within which site-specific control measures may be identified and imposed during development and redevelopment	Turbidity / TSS	Ongoing
Inter-jurisdictional Planning Mechanisms		Implement notification mechanisms to address watershed planning issues		
Watershed URMP Workgroup		Provide opportunity for San Diego Bay Copermittees to meet and discuss development and implementation of watershed activities. Also provides opportunity for public participation in the watershed process.	All*	Ongoing
	Source Water Protection Guidelines	Review development projects within the San Diego Bay Watershed (and other watersheds within the City of San Diego's jurisdiction) and provide guidance for developments where there are possible impacts to surface water resources.	Turbidity / TSS	Ongoing
	Multiple Species Conservation Plan	Maintain and enhance biological diversity in the region and maintain viable populations of endangered, threatened, and sensitive species and their habitats.	All*	Ongoing
Inter-jurisdictional Planning Mechanisms	Otay Watershed Management Plan	Characterize the Otay River Watershed's resources and land uses; assess and prioritize threats to existing beneficial uses and natural resources; identify implementation strategies for the protection, enhancement, and restoration of natural resources.	All*	Ongoing
	Otay Special Area Management Plan	Provide natural resource protection and reasonable economic growth within geographic areas of special sensitivity; assist federal, state, and local regulatory agencies with decision making and permitting authority to protect aquatic resources.	All*	Ongoing

*Improved data management will improve evaluations of all priority pollutants within the watershed.

2004-2005 San Diego Bay Watershed Public Participation Activities

Long-term Activity	Short-term Activity	Objectives	Priority Pollutants Addressed	Implementation Schedule
Watershed URMP Workgroup		Provide opportunity for San Diego Bay Copermittees to meet and discuss development and implementation of watershed activities. Also provides opportunity for public participation in the watershed process.	All*	Ongoing
Integration and Participation in Local Planning Activities	Development of Otay River Watershed Management Plan	Characterize the Otay River Watershed's resources and land uses; assess and prioritize threats to existing beneficial uses and natural resources; identify implementation strategies for the protection, enhancement, and restoration of natural resources.	All*	Ongoing
	Development of Otay River Special Area Management Plan	Provide natural resource protection and reasonable economic growth within geographic areas of special sensitivity; assist federal, state, and local regulatory agencies with decision making and permitting authority to protect aquatic resources.	All*	Ongoing
Project Clean Water website		Provide general urban runoff and watershed specific information to the public	All*	Ongoing
Workshops and Conferences Presentations		Distribute information and education regarding stormwater issues	All*	Ongoing
Community Events		Present information on local stormwater issues to the public, including school groups	All*	Ongoing
Cleanup Events		Participate in local community events and festivals to distribute information to the public and provide an opportunity for direct interaction.	All*	Ongoing
Direct Interaction		Provide the opportunity for local stakeholders to participate in the improvement of neighborhood water bodies	All*	Ongoing
		Provide the opportunity for day-to-day personal interaction to increase awareness of stormwater issues	All*	Ongoing

*Improved data management will improve evaluations of all priority pollutants within the watershed.

2004-2005 San Diego Bay Watershed Water Quality Activities

Long-term Activity	Short-term Activity	Objectives	Priority Pollutants Addressed	Implementation Schedule
Data Collection	Common Grounds Grant	1. Establishment of a Regional Water Monitoring and Resource Center. 2. Monitoring activities in support of TMDL development addressing benthic community degradation and sediment toxicity. 3. Development of a Geographic Information System (GIS) database for water resources. 4. Creation of an interactive web-based outreach, education, and decision-making tool.	All*	Through 2007
	Incorporate additional data sets into water quality assessment	Improve water quality assessment	All*	Will Occur Annually
	Develop Guidelines for incorporating additional data sets	Improve water quality assessment	All*	Ongoing
	Regional IPM Program – PRISM Grant	Implement a focus community-based educational program in the Chollas Creek watershed Implement a water quality monitoring program for diazinon in the Chollas Creek watershed	Diazinon	Through 2007
Chollas Creek Diazinon TMDL		Reduce diazinon loads in Chollas Creek	Diazinon	Ongoing
Downtown Piers, Switzer Creek, Grape St TMDL		Assess sediment conditions and determine spatial extent of contamination and adverse biological impacts at each site. Support the development of TMDLs and cleanup plans.	Undetermined***	Ongoing
Chollas Creek and Paleta Creek TMDLs (at the creek mouths)		Assess sediment conditions and determine spatial extent of contamination and adverse biological impacts at each site. Support the development of TMDLs and implementation plans.	Undetermined***	Ongoing
SIYB Copper TMDL		Reduce the amounts of dissolved copper in SIYB	Copper	Ongoing
	Regional Harbor Monitoring Program	Provide an ongoing assessment of ambient conditions in San Diego Bay. Determine where focus studies should be conducted. Remove concrete sections of the channel Widen the floodplain Create and restore wetland and transitional upland habitats	All*	Ongoing through 2008
	Chollas Creek Enhancement Plan	Find and eliminate discharges having high pollutant loads. Individual jurisdictional efforts will improve watershed water quality	Diazinon, Copper**, Zinc**	Through 2007
	Jurisdictional Dry Weather Monitoring Programs	Verify BMP implementation at facilities within the watershed jurisdictions	All	Will occur annually
	Jurisdictional Inspection Programs (Industrial, Commercial, Municipal)	Establish source controls and treatment controls in development and redevelopment projects subject to jurisdictional SUSMPs.	All	Will occur annually
SUSMP Implementation			All	Ongoing

*Improved data management will improve evaluations of all priority pollutants within the watershed.

**Metals analysis also will occur through required TMDL monitoring under the Diazinon TMDL Implementation Plan.

***TIEs are being performed to determine the sources of toxicity.



SMC 9/12

3165 Pacific Highway, San Diego, CA 92101
P.O. Box 120488, San Diego, CA 92112-0488
619.686.6200 - www.portofsandiego.org

Bob Marra 9/12
Phil Hammer 9/15/05

September 8, 2005

Via Certified Mail

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

Subject: Notice of Violation No. R9-2005-0188

Dear Mr. Robertus:

As the lead Copermittee for the San Diego Bay Watershed, the Port of San Diego (Port) is responding to Notice of Violation letters sent regarding activities within the San Diego Bay Watershed. The Port is responding on behalf of the San Diego Bay Watershed Workgroup, which also includes the Cities of Chula Vista, Coronado, Imperial Beach, La Mesa, Lemon Grove, National City, San Diego, the County of San Diego, and the San Diego County Regional Airport Authority. Please note, however, that each jurisdiction may also choose to respond separately.

The Notice of Violation (No. R9-2005-0188) issued to the Port by the San Diego Regional Water Quality Control Board (RWQCB) stated that San Diego Bay Copermittees "failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed." It further stated that, "effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented." Notice of Violation letters sent to all other San Diego Bay Copermittees included similar language. The Copermittees feel adequate activities were implemented during the 2003-2004 reporting period in the San Diego Bay Watershed and, therefore, the noted violations of the Stormwater Permit are unsubstantiated.

Several factors are used to determine water quality activities that will be implemented each year in the San Diego Bay Watershed. Copermittees annually re-assess water quality problems using monitoring data collected throughout the watershed. Activities are thoroughly evaluated to ensure pollutants or their sources are adequately addressed. For example, educational activities are being used to address pesticides in the San Diego Bay Watershed; residential use of pesticides is the primary source of this pollutant and education is one of the best methods to encourage behavioral change. The Copermittees have also used targeted studies to determine sources for other high

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Mr. John Robertus
Page 2
September 8, 2005

priority water quality problems, such as the Shelter Island Shoreline Park bacterial source investigation. The San Diego Bay Copermittees are dedicated to resolving water quality issues within the watershed and are continually looking for more effective and efficient ways to accomplish these tasks.

The 2005 San Diego Bay Watershed URMP Annual Report includes information on high priority water quality problems and activities implemented during 2003-2004 to address these problems. The major water quality problems in the San Diego Bay Watershed are diazinon, copper and zinc, bacterial indicators, and turbidity/TSS (Table 2-5, pp. 24-25). The reasoning used to identify water quality problems, as well as a description of the most beneficial water quality activities available given the potential sources of each pollutant, is discussed on pages 24-28 of the 2005 Annual Report. The report also includes a detailed description of watershed activities conducted during the 2003-2004 reporting period (Section 3).

In response to the October 8, 2004, 13267 Letter from the RWQCB (WPS:10-5000.02:hammp), a list of upcoming activities was submitted as Attachment 1 of the 2005 Annual Report. We believe this activity list identifies appropriate activities to adequately meet Permit requirements for the 2004-2005 reporting period. A copy of Attachment 1 is included with this letter for your reference. Based on the information described in the 2005 Annual Report, we believe the Stormwater Permit requirements for implementing activities that address water quality problems in our watershed were fulfilled.

The San Diego Bay Copermittees are moving forward and working proactively to improve our program. New activities continue to be identified and refined. The primary focus of new activities is on pollutant sources, rather than on treatment control and end-of-pipe activities. Source control activities ultimately provide greater improvements in water quality and in the long run are more cost-effective than treatment control activities. The Copermittees want to ensure the implementation of effective watershed activities while maximizing available resources.

Great strides have been made in the implementation of watershed activities during the current five-year Permit cycle. The San Diego Bay Copermittees are proud of the activities that have been implemented and believe significant progress has been made to effectively address high priority water quality problems in the watershed. Watershed management efforts being implemented under the Municipal Stormwater Permit continue to evolve. Although improvements to water quality and pollutant load reductions based on these activities may not be evident for several years, we continue to work to reduce water quality problems in the watershed by developing thoughtful and effective activities that address identified pollutant sources. The identification of pollutant sources is an arduous task, one that the San Diego Bay Copermittees do not

Mr. John Robertus
Page 3
September 8, 2005

take lightly. We would like to work with the RWQCB to achieve our mutual long-term goal of improved water quality and welcome participation by RWQCB staff at San Diego Bay Watershed meetings.

Respectfully,



David Merk, Director
Environmental Services Department

DM:MW:rg

cc: Chairman Minan
Kerry Miller, City of Encinitas
Jon Van Rhyn, County of San Diego
Joseph DeStefano, County of San Diego
Drew Kleis, City of San Diego
Khosro Aminpour, City of Chula Vista
Scott Huth, City of Coronado
Hank Levien, City of Imperial Beach
Cora Long, City of Lemon Grove
Malik Tamimi, City of La Mesa
Din Daneshfar, City of National City
Karen Helyer, Port of San Diego
Richard Gilb, San Diego County Regional Airport Authority

Docs #147563



City of Del Mar

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

MM 8/5
Mike McLann
Where the Turf meets the Surf

WATER QUALITY CONTROL BOARD

pls respond. there seems to be a gap in understanding of compliance.

2005 AUG -4 P 4: 31

MM 8/30/05
RM 9/15
P. Hammer 9/15

August 3, 2005

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

SUBJECT: NOTICE OF VIOLATION NO. R9-2005-0192, June 17, 2005

Dear Mr. Robertus:

This letter is in response to alleged non-compliance of waste discharge requirements contained in the San Diego Regional Water Quality Control Board (Regional Board) Order No. 2001-01, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758 (Order), as described in the above referenced Notice of Violation (NOV). This was issued to the City of Del Mar as a Copermittee in the Watershed Urban Runoff Management Program in San Dieguito and Los Peñasquitos watersheds.

The City of Del Mar, the smallest coastal municipality in San Diego County, takes its role in protecting water quality and water resources very seriously. We have been diligent in implementing the requirements in the Order both at the jurisdictional and watershed level in order to comply with the requirements over the last four years.

The City of Del Mar has actively participated in both the San Dieguito and Los Peñasquitos watersheds at various levels and in programs and activities that extend, in many cases, beyond the programmatic elements described in the Order. Since the issuance of Order No. 2001-01, we have contributed to the development of the two Watershed Urban Runoff Management Plans (WURMP) in January 2003 and subsequent Annual Reports. We have collaborated with our watershed copermittees and the City of San Diego (as the lead copermittee from 2001-2005) to a degree that extends beyond our potential contributions to and affects on the watershed. The City of Del Mar's percentage of land is only 151 acres or 0.25 percent of the Los Peñasquitos Watershed and 992 acres or 0.45 percent in the very large San Dieguito watershed.

Our watershed-based commitment and involvement over the last decade has been extensive and goes beyond urban runoff management into areas of land use planning and policy with significant water quality benefits and protection of



Mr. John Robertus
August 3, 2005
Page 2

environmental resources (beneficial uses). Examples of the City's efforts are many and are highlighted by these significant accomplishments:

- Since 2004, the City has actively participated in the development of the San Dieguito Watershed Management.
- Since 2002, the City has actively participated in the development of the Los Peñasquitos Watershed Management Plan under a grant from the State of California which was completed on March 15, 2005.
- In the last five years, the City has taken the lead on three separate occasions to open the mouth of the San Dieguito Lagoon to restore its vitality.
- The City has purchased land and designated it as open space along the shores of the San Dieguito Lagoon and San Dieguito Drive.
- In June 1989 the San Dieguito River Valley Regional Open Space Park Joint Powers Authority (San Dieguito River Park) was formed and empowered to acquire, plan, design, improve, operate and maintain the river corridor of the watershed. The City of Del Mar is one of the San Diego River Park founding members and has participated in meeting its mission. After many years of planning, environmental review and legal challenges, Southern California Edison will be starting construction of this project in the fall of this year.
- The City has been proactive in its involvement reviewing and commenting on flood plain development plans by the 22nd District Agricultural Association (San Diego Fairgrounds) to encourage the protection of the San Dieguito Lagoon and associated habitat, especially with regard to wastewater discharge.

In January 2005, the City of Del Mar and other watershed copermittees were notified by the City of San Diego that they would no longer be fulfilling the role and their obligations as the lead copermittee for the San Dieguito and Los Peñasquitos Watershed Urban Run-off Management Plans (WURMP). As stated in the Order, the role of lead copermittee for the Los Peñasquitos Watershed reverted to the City of Del Mar. We immediately took measures to address this management change and worked with our colleagues in the San Dieguito and Los Peñasquitos Watersheds to chart a new course for the two watershed programs and submit the required annual reports on time. The revised plan and our objectives were outlined in the 2003-04 Annual Reports for both watersheds and the response to the 13267 Letter issued by the Regional Board in October 2004.

The City of Del Mar was actively engaged, and provided leadership during this interim time period until the City of Poway agreed to take the leadership role for the Los Peñasquitos Watershed in March 2005. To date, the copermittees in the San Dieguito and Los Peñasquitos watersheds continue working together to

Mr. John Robertus
August 3, 2005
Page 3

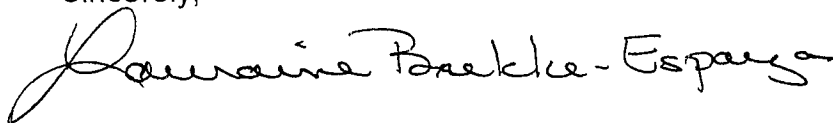
complete the program elements and activities described in the 2003 WURMP, subsequent Annual Reports, and the 13267 Letter Response. Our activities have been clearly stated in these documents and are within the requirements outlined in Section J of the Order.

We believe the NOV was issued incorrectly and is the result of an incomplete evaluation of the copermittees activities and programs outlined in the WURMP documents. The inadequacy of the evaluation is demonstrated by the complete absence of specific grounds for the issuance of the NOV. The Regional Board's NOV provide no statement of what needs to be done to correct the alleged deficiencies which would have been identified if a comprehensive assessment of the programs had been completed. The City of Del Mar requests that the NOV be withdrawn or rescinded since the factual and/or legal grounds for its issuance have not been clearly stated, and as such it provides the Regional Board with a "blank check" to issue unsubstantiated fines, refer us to the State Attorney General or even to the District Attorney for criminal prosecution as stated so clearly in the first paragraph of your letter.

The City of Del Mar is in compliance with Order No. 2001-01, and fully engaged in the current work being performed by the San Dieguito and Los Peñasquitos Watershed copermittees to implement activities that address urban runoff pollutants of concern. We welcome a structured dialogue with you and your staff to receive constructive input on short- and long-term activities that improve urban runoff and protect water quality as we continue the refinement of the WURMP for the two watersheds.

We appreciate the time you have taken to consider our concerns and comments on this very important issue for the City of Del Mar.

Sincerely,



Lauraine Brekke-Esparza
City Manager

cc: Del Mar Mayor & City Councilmembers
John Minan, Chair, San Diego Regional Water Quality Control Board
Susan Ritschel, Municipal appointee, San Diego Regional Water Quality Control Board

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CITY OF SANTEE

Celebrating 25 Years of Excellence

MAYOR
Randy Voepel

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John W. Minto
Hal Ryan

CITY MANAGER
Keith Till

August 5, 2005

California Regional Water Quality Control Board, San Diego Region
9174 Skypark Court, Suite 100
San Diego, CA 92123

Attn: Mr. John Robertus, Executive Officer

**SUBJECT: Notice of Violation (R9-2005-0191) - Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports
WDID NO. 9 000510S19**

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD
2005 AUG 11 P 12:34

The City of Santee acknowledges receipt of Notice of Violation (NOV) No. R9-2005-0191 and would like to take this opportunity to comment upon activities conducted in Santee and the San Diego River Watershed. The City strongly takes exception to said NOV and requests that it be rescinded.

As detailed in the San Diego River Watershed Urban Runoff Management Program (WURMP) 2003-2004 Report, significant activities have been conducted to address high priority water quality concerns throughout the San Diego River Watershed. The City of Santee and its municipal watershed partners, the Cities of San Diego, El Cajon, La Mesa, Poway, and the County of San Diego continue to offer solutions to watershed issues through concerted efforts both locally and on a watershed scale.

We are committed to the identification of measures that will satisfy mutual interests in improving the overall health of the watershed we share. Further, the City of Santee is dedicated to the stewardship of the San Diego River Watershed through local action and regional partnerships. Through the following synopsis, the City of Santee would like to highlight those significant activities and measures embraced by the City in support of watershed management.

Data Collection & Analysis

The City of Santee continued an expanded 2003-2004 Dry Weather Monitoring Program to include 5 additional monitoring stations at the upstream and downstream reach of the San Diego River, Forester Creek and Sycamore Creek through the City. Two rounds of sampling were conducted as part of the City of Santee Dry Weather Monitoring Program

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Notice of Violation (R9-2005-0191) - Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports WDID NO. 9 000510S19
August 5, 2005
Page 2 of 5

to evaluate the water quality of the San Diego River and the other major tributary creeks that collect the City's storm water. The objective of the additional study was to assess the water quality changes on the river and creeks as a result of flowing through urbanized areas in the City of Santee.

Proposition 13 Grant Awards

On June 17, 2004, the City of Santee was awarded a \$3,000,000 Proposition 13 Watershed Protection Program to aid in funding of the Forester Creek Improvement Project. The Forester Creek Improvement Project involves creation of a widened, naturalized, vegetated channel to expand riparian habitat and wetlands habitat, and increase flood control capacity in a 1.2 mile reach of Forester Creek through the City of Santee.

The restoration of Forester Creek was developed to solve problems within its reach through Santee and its contribution to water quality problems in the greater San Diego River Watershed. Adverse conditions in Forester Creek include water quality impairments, habitat loss, and degraded natural stream function. Through identifying and addressing each of these needs, the City of Santee established the following goals to improve water quality and enhance habitat in Forester Creek and the San Diego River:

- Control water velocity and volume to minimize erosion and sedimentation
- Protect and enhance riparian and wetland habitat
- Reduce non-point source discharges to the San Diego River
- Restore beneficial uses and protect surface water quality in Forester Creek and the San Diego River Watershed
- Provide recreational opportunities for residents and promote stewardship of Forester Creek and the San Diego River Watershed.
- Preserve in a naturalized state the last viable reach of Forester Creek

Under the Forester Creek grant agreement, extensive water quality monitoring, biological assessment, and habitat monitoring activities will be conducted prior to, during, and following construction. Such monitoring activities will contribute to local and regional data gathering needs in the San Diego River Watershed.

Public Participation Activities

The City of Santee is host to the San Diego River Watershed Management Plan Workgroup meetings. The San Diego River Watershed Workgroup meets every other month to coordinate activities and ensure that planning efforts in the watershed are mutually supportive and complementary. The San Diego River Watershed has been

awarded a Proposition 13 (Water Bond) grant to fund a Watershed Management Plan, coordinated and developed through a stakeholder-driven process.

Watershed Outreach and Education

The City of Santee has held multiple community and river cleanup events throughout the reporting year. Cleanup events are supported by the City through organization and/or dedication of time and materials to support various efforts. The removal of trash and debris, and general cleanup events are vital to improving water quality within Santee and within the greater San Diego River Watershed.

Further, in 2003-2004, the City of Santee has more wholly utilized the *Santee Review Community Newsletter* to provide residents with storm water specific educational materials, and directed residents to visit the Santee Pollution Prevention Program web site to find further information.

Inspection and Enforcement

Consistent and frequent inspection and enforcement actions throughout the duration of all construction activity have remained the primary mechanism utilized by the City to minimize impacts on water quality from new, re-development, and capital projects. Within the defined reporting period, the City has made enhancements to both procedural and administrative practices in an effort to develop a more effective and efficient process. Notably, the City of Santee developed a new construction site inspection form. This inspection notice was developed in response to the Storm Water Program Audit conducted in April of 2004, and provides an effective immediate enforcement mechanism for construction activities.

Land Use Planning

In August 2003, the City of Santee adopted a comprehensive update of the General Plan 2020. The General Plan is a statement of intent by the City as to the future development of the community. The General Plan is comprised of mandatory elements required under state law and three elective elements. Of the mandatory elements, the Conservation Element provides policy direction related to water quality and watershed principles.

The Conservation Element addresses a number of natural resource issues including open space, biology, land use, minerals, cultural heritage, and water quality. The Conservation Element includes extensive discussion of local and regional watershed planning and water quality issues and provides specific policies and implementation measures to reduce pollutants in urban runoff and storm water discharge to improve the overall water quality.

In general, the Element gives policy guidance for protection of unique topography and floodways, reduction of soil erosion, reclamation of mined lands, preservation of significant biological resources, and reduction of pollutants in urban runoff and storm water discharge. To implement policy guidance for significant biological resources, the City is completing a Multiple Species Conservation Program Subarea Plan that would conserve approximately 2,600 acres in the City as permanent open space for habitat and species preservation. The Subarea Plan includes portions of watershed areas tributary to the San Diego River as well as the San Diego River corridor. To implement policy guidance to reduce pollutants in urban runoff and storm water discharge, the City uses careful planning and review to identify and eliminate urban runoff problems before development is approved.

SUSMP/Development Review

The City of Santee Standard Urban Storm Water Mitigation Plan (SUSMP) was developed to address post-construction urban runoff pollution from new development and redevelopment projects. The goal of the SUSMP is to develop and implement policies to ensure to the maximum extent practicable that development does not increase pollutant loads from a project site and considers urban runoff flow rates and velocities. The SUSMP identifies appropriate BMPs for certain designated project types to achieve this goal.

Formalized incorporation into the existing development review process has provided a definitive role for SUSMP requirements in review of applicable projects in 2003-2004. The development review process in Santee is predicated on two (2) stages of assessment: 1) *Pre-Application* and 2) *Formal Project Submittal*. Both of these stages and incorporated SUSMP requirements are summarized below. Standard storm water conditions of approval have been developed and apply to all projects regardless of their SUSMP status.

The pre-application stage of the development review process has been identified by the City of Santee as the vital step in which to first address SUSMP requirements. When a pre-application is submitted to the City by a project applicant, a copy of the pre-application is routed to the Storm Water Program Manager for review. An initial evaluation is made to determine if the project is subject to SUSMP requirements. Subsequently, the Storm Water Program Manager reviews the pre-application for concurrence with SUSMP Standard Development Conditions as applicable. It is only if the standard conditions do not adequately cover the proposed project that the Storm Water Program Manager will provide the Engineering Division with additional conditions to meet SUSMP requirements. Compiled project preliminary conditions, including all SUSMP requirements, are then provided to the project applicant to articulate what is


**Notice of Violation (R9-2005-0191) - Watershed Urban Runoff Management
Program (WURMP) 2003-2004 Annual Reports WDID NO. 9 000510S19
August 5, 2005
Page 5 of 5**

required for the Formal Project Submittal. In 2003-2004, significant additions to formal submittal requirements have been made to aid in the review of SUSMP requirements.

Upon Formal Project Submittal, the application is again routed to the Storm Water Program Manager for review. All germane submittal components are evaluated and documented and additional conditions are provided as necessary for SUSMP compliance. At the Formal Project Submittal stage, additional conditions are submitted as final conditions of approval by the Planning Division and presented to the approving authority for confirmation. Final conditions of approval, including the project's SUSMP requirements, are provided to the applicant. Consequently, the applicant must submit project plans to the Engineering Division conforming to the conditions of approval, and agreeable plans are given a final review prior to the issuance of acceptance permits.

In summary, the aforementioned information supports the City's compliance with all storm water requirements. As stated previously, the City strongly takes exception to said NOV and requests that it be rescinded. The City of Santee continues to contribute significantly toward the improvement of water quality within the San Diego River Watershed and will continue to do so in the future.

Sincerely,



Keith Till
City Manager

c: Doug Williford, Deputy City Manager, Director of Development Services
Cary Stewart, City Engineer
Robert Zaino, Principal Civil Engineer



CHULA VISTA

OFFICE OF THE CITY MANAGER

SAN DIEGO BAY WATERSHED WATER QUALITY CONTROL BOARD

2005 AUG 19 P 1:29

August 17, 2005
File # 0780-85-KY181

Mr. John Robertus, Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

**SUBJECT: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYTEM
(NPDES) MUNICIPAL PERMIT, ORDER NO. 2001-01, NOTICE OF
VIOLATION NO. R9-2005-0200**

Dear Mr. Robertus:

The City of Chula Vista has received Notice of Violation (NOV) No. R9-2005-0200 (copy attached). The NOV states that the City of Chula Vista "failed to comply with Section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed". The NOV also states "...effective activities which eliminate sources and reduce pollutant loading contributing to high priority water quality problems in the watershed have not adequately been implemented." The City of Chula Vista does not agree with the above determinations for the reasons stated below and as documented in Exhibit A attached.

The San Diego Bay Watershed Copermittees have complied with the requirements of Section J.2.d. of the National Pollutant Discharge Elimination System (NPDES) Municipal Permit, Order No. 2001-01, by implementing the following activities:

- Holding regular meetings to discuss major watershed issues and developing plans of action;
- Identifying high priority water quality problems in the watershed through regional and focused monitoring;
- Identifying activities that would address high priority water quality problems in the watershed;
- Determining specific responsibilities for the implementation of activities to the San Diego Bay Watershed Copermittees;
- Implementing activities that directly and indirectly benefit the watershed and address high priority water quality problems; and,
- Providing a comprehensive description of above activities to the Regional Water Quality Control Board in the annual Watershed Urban Runoff Management Program (WURMP) Reports for the San Diego Bay Watershed.

File No. 10-5002.02 2

RM 8-22
PH 8/23/05
RN 8/23/05

As detailed in the San Diego Bay WURMP 2003-2004 Report, significant activities were conducted to address high priority water quality concerns throughout the San Diego Bay watershed during that reporting period and beyond. As the development and implementation of WURMP activities mature, it is necessary to place added value on those activities conducted on a local level which ultimately lead to real improvements to water quality at the watershed level. Overall, the City of Chula Vista and its municipal watershed partners, the Cities of Lemon Grove, Imperial Beach, Coronado, La Mesa, National City, San Diego, the County of San Diego, the Port of San Diego, and the Regional Airport Authority continue to offer progressive solutions to watershed issues through concerted efforts, both locally and on the watershed level.

Moving forward through collaborative efforts as a watershed and as jurisdictions within the San Diego Bay watershed, the San Diego Bay Watershed Copermittees are committed to the identification and implementation of well thought-out and effective measures that will satisfy mutual interests in improving the overall health of the watershed we share. Further, the City of Chula Vista is a dedicated steward of the San Diego Bay Watershed through our local actions and regional partnerships.

In Exhibit A to this letter, we highlight those significant watershed activities and measures embraced by the City in compliance with Section J.2.d of the Municipal Permit. Similar activities have been conducted by other San Diego Bay Watershed Copermittees, a summary of which was included in the 2003-2004 WURMP Annual Report.

As demonstrated in Exhibit A, as well as in the 2003-2004 San Diego Bay WURMP Annual Report, the City of Chula Vista and the San Diego Bay Watershed Copermittees have been very creative and forward-looking in addressing watershed management needs. The City of Chula Vista takes pride in supporting local activities, as well as watershed specific actions, to improve water quality in the San Diego Bay Watershed. The San Diego Bay Watershed Copermittees would welcome active and regular participation of Regional Board staff at the San Diego Bay Watershed workgroup meetings and their input in identifying and supporting watershed management measures.

The City of Chula Vista and the San Diego Bay Watershed Copermittees have developed deliberate and reasoned programs to address a variety of watershed management issues based on realistic and effective management measures and expect to further refine these programs in the future. Please feel free to contact Kirk Ammerman, Principal Civil Engineer, at (619) 397-6121 for any questions or further information.

Sincerely,



David D. Rowlands, Jr.
City Manager

Attachments

cc: Dave Byers, Director of Public Works Operations
Bill Ullrich, Assistant Director of Public Works Operations
Kirk Ammerman, Principal Civil Engineer

EXHIBIT A

The following documents the City of Chula Vista's activities during Fiscal Year 2003-2004 to address requirements of Section J.2.d of the National Pollutant Discharge Elimination System (NPDES) Municipal Permit, Order No. 2001-01. Other San Diego Bay Watershed Copermittees, through the coordinated efforts of the San Diego Bay Watershed Workgroup, have implemented similar activities that directly or indirectly address high priority water quality problems in the San Diego Bay Watershed. A summary of all such activities is included in the San Diego Bay Watershed Urban Runoff Management Plan Annual Report for Fiscal Year 2003-2004.

Land Use Planning

Within the San Diego Bay watershed, the City of Chula Vista has a unique role in maintaining, protecting, and ultimately improving water quality; Chula Vista's role is further defined by the significant growth and redevelopment occurring within the jurisdiction. As such, the City of Chula Vista has identified the City's comprehensive General Plan Update (GPU) as a significant tool in guiding its current and future watershed management efforts. The City's GPU is currently planned for public review in October 2005. It is through the draft Environmental Element of the GPU that considerations in terms of water quality and watershed management are distinguished. According to the draft Environmental Element: "With further growth and redevelopment in Chula Vista, the protection of local and regional water resources must be adequately addressed. Chula Vista will continue its efforts to reduce the discharge of pollutants into the municipal storm drain system and natural water bodies in accordance with established NPDES standards and watershed planning efforts involving the City."

Water quality policies have been developed based upon those found within the NPDES Municipal Stormwater Permit, including watershed management requirements, and have been composed to compliment the flow and content of the entire General Plan Update. The following water quality policies are contained in the draft Environmental Element:

- Ensure safely swimmable and fishable surface waters through careful management of land uses and activities within Chula Vista.
- Pursue safe alternatives to traditional pest management methods in order to reduce toxics in urban runoff and large open uses of land (e.g., golf courses, parks, agricultural lands).
- Educate residents, business owners and city departments about feasible methods to minimize the discharge of pollutants into natural drainages and the municipal storm drainage system.
- Ensure compliance with current federal and state water quality regulations, including the implementation of applicable NPDES requirements and the City's Pollution Prevention Policy.
- Encourage and facilitate construction and land development techniques that minimize water quality impacts from urban development.
- Maximize the protection of potable water supply resources from pollutants.
- Collaborate with other applicable jurisdictions in the development and funding of regional watershed management plans.

Concurrent to the development of the City of Chula Vista GPU is the advancement of the Otay River Watershed Management Plan (ORWMP), which has occurred throughout the defined reporting period of the 2003-2004 WURMP Annual Report. Supported by the City of Chula Vista as well as watershed partner jurisdictions and other stakeholders, the purpose of the ORWMP is to develop a comprehensive planning program for the watersheds future. Through an established set of goals, the ORWMP will provide an effective tool in future management of the watershed. The following goals effectively summarize the essential mechanism established through the development of the ORWMP:

1. Protect, Enhance, and Restore Watershed Resources
2. Ensure Reasonable, Sustainable, and Compatible Economic Development
3. Maximize Program and Plan Integration
4. Provide Educational and Recreational Opportunities
5. Ensure Public Health and Safety

Watershed Outreach and Education

Outreach and education activities are most often identified as areas where jurisdictional collaboration can easily and effectively address watershed concerns. Although reported upon in the 2003-2004 WURMP Annual Report Section 3.3, it is important to recount and highlight the notable opportunities provided by the City of Chula Vista in terms of watershed outreach and education.

The City of Chula Vista Nature Center, located within the Sweetwater Marsh National Wildlife Refuge of San Diego Bay, is an internationally recognized zoo/aquarium exhibiting plants and animals native to San Diego Bay and marsh/wetland habitats. The Nature Center provides the San Diego Bay watershed with a truly unique and invaluable outreach and education resource. The Chula Vista Nature Center's mission involves educating the public on the importance of coastal resource conservation. This is accomplished in cooperation with various partners through field trips, guided walks, classes, tours, and special projects. Annually, organized school groups (**approximately 14,000 K-6 children, 1000 7-12 graders, and another 2000 college students**) visit the Nature Center to learn about the watersheds of San Diego Bay and what they can do to protect the Bay. They learn to recycle, reuse, and reduce waste. They also learn how to correctly use storm drains and the types of pollutants commonly identified in the storm drain system. In addition, another **65,000 persons** visit the Nature Center each year. The Chula Vista Nature Center & Conservation Department also conduct "Less Toxic Gardening" classes twice a month, dealing specifically with pesticide use.

In further support of watershed education and outreach, the City of Chula Vista Storm Water Management Section and Conservation and Environmental Department participate in special community events held throughout the South Bay. Each of these events provides an opportunity to reach citizens throughout the watershed by setting up educational booths and displays. As part of these extensive efforts, the EnviroScape® watershed model is used to demonstrate the impacts of pollutants on a watershed. EnviroScape® Watershed/Non-point Source teaches the watershed concept in addition to point and non-point source pollution. Two waterways flow into a larger water body, which represents a lake, river, bay, or ocean. The unit comes complete with a kit

containing everything needed to demonstrate water movement and pollutant transport to a receiving water.

Inspection and Enforcement

The City of Chula Vista has taken a firm approach in protecting and maintaining receiving waters through a highly refined and effective inspection and enforcement program. Although primarily a jurisdictional activity and supported by a variety of other jurisdictional programmatic activities, strong enforcement has a profound impact on the San Diego Bay Watershed. As a significant presence within the watershed, the City of Chula Vista's inspection and enforcement program has set the tone in South San Diego Bay for storm water regulation compliance. Specifically, construction site inspection and enforcement have been enhanced based on identified sediment and turbidity concerns within the watershed. The City of Chula Vista has recognized the important role it must play in protecting the watershed based on the significant development and redevelopment activities throughout the City and has dedicated two full-time Storm Water Compliance Inspectors to accomplishing this arduous, but vital, task.

Monitoring

The City of Chula Vista has participated in the Regional Water Quality Monitoring Program, which is a watershed-based program designed to evaluate water quality in each watershed of the San Diego County and to identify high priority water quality problems. The City of Chula Vista also conducts its annual dry weather field screening and analytical monitoring program at 53 outfalls throughout the City. Each outfall is sampled and tested for various constituents of concern. Results of such monitoring programs from all of the San Diego Bay Watershed Copermittees are compiled and analyzed to identify conditions of concern and effectiveness of watershed and jurisdictional programs. Such analysis is then used to modify the programs and to identify the possible need for new programs to achieve the highest effectiveness in reducing priority problems.



California Regional Water Quality Control Board San Diego Region



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environment Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

June 17, 2005

IN THE MATTER OF)

Mr. Dave Rowlands)
City Manager)
City of Chula Vista)
276 Fourth Avenue)
Chula Vista, CA 91910)

NOTICE OF VIOLATION
NO. R9-2005-0200

WDID NO.
9 0000510S3

Order No. 2001-01, NPDES No. CAS0108758

Subject: Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in San Diego Regional Water Quality Control Board (Regional Board) Order No. 2001-01, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District. Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The Regional Board has reviewed the Watershed Urban Runoff Management Program 2003-2004 Annual Reports and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information. Review of these documents exhibits that the City of Chula Vista (City) is in violation of Order No. 2001-01 for failure to implement adequate Watershed Urban Runoff Management Programs.

SUMMARY OF VIOLATIONS

I. San Diego Bay Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program

California Environmental Protection Agency

Recycled Paper



2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While monitoring efforts addressing total maximum daily loads and other water quality problems have been conducted, sources and pollutant loadings contributing to these water quality problems have not been addressed on a watershed basis.

Questions pertaining to the issuance of this Notice of Violation should be directed to Phil Hammer at (858) 627-3988 or phammer@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Michael P. McCann
Supervising Water Resource Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340



Michael P. McCann
Supervising Water Resource Control Engineer

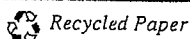
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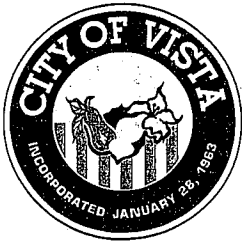
DATE

CC: Khosro Aminpour
City of Chula Vista
1800 Maxwell Road
Chula Vista, CA 91911

Certified Mail No. 7005 0390 0005 2954 2924

California Environmental Protection Agency





City of Vista

September 8, 2005

Michael P. McCann
Supervising Water Resources Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board – San Diego Region
9174 Sky Park Drive, Suite 100
San Diego, CA 92123-4340

2005 SEP 13 P 2:49
REGIONAL WATER QUALITY CONTROL BOARD

Subject: Watershed Urban Runoff Management Program (WURMP) Annual Report for the Carlsbad and San Luis Rey Watersheds- Notice of Violation No. R9-2008-0204

This letter presents the City of Vista's response to the Regional Water Quality Control Board's (RWQCB) Notice of Violation (NOV) for the Carlsbad and San Luis Rey Watersheds Urban Runoff Management Programs (WURMP) 2003-2004 Annual Reports, dated June 17, 2005. A copy of the NOV is provided in Attachment 1.

The NOV indicates that the Carlsbad and San Luis Rey WURMPs "failed to comply with J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed."

Although watershed management is a new concept and implementation is not easily performed on a watershed basis, the Carlsbad and San Luis Rey WURMPs have been operating successfully on a watershed basis for approximately three years. During this time period, the WURMP Copermittees developed a WURMP plan that identifies the highest priority water quality problems for the watershed, identified the sources of those pollutants, developed a list of short and long-term activities to address these sources, and have begun implementing many of these activities. These programs have been adapted twice based on the March 10, 2003 RWQCB WURMP review letter and the October 8, 2004 RWQCB 13267 Directive regarding the 2002-2003 WURMP Annual Report. The primary changes were to create pollutant-specific activities that "address likely sources of water quality problems within the watershed," as outlined in Comment No. 1 of the 13267 Directive. As a result, the Carlsbad and San Luis Rey Copermittees realigned their water quality activities.

CARLSBAD WATERSHED

In order to comply with Comment No. 1 of the 13267 Directive, the Carlsbad WURMP realigned their water quality activities and added the following three pollutant-specific activities:

1. (Activity 1.2) Pursue activities to reduce sediment load to receiving water bodies.

This activity includes working to better understand issues related to sediment that will allow for a determination of sediment concentrations, loads, or impacts on natural waters. Plans were developed to pursue grant funding, and the Copermittees subsequently prepared a grant application for the County Integrated Regional Water Management (IRWM) program, entitled "San Diego County Lagoon Pollution Reduction Assessment." The grant was submitted to the State Water Resources Control Board and

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PM

Department of Water Resources (DWR) in July 2005. The grant addresses sediment, bacteria and nutrients, and will identify watershed and lagoon management options and estimations of improvements to assist in development of watershed management plans and effective BMPs. This activity also included establishing a watershed-based standardized tracking procedure for SUSMP projects to be used by each jurisdiction. This will eventually allow the Copermittees to address load reductions within the watershed. Lastly, this activity included developing a series of educational newspaper ads that focus on sedimentation and activities individuals can do to reduce sediment loads. The Copermittees strongly believe that this type of specific education is an effective BMP to reduce sediment loads.

2. (Activity 1.3) Pursue activities to reduce bacteria loading to the receiving water bodies.

Copermittees recognize that bacteria loading is a complicated issue and in order for BMPs to be scientifically based and effective, a better understanding of sources and reduction measures is needed. Thus, activities were planned and implemented to better understand bacteria sources and reduction measures. These activities included implementation of a subwatershed Bacteria Source Identification Project that identified over-irrigation and stables as sources of bacteria in Agua Hedionda Creek. Based on this finding the Copermittees planned to and subsequently pursued a grant to determine the effectiveness of using water conservation programs as an effective BMP for reduction of bacteria. A grant was successfully included in the County Prop 50 IRWM proposal entitled "Over-Irrigation Runoff/Bacteria Reduction Project." The County grant was submitted in July 2005.

Copermittees recognized the Phase I Bacteria TMDL would play an important role in bacteria reduction within the watershed and became active in the development of the TMDL Stakeholder Advisory Group (SAG). Plans were also put in place to become active in the Phase II bacteria TMDL program that will affect multiple lagoons in the watershed.

Lastly, this activity also included developing a series of educational newspaper ads that focused on bacteria and what individuals can do to reduce bacteria load. The Copermittees strongly believe that this type of specific education is an effective BMP to reduce bacteria loads.

3. (Activity 1.4) Implement programs to reduce Diazinon and other pesticides in the watershed.

Copermittees believe that education is the best BMP for reduction of Diazinon and other pesticide loads. This activity included developing a series of educational newspaper ads to focus on pesticide use and what individuals can do to reduce pesticide loads.

This activity also included working closely with the development and implementation of the Regional PRISM grant for a regional Integrated Pest Management program. Plans were developed to perform watershed-specific activities within the Carlsbad Watershed to supplement the PRISM grant activities.

SAN LUIS REY WATERSHED

As discussed above, the San Luis Rey WURMP has been in place on a watershed basis for approximately three years. During this time period, the WURMP Copermittees developed a WURMP plan that identifies the highest priority water quality problems for the watershed, identified the sources of those pollutants, developed a list of short and long-term activities to address these sources, and have begun implementing many of these activities.

The San Luis Rey (SLR) WURMP Copermittees have developed and implemented a strategic monitoring program for the purpose of verifying and/or investigating many of the short-term activities identified in the SRL WURMP. The monitoring program primarily focuses on identification of the river as the bacteria source for river mouth exceedances (Activity 4.1.1.1), verification of external phosphorus loading in Guajome Lake

(Activity 4.1.1.2), and total dissolved solids monitoring throughout the watershed (Activity 4.1.2). This monitoring program has also helped SLR Copermittees facilitate the process of internal and external data management (Activity 4.2.1). Copermittees are developing a common medium for reporting and storing monitoring information. In addition, SLR Copermittees have begun to solicit data from other watershed stakeholders, e.g. tribes, utility districts, other agencies, etc.

In addition to the activities implemented by the Carlsbad and San Luis Rey watershed groups, the City of Vista has implemented many activities to address the major water quality problems identified for the Carlsbad and San Luis Rey watersheds. Many of these activities were included in the list provided in Attachment 2 of the RWQCB 13267 Directive letter. These activities are also reported in our JURMP Annual Report and were not reiterated in the WURMP Annual Report as outlined in Order 2001-01, Section L (footnote No. 6).

Based on these activities, we believe that we have complied with Section J.2.d of Order 2001-01. The Copermittees have worked diligently by meeting monthly to plan and implement activities to reduce high-priority pollutants on a watershed basis. We believe that the Carlsbad and San Luis Rey Copermittees have performed watershed activities successfully and have made good progress toward implementing pollutant-specific activities.

We hope this letter adequately addresses your comments regarding our WURMP 2003-04 Annual Report. If you have any questions about this letter, please do not hesitate to call Larry Pierce at (760) 726-1340 x1332 or Linda Isakson at (760) 726-1340 x1373.

Respectfully,



Rita Geldert
City of Vista, City Manager



CITY OF OCEANSIDE

OFFICE OF THE CITY ATTORNEY

PAMELA J. WALLS
City Attorney
(760) 435-3979

DEPUTY CITY ATTORNEYS

JOSEPH BOGAN
(760) 435-3976

LESLIE M. GALLAGHER
(760) 435-3975

BARBARA L. HAMILTON
(760) 435-3986

TARQUIN PREZIOSI
(760) 435-3977

September 2, 2005

Michael P. McCann
Supervising Water Resources Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board-San Diego Region
9174 Sky Park Drive, Suite 100
San Diego, California 92123

Re: Watershed Urban Runoff Management Program (WURMP) Annual Report
for the San Luis Rey and Carlsbad Watersheds Notice of Violation No. R9-
2008-0204

Dear Mr. McCann:

Enclosed please find the City of Oceanside's response to the above-Notice of Violation (NOV) distributed to the co-permittees within the Carlsbad and San Luis Rey watersheds. The NOV asserts that the City of Oceanside has failed to comply with Section J.2.d of the Municipal Permit, by not implementing activities which effectively address the highest priority water quality problems in the watershed. Section J.2.d provides:

"An implementation time schedule of short and long-term recommended activities (individual and collective) needed to address the highest priority water quality problem(s). For this section, "short term activities" shall mean those activities that are to be completed during the life of this Order and "long term activities" shall mean those activities that are to be completed beyond the life of this Order."

The Watershed Urban Runoff Management Program 2003-2004 Annual Report has presented the requested implementation schedule of short and long term activities to address highest priority water quality activities.

*mm
PM
9/14/05*

SEP - 6 A.M.
CITY OF OCEANSIDE

Additionally, the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information is also referenced which contain "effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems." The City of Oceanside has reviewed the list of these activities set forth in Attachment 2 to the October 8, 2004 Directive and has implemented the majority of these activities, with the exception of removing concrete from lined channels and v-ditches and "daylight" underground storm water conveyance lines. (Please refer to the City of Oceanside Clear Water Program response letter dated September 2, 2005.)

It is our understanding that the San Diego Regional Water Quality Control Board has issued the NOV's to the City of Oceanside and other jurisdictions in San Diego County to secure better compliance with the removal of major quantities of pollutants from the regional watersheds. To this end, the City of Oceanside has been, and continues to be, committed to the removal of major pollutants to the "maximum extent practicable". The City of Oceanside has shifted significant resources to this effort, currently spending well in excess of \$5.00 per household, including Citywide annual inspection and cleaning of storm drain inlets and bi-monthly street sweeping cost, to ensure storm water quality in our community. We also understand the frustrations of the staff and Board with regard to both the funding and time frames for moving forward with watershed plans. However, we feel that Oceanside has taken a proactive position and leadership role with the San Luis Rey watershed, and we have been an active participant in the Carlsbad watershed management program.

The Regional Water Quality Control Board has been working with the City of San Diego and the County of San Diego for over twelve years on the implementation of "Best Management Practices" (BMPs). The City of Oceanside has been a copermittee with the San Diego County jurisdictions for approximately four years. During this time, significant progress has been made on setting priorities for BMP implementation in Oceanside for storm water quality. The preparation of plans, and setting funding priorities for watershed enhancements, requires a significant commitment of time and resources. It is the City of Oceanside's belief that we have been responsive to the Regional Water Quality Control Board's request, and have met our commitments to the "maximum extent practicable" within our ability to shift resources and tax residents further.

We are open to suggestions to shift priorities between education, monitoring, enforcement, and capital project implementation to meet criteria for BMPs, once established. Recognizing our funding limitations under Proposition 218, we would like to seek assistance for a regional effort to secure State recognition of storm water

Michael P. McCann
September 2, 2005
Page 3

infrastructure as a "public utility" to open up potential revenue possibilities for funding clean water programs and projects.

Based on our achievements to date and our willingness to continue our cooperative work with the Regional Water Quality Control Board, we would respectively request the Board withdraw its NOV issued to Oceanside. We look forward to working with the Regional Water Quality Control Board in addressing their concerns and receiving further clarification as to how the City's implementation activities could be modified to better serve priority concerns within our ability to fund same.

Very truly yours,



PAMELA J. WALLS
City Attorney



STEVEN R. JEPSEN
City Manager

PJW/SRJ:cg

Enclosures

cc: Mo Lahsaiezadéh, Clean Water Coordinator
California Regional Water Quality Control Board, San Diego Region
(See enclosed list)

California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

John Minan, Chair
Jennifer Krause, Vice Chair
Richard Wright
Alan Barrett
Janet Keller
Susan Ritschel
Eric Anderson
Daniel Johnson



CITY OF OCEANSIDE

WATER UTILITIES DEPARTMENT

September 2, 2005

Michael P. McCann
Supervising Water Resources Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board – San Diego Region
9174 Sky Park Drive, Suite 100
San Diego, California 92123

**Re: Watershed Urban Runoff Management Program (WURMP) Annual Report for the
San Luis Rey and Carlsbad Watersheds – Notice of Violation No. R9-2008-0204**

This letter presents the City of Oceanside's response to the Regional Water Quality Control Board's (RWQCB) Notice of Violation (NOV) for the Carlsbad and San Luis Rey Watersheds Urban Runoff Management Programs (WURMP) 2003-04 Annual Reports. A copy of the NOV is provided as an attachment, following this letter.

The NOV indicates that in the Carlsbad and San Luis Rey Watersheds, the City of Oceanside "failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on the review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring and public education efforts have been conducted and/or planned that focus on watersheds and high priority constituents of concern, effective activities, which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented."

CARLSBAD WATERSHED

The Carlsbad WURMP has been working on a watershed basis for approximately three years. Since its inception, the WURMP Copermittees developed a WURMP Plan that identified the high priority water quality problems for the watershed, identified the sources of those pollutants and developed a list of short and long-term activities to address those sources.

This program has been adapted twice based on the RWQCB WURMP review letter, dated March 10, 2003, and the RWQCB 13267 Directive regarding the 2002-03 WURMP Annual Report, dated October 8, 2004. The primary changes were to create pollutant-specific activities that "address likely sources of water quality problems within the watershed", as outlined in Comment No. 1 of the 13267 Directive. As a result the Carlsbad Copermittees realigned their water quality activities and added the following three pollutant-specific activities:

1. (Activity 1.2) Pursue activities to reduce sediment load to receiving water bodies. This activity includes working to better understand issues related to sediment that will allow for a determination of sediment concentrations, loads or impacts on natural waters. Plans were developed to pursue grant funding. The Copermittees subsequently prepared a grant application for the County Integrated Regional Water Management (IRWM) program, entitled "San Diego County Lagoon Pollution Reduction Assessment". The grant was submitted to the State Water Resources Control Board and DWR in July 2005. The grant addresses sediment, bacteria and nutrients, and will identify watershed and lagoon management options and estimations of improvements to lagoons to assist in development of watershed management plans and effective BMPs.

This activity also included establishing a watershed-based standardized tracking procedure for SUSMP projects to be used by each jurisdiction. This will eventually allow the Copermittees to address load reductions within the watershed.

Lastly, this activity included developing a series of educational newspaper ads that focus on sedimentation and activities individuals can do to reduce sediment load. The Copermittees strongly believe that this type of specific education is an effective BMP to reduce sediment loads.

2. (Activity 1.3) Pursue activities to reduce bacteria loading to the receiving water bodies. Copermittees recognize that bacteria loading is complicated and in order for BMPs to be scientifically based and effective, a better understanding of sources and reduction measures is needed. Thus, activities were planned and implemented to better understand bacteria sources and reduction measures. These activities included implementation of a sub-watershed Bacteria Source Identification Project that identified over-irrigation and horse stables as sources of bacteria in Agua Hedionda Creek. Based on this finding the Copermittees planned to and subsequently pursued a grant to determine the effectiveness of using water conservation programs as an effective BMP for reduction of bacteria. A grant was successfully included in the County Prop. 50 IRWM proposal entitled, "Over-Irrigation Runoff/Bacteria Reduction Project". The County grant was submitted in July 2005.

Copermittees recognized the Phase I Bacteria TMDL would play an important role in bacteria reduction within the watershed and became active in the development of the TMDL Stakeholder Advisory Group (SAG). Plans were also put into place to become active in the Phase II bacteria TMDL program that will affect multiple lagoons in the watershed.

Lastly, this activity also included developing a series of educational newspaper ads that focus on bacteria and what individuals can do to reduce bacteria load. The Copermittees strongly believe that this type of specific education is an effective BMP to reduce bacteria loads.

3. (Activity 1.4) Implement programs to reduce Diazinon and other pesticides in the watershed. Copermittees believe that education is the best BMP for reduction of Diazinon and pesticide loads. This activity included developing a series of educational newspaper ads to focus on pesticide use and what individuals can do to reduce pesticide load.

This activity also included working closely with the development and implementation of the Regional PRISM grant for a regional Integrated Pest Management program. Plans were

developed to perform watershed-specific activities within the Carlsbad watershed to supplement the PRISM grant activities.

In addition to these activities implemented as a watershed group, the City of Oceanside has implemented many activities to address the major water quality problems identified for the Carlsbad watershed. Many of these projects were included in the list provided in Attachment 2 of the RWQCB 13267 Directive letter. These activities were reported in our JURMP Annual Report and were not reiterated in the WURMP Annual Report as outlined in Order 2001-01, Section L (footnote No. 6). A list of these activities follows and is organized to match Attachment 2 of the RWQCB's 13267 Directive Letter with the City's specific activity listed in *Italics*.

Bacterial Indicators

- Construct wetlands or similar structural treatment best management practices – *the City of Oceanside has acted to reduce the presence of bacterial indicators in the Carlsbad watershed with the operation of the La Salina Pumping Facility, which diverts water containing potentially high levels of bacterial indicators during low flow periods from Loma Alta Creek to the La Salina Wastewater Pumping Station at the mouth of Loma Alta Creek. The water is pumped with treated wastewater and discharged at the ocean outfall, approximately 1.5 miles from shore. In July 2005, the City has also submitted a grant proposal, under Proposition 40, to further reduce bacterial indicators by enhancing wetlands at the mouth of Loma Alta Creek through the purchase of adjacent properties and converting the area into wetlands, as well as the installation of ultra-violet or ozone treatment facilities at the current pumping facility.*
- Conduct a source identification study for an identified problem area – *The City has numerous ongoing and completed illicit connection/illegal discharge investigations to ascertain sources of identified problem areas in the Carlsbad watershed. Please refer to the City's Dry Weather Monitoring Report 2003-2004, which was submitted to Staff of RWQCB, for information on these investigations.*
- Implement a BMP pilot project in an identified problem area – *The City has submitted a grant proposal in July 2005, under Proposition 40, to further reduce bacterial indicators by enhancing wetlands at the mouth of Loma Alta Creek through the purchase of adjacent properties for the purpose of converting the area into additional wetlands, as well as the installation of ultra-violet or ozone treatment facilities at the current pumping facility.*
- Reduce non-storm water discharges that serve as a transport mechanism - encourage water conservation – *The City has conducted and continues to implement an intensive public education campaign to reduce non-storm water discharges that serve as a transport mechanism by encouraging water conservation. Workshops have been given to Home Owner Associations, brochures and newsletters have been developed and disseminated to Oceanside households through inserts in the water utilities bill, and numerous public service announcements have been taped monthly and played on a twice daily basis that encourage water conservation practices.*
- Increase cleaning of storm water conveyance systems in problem areas, such as tidally influenced coastal storm drains which contain decomposing kelp – *The City has contracted United Stormwater Inc. since 2002 to clean all storm water inlets in the City each year prior to the rainy season. About 60 percent of these inlets flow into the Carlsbad watershed. In addition, in May 2005, due to*

increased levels of bacterial indicators found in the Buena Vista storm drain outfall, 1,065 feet of storm water lines were cleaned at the outfall.

- *Increase dry weather monitoring for bacterial indicators in suspected problem areas – The City currently monitors 67 dry weather sites for bacterial indicators in the Carlsbad watershed. All sites with storm water flow are sampled and receive field analysis. Sites that are suspected or known to be in problem areas receive additional sampling that includes analytical laboratory analysis. Sites that are identified to have high levels of bacterial indicators are subject to additional study and IC/ID investigation.*
- *Focus efforts in areas with documented REC-1 beneficial uses – All Carlsbad watershed water bodies in the City of Oceanside are listed as REC-1. Therefore, the City has focused efforts in these areas that are found to have high levels of bacterial indicators. Efforts at these areas include creek cleanups, IC/ID investigations, and when possible, the promotion and use of effective BMPs in adjacent properties.*
- *Implement focused education efforts targeting sources of bacterial contamination - The City has focused educational efforts targeting sources of bacterial contamination in the Carlsbad watershed through the implementation of the Poop Pollutes program, which includes KOCT televised public service announcements, the dissemination of informative brochures and newsletters, as well magnets and “doggie bags” pet waste containers. The City installed Poop Pollutes signs in target areas such as city parks and areas with frequent visits by dog owners.*
- *Address homeless encampments – Homeless encampments are an issue in the Carlsbad watershed along Loma Alta Creek. The City addresses these encampments when litter is in evidence or when public complaints are received by relocating the encampments. In addition, the City’s Code Enforcement Department has a contract with a cleaning removal company to remove encampment materials from the area to keep the material from entering Loma Alta Creek.*
- *Address residential and commercial fertilizer/manure use and manure management – The City disseminates educational fliers and in previous years has given related workshops. The City is cosponsoring an agricultural workshop this fall with the City of Vista, County of San Diego Department of Agriculture, UC Cooperative Extension, and the County of San Diego Public Works Storm Water Program to promote awareness of this issue.*
- *Set up additional “doggie bag” dispensers – Doggie bag dispensers are located and maintained at a number of parks throughout the City, as well as four dispensers at Oceanside beaches. Most recently, the City installed “doggie bag” dispensers at Marshall Street Park in May 2005. In addition, the City has on order 800 pet waste bag dispensers to be given out to the public free of charge at events, veterinary offices, and animal shelters.*
- *Increase oversight of restaurant grease management – The City has contracted with Environmental Compliance Inspection Services (ECIS) who oversee the inspection and performance of all Oceanside restaurants. Compliance with stormwater regulations and grease management BMPs are a main focus of the inspections and substandard grease management methods are required to be improved.*

- Increase oversight of yard waste disposal – *the City has contracted with Waste Management Inc. to manage solid wastes. Waste Management Inc. provides all households in Oceanside with a separate container specific to yard waste. This material is picked up and converted to mulch/compost by a private contractor of the City.*
- Remove concrete from lined channels and v-ditches/"Daylight" underground storm water conveyance lines – *At this time, the City finds it infeasible to perform the activities of removing concrete from lined channels and v-ditches or to "daylight" underground storm water conveyance lines in the Carlsbad watershed. However, these activities are considered each time a concrete-lined channel, v-ditch, or underground storm water conveyance line is repaired. The activity will be implemented each occasion it is found appropriate.*

Sediment/Turbidity

- Treat all construction sites that disturb soil within the watershed as high priority construction sites (i.e., increase inspection frequencies) – *All construction sites that disturb soil within the watershed are treated as high priority. The sites are visited daily by storm water inspectors and weekly inspections are logged.*
- Adopt more stringent BMP requirements for construction sites located in the watershed – *the City requires additional BMPs in environmentally sensitive areas (i.e., sites within 200 feet of receiving waters).*
- Conduct pre-construction meeting at all construction sites, notifying developers and contractors of sediment problems with the watershed – *Pre-construction meetings are held for each construction project and are attended by the storm water inspector, a representative of the Clean Water Program, as well as representatives of the developers and contractors.*
- Implement focused education efforts targeting sources of sediment – *The City has focused education efforts targeting sources of sediment with the development and distribution of guidebooks for the construction industry, with the educational efforts of the storm water inspectors on a site-by-site basis.*

Pesticides

- Develop and implement neighborhood pesticide collection events – *The City holds regular household hazardous waste collection events during the year. In addition, residents are encouraged to drop off household hazardous waste at a collection facility year-round.*
- Conduct Integrated Pesticide Management (IPM) training in the watershed – *The City has two IPM workshops planned with Solana Center for Environmental Innovation, as well as plans for additional workshops with the County of San Diego's IPM program.*
- Coordinate with farm and agriculture bureaus and organizations to reduce the use of pesticides – *The City has coordinated with the County of San Diego Department of Agriculture and NRCS to reduce the use of pesticides through agricultural workshops given during the fall of 2004, as well as planned for fall of 2005.*

- Direct homeowner assistance and training – *Newsletters have been developed and mailed to all residents in the city regarding proper pesticide use, alternatives, and disposal. In addition the City has two IPM workshops planned with Solana Center for Environmental Innovation, as well as plans for additional workshops with the County of San Diego's IPM program. Public service announcements regarding pesticides are also scheduled to be aired at a future date.*
- Create a pesticide hotline – *The City has informed citizen via newsletter mailings and the city's stormwater hotline is available for all stormwater questions, including proper pesticide usage, alternatives, and disposal.*

Coordination Activities

- Conduct meetings among WURMP Copermittees to exchange ideas of how to address sources of pollutants of concern in the watershed and evaluate the effectiveness of actions – *The City regularly attends and contributes in meetings with other Carlsbad and regional WURMP Copermittees, as well as monthly Carlsbad Watershed Network (CWN) meetings.*

SAN LUIS REY WATERSHED

As discussed above for the Carlsbad watershed, the San Luis Rey WURMP has been in place on a watershed basis for approximately three years. Over this period, the WURMP Copermittees developed a WURMP Plan that identified the high priority water quality problems for the watershed, identified the sources of those pollutants and developed a list of short and long-term activities to address those sources.

This program has been adapted twice based on the 2003 RWQCB WURMP review letter and the October 8, 2004 RWQCB 13267 Directive regarding the 2002-03 WURMP Annual Report. The primary changes were to expand pollutant-specific activities that "specifically address likely sources of water quality problems within the watershed", as outlined in Comment No. 1 of the 13267 Directive.

The City has promoted the San Luis Rey River monitoring program for the purpose of verifying the river as the bacteria source for river mouth exceedances (Activity 4.1.1.1) The watershed Copermittees have done extensive monitoring the length of the watershed. The Copermittees have begun compiling the data between the different monitoring programs in an effort to analyze the data and compile common parameters to look for characterizing patterns.

In addition to these activities implemented as a watershed group, the City of Oceanside has implemented many activities to address the major water quality problems identified for the San Luis Rey watershed. Many of these activities were included in the list provided in Attachment 2 of the RWQCB 13267 Directive letter. These activities were reported in our JURMP Annual Report and were not reiterated in the WURMP Annual Report as outlined in Order 2001-01, Section L (footnote No. 6). A list of these activities follows and is organized to match Attachment 2 of the RWQCB's 13267 Directive Letter with the City's specific activity listed in *Italics*.

Bacterial Indicators

- Conduct a source identification study for an identified problem area – *The City has numerous ongoing and completed illicit connection/illegal discharge investigations to pinpoint sources of identified problem areas in the San Luis Rey watershed. Please refer to the City's Dry Weather Monitoring Report 2003-2004, which was submitted to Staff of RWQCB, for information on these investigations. In addition, the City is currently evaluating the possibility of conducting a source identification study involving bacterial flux and microbial source tracking methods to determine the sources of bacterial indicators in the mouth of the San Luis Rey River in 2005-2007.*
- Reduce non-storm water discharges that serve as a transport mechanism - encourage water conservation – *The City has conducted and continues to implement an intensive public education campaign to reduce non-storm water discharges that serve as a transport mechanism by encouraging water conservation. Workshops have been given to Home Owner Associations, such as the Rancho del Oro HOA, brochures and newsletters have been developed and disseminated to Oceanside household's through the water utilities bill, numerous public service announcements have been taped monthly and played on a twice daily basis that encourage water conservation practices.*
- Increase cleaning of storm water conveyance systems in problem areas, such as tidally influenced coastal storm drains which contain decomposing kelp - *The City has contracted United Stormwater Inc. since 2002 to clean all storm water inlets in the City each year prior to the rainy season. About 40 percent of these inlets flow into the San Luis Rey Watershed. In addition, in 2004 and again in April 2005, five stormwater lines were cleaned at Oceanside Harbor due to increased levels of bacterial indicators found in storm drain outlets.*
- Increase dry weather monitoring for bacterial indicators in suspected problem areas – *The City currently monitors 22 dry weather sites for bacterial indicators in the San Luis Rey watershed. All sites with storm water flow are sampled and receive field analysis. Sites that are suspected or known to be in problem areas receive additional sampling that includes analytical laboratory analysis with bacterial analysis. Sites that are identified to have high levels of bacterial indicators are subject to additional study and IC/ID investigation.*
- Focus efforts in areas with documented REC-1 beneficial uses - *All San Luis Rey watershed water bodies in the City of Oceanside are listed as REC-1. Therefore, the City has focused efforts in areas that receive higher levels of contact recreational activity, such as beach cleanups at the mouth of the San Luis Rey River, or additional monitoring and treatment control BMP implementation at the Oceanside Harbor.*
- Implement focused education efforts targeting sources of bacterial contamination - *The City has focused educational efforts targeting sources of bacterial contamination in the San Luis Rey watershed through the implementation of the Poop Pollutes program, which includes KOCT televised public service announcements, the dissemination of informative brochures and newsletters, as well magnets and pet waste containers. The City installed Poop Pollutes signs in target areas such as city parks, along the San Luis Rey River bike path, and areas with frequent visits by dog owners.*

- Address homeless encampments – *The City addresses these encampments when litter is evidenced or when public complaints are received by relocating the encampments. In addition, the City's Code Enforcement Department has a contract with a cleaning/removal company to collect encampment materials from the area to keep the material from entering the San Luis Rey River.*
- Address residential and commercial fertilizer/manure use and manure management – *The City disseminates educational fliers and in previous years has given related workshops. The City is cosponsoring an agricultural workshop this fall with the City of Vista, County of San Diego Department of Agriculture, UC Cooperative Extension, and the County of San Diego Public Works Storm Water Program to promote awareness of this issue.*
- Set up additional "doggie bag" dispensers – *Doggie bag dispensers are located and maintained at a number of parks throughout the City, as well as four dispensers at Oceanside beaches and eleven at the Oceanside Harbor. In addition, the City has on order 800 pet waste containers to be given out to the public free of charge at events, veterinary offices, and animal shelters.*
- Increase oversight of restaurant grease management – *The City has contracted with Environmental Compliance Inspection Services (ECIS) who oversee the inspection and performance of all Oceanside restaurants. Compliance with storm water regulations and grease management BMPs are a main focus of the inspections and substandard grease management methods are required to be improved.*
- Increase oversight of yard waste disposal – *the City has contracted with Waste Management Inc. to manage solid wastes. Waste Management Inc. provides all households in Oceanside with a separate container specific to yard waste. This material is picked up and converted to mulch/compost by a private contractor of the City.*
- Remove concrete from lined channels and v-ditches/"Daylight" underground storm water conveyance lines – *At this time, the City finds it infeasible to perform the activities of removing concrete from lined channels and v-ditches or to "daylight" underground storm water conveyance lines in the San Luis Rey watershed. However, these activities are considered each time a concrete-lined channel, v-ditch, or underground storm water conveyance line is repaired. The activity will be implemented each occasion it is found appropriate.*

Sediment/Turbidity

- Treat all construction sites that disturb soil within the watershed as high priority construction sites (i.e., increase inspection frequencies) – *All construction sites that disturb soil within the watershed are treated as high priority. The sites are visited daily by storm water inspectors and weekly inspections are written up on a site inspection form.*
- Adopt more stringent BMP requirements for construction sites located in the watershed – *The City requires additional BMPs in environmentally sensitive areas (i.e., sites within 200 feet of receiving waters).*
- Conduct pre-construction meeting at all construction sites, notifying developers and contractors of sediment problems with the watershed – *Pre-construction meetings are held for each construction*

project and are attended by the storm water inspector, a representative of the Clean Water Program, as well as representatives of the developers and contractors.

- *Survey the watershed to identify drainages and other areas that are excessively eroding, then address the excessive erosion – The City has identified an agricultural zone within the San Luis Rey watershed and the city that is prone to excessive erosion. The City has an ongoing educational program in place to address this area with the assistance of the Natural Resources Conservation Service (NCRS). Farming areas are inspected before and during the rainy season and BMP recommendations are offered to the responsible parties.*
- *Implement focused education efforts targeting sources of sediment – The City has focused education efforts targeting sources of sediment with the development and distribution of guidebooks for the construction industry, with the educational efforts of the storm water inspectors on a site-by-site basis, as well as with past and planned workshops for the agricultural industry.*

Pesticides

- *Develop and implement neighborhood pesticide collection events – The City holds regular household hazardous waste collection events during the year. In addition, residents are encouraged to drop off household hazardous waste at a collection facility year-round.*
- *Conduct Integrated Pesticide Management (IPM) training in the watershed – The City has two IPM workshops planned with Solana Center for Environmental Innovation, as well as plans for additional workshops with the County of San Diego's IPM program.*
- *Coordinate with farm and agriculture bureaus and organizations to reduce the use of pesticides – The City has coordinated with the County of San Diego Department of Agriculture and NRCS to reduce the use of pesticides through agricultural workshops given during the fall of 2004, as well as planned for fall of 2005.*
- *Direct homeowner assistance and training – Newsletters have been developed and mailed to all residents in the city regarding proper pesticide use, alternatives, and disposal. In addition, the City has two IPM workshops planned with Solana Center for Environmental Innovation, as well as plans for additional workshops with the County of San Diego's IPM program. Public service announcements regarding pesticides are scheduled to be aired at a future date.*
- *Create a pesticide hotline – The City has informed citizen via newsletter mailings and the city's stormwater hotline is available for all stormwater questions, including proper pesticide usage, alternatives, and disposal.*

Coordination Activities

- *Conduct meetings among WURMP Copermittees to exchange ideas of how to address sources of pollutants of concern in the watershed and evaluate the effectiveness of actions – As a lead agency for the San Luis Rey WURMP, the City regularly coordinates meetings with other San Luis Rey and regional WURMP Copermittees, as well as attends and contributes in monthly San Luis Rey Watershed Council meetings. Most recently, the City of Oceanside has actively been coordinating*

with the City of San Diego, San Diego Unified Port District, and the County of Orange in response to the RWQCB directives for developing a regional harbor monitoring program (RHMP) to address pollutants, such as copper, in the Oceanside Harbor.

Based on these activities in the San Luis Rey and Carlsbad watershed, we believe that we have complied with Section J.2.d of Order 2001-01. The Copermittees have worked diligently to implement effective activities to reduce high priority pollutants on a watershed basis. We believe that the Carlsbad and San Luis Rey Copermittees have performed effective watershed activities and have made good progress towards implementing pollutant-specific activities.

We hope this letter adequately address your comments regarding our WURMP 2003-04 Annual Report. If you have any questions about this letter, please do not hesitate to call Hawkeye Sheene, Clean Water Program Environmental Specialist at (760) 435-5807.

Respectfully,

M.A. Lahsaie

Mo Lahsaie
Clean Water Program Coordinator

Attachment:

Copy of Notice of Violation for the Carlsbad and San Luis Rey Watersheds Urban Runoff Management Programs 2003-04 Annual Reports



California Regional Water Quality Control Board San Diego Region



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environment Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

CERTIFIED MAIL 7005 0390 0005 2954 3006

June 17, 2005

IN THE MATTER OF)

Mo Lahsaiezadeh)
Clean Water Program Coordinator)
City of Oceanside)
300 N. Coast Highway)
Oceanside, California 92054)

NOTICE OF VIOLATION
NO. R9-2005-0204

WDID NO.
9 000000510S14

Order No. 2001-01, NPDES No. CAS0108758

Subject: Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in San Diego Regional Water Quality Control Board (Regional Board) Order No. 2001-01, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District. Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The Regional Board has reviewed the Watershed Urban Runoff Management Program 2003-2004 Annual Reports and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information. Review of these documents exhibits that the City of Oceanside is in violation of Order No. 2001-01 for failure to implement adequate Watershed Urban Runoff Management Programs.

SUMMARY OF VIOLATIONS

I. Carlsbad Watershed Urban Runoff Management Program

You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the

California Environmental Protection Agency

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watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring and public education efforts have been conducted and/or planned that focus on watersheds and high priority constituents of concern, effective activities, which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

II. San Luis Rey Watershed Urban Runoff Management Program

You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring and public education efforts have been conducted and/or planned that focus on watersheds and high priority constituents of concern, effective activities, which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

Questions pertaining to the issuance of this Notice of Violation should be directed to Bob Morris at (858) 467-2962 or bmorris@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Michael P. McCann
Supervising Water Resource Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

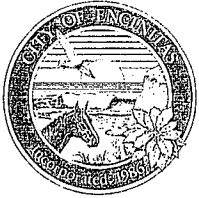


Michael P. McCann
Supervising Water Resource Control Engineer

6/17/05

DATE

MPM:rwm



City of
Encinitas

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

2005 AUG 16 P 2:39

July 22, 2005

Michael P. McCann
Supervising Water Resources Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Ste 100
San Diego, CA 92123-4340

*mm 8/30
RW 9/15
PHammer*

Subject: Watershed Urban Runoff Management Program (WURMP) Annual Report for the Carlsbad Watershed – NOV No. R9-2005-0208

Dear Mr. Hammer:

This letter presents the City of Encinitas' response to the Regional Water Quality Control Board's (RWQCB) Notice of Violation (NOV) for the Carlsbad Watershed Urban Runoff Management Program (WURMP) 2003-04 Annual Report, dated June 17, 2005. A copy of the NOV is provided in Attachment 1.

The NOV indicates that the Carlsbad WURMP failed to comply with J.2.d of Order No. 2001-01, which states, "An implementation time schedule of short and long-term recommended activities (individual and collective) needed to address the highest priority water quality problem(s). For this section, "short-term" activities shall mean those activities that are to be completed during the life of this Order and "long-term activities" shall mean those activities that are to be completed beyond the life of this Order;"

Although watershed management is a new concept and implementation is not easily performed on a watershed basis, the Carlsbad WURMP has been operating successfully on a watershed basis for approximately three years. Over this period, the WURMP Copermittees developed a WURMP Plan that identified the high priority water quality problems for the watershed, identified the sources of those pollutants and developed a list short and long-term activities to address those sources. This program has been adapted twice based on the RWQCB WURMP review letter, dated March 10, 2003, and the RWQCB 13267 Directive regarding the 2002-03 WURMP Annual Report, dated October 8, 2004. The primary changes were to create pollutant-specific activities that "address likely sources of water quality problems within the watershed", as outlined in Comment No. 1 of the 13267 Directive. As a result the Carlsbad Copermittees realigned their water quality activities and added the following three pollutant-specific activities:

1. (Activity 1.2) Pursue activities to reduce sediment load to receiving water bodies.

This activity includes working to better understand issues related to sediment that will allow for a determination of sediment concentrations, loads or impacts on natural waters. Plans were developed to pursue grant funding. The Copermittees subsequently prepared a grant application for the County IRWM program, entitled "San Diego County Lagoon Pollution Reduction Assessment". The grant was submitted to the State Water Resources Control Board and DWR in July 2005. The grant addresses sediment, bacteria and nutrients, and

will identify watershed and lagoon management options and estimations of improvements to lagoons to assist in development of watershed management plans and effective BMPs. This activity also included establishing a watershed-based standardized tracking procedure for SUSMP projects to be used by each jurisdiction. This will eventually allow the Copermitees to address load reductions within the watershed.

Lastly, this activity included developing a series of educational newspaper ads that focus on sedimentation and activities individuals can do to reduce sediment load. The Copermitees strongly believe that this type of specific education is an effective BMP to reduce sediment loads.

2. **(Activity 1.3) Pursue activities to reduce bacteria loading to the receiving water bodies.** Copermitees recognize that bacteria loading is complicated and in order for BMPs to be scientifically based and effective, a better understanding of sources and reduction measures is needed. Thus, activities were planned and implemented to better understand bacteria sources and reduction measures. These activities included implementation of a subwatershed Bacteria Source Identification Project that identified over-irrigation and horse stables as sources of bacteria in Agua Hedionda Creek. Based on this finding the Copermitees planned to and subsequently pursued a grant to determine the effectiveness of using water conservation programs as an effective BMP for reduction of bacteria. A grant was successfully included in the County Prop. 50 IRWM proposal entitled, "Over-Irrigation Runoff/Bacteria Reduction Project". The County grant was submitted in July 2005.

Copermitees recognized the Phase I Bacteria TMDL would play an important role in bacteria reduction within the watershed and became active in the development of the TMDL Stakeholder Advisory Group (SAG). Plans were also put into place to become active in the Phase II bacteria TMDL program that will affect multiple lagoons in the watershed.

Lastly, this activity also included developing a series of educational newspaper ads that focus on bacteria and what individuals can do to reduce bacteria load. The Copermitees strongly believe that this type of specific education is an effective BMP to reduce bacteria loads.

3. **(Activity 1.4) Implement programs to reduce Diazinon and other pesticides in the watershed.** Copermitees believe that education is the best BMP for reduction of Diazinon and pesticide loads. This activity included developing a series of educational newspaper ads to focus on pesticide use and what individuals can do to reduce pesticide load.

This activity also included working closely with the development and implementation of the Regional PRISM grant for a regional Integrated Pest Management program. Plans were developed to perform watershed-specific activities within the Carlsbad watershed to supplement the PRISM grant activities.

In addition to these activities implemented as a watershed group, the City of Encinitas has implemented many activities to address the major water quality problems identified for the watershed. Many of these projects were included in the list provided in Attachment 2 of the RWQCB 13267 Directive letter. These activities were reported in our JURMP Annual Report and were not reiterated in the WURMP Annual Report as outlined in Order 2001-01, Section L (footnote No. 6). A list of these activities follows and is organized to match Attachment 2 of the RWQCB's 13267 Directive Letter with the City's specific activity listed in Italics.

Bacteria:

- "Daylight" underground storm water conveyance lines – *Cottonwood Creek Park, daylighted 90-feet of Cottonwood Creek.*
- Construct wetlands or similar structural treatment best management practices – *Quail Gardens Road project was required to install low-flow channel in conjunction with underground pipeline for stormwater.*
- Conduct a source identification study for an identified problem area – *Conducted a Special Investigation for bacteria in the lower reaches of Cottonwood Creek to determine bacteria sources below the UV Treatment facility.*
- Implement a BMP pilot project in an identified problem area – *Operated Moonlight Ultraviolet Treatment Facility for bacteria in Cottonwood Creek (constructed 2002).*
- Reduce non-storm water discharges that serve as a transport mechanism - encourage water conservation – *Conducted three workshops for water conservation (Yard & Garden Workshop) and conducted drawing contest to produce the 2004 Water Awareness Calendar.*
- Increase cleaning of storm water conveyance systems in problem areas, such as tidally influenced coastal storm drains which contain decomposing kelp – *Removed kelp from beach and storm drain at Moonlight Beach and Cottonwood Creek.*
- Increase dry weather monitoring for bacterial indicators in suspected problem areas – *Increased bacteria monitoring to include approximately 50% of all dry weather locations in 2004.*
- Focus efforts in areas with documented REC-1 beneficial uses – *Encinitas has always focused on the No. one Rec-1 area in the city which is Moonlight Beach (Moonlight UV Treatment facility, kelp cleanup, special investigations in Cottonwood Creek sub-basin, more strict requirements for waterline discharges in Cottonwood Creek sub-basin, and beach cleanups).*
- Address homeless encampments – *Additional homeless encampment cleanups performed by Clean Water Program to reduce bacteria and ammonia levels.*
- Address residential and commercial fertilizer/manure use and manure management – *Commercial inspections focused on horse stables were performed throughout jurisdiction and distributed a manure management brochure to homeowners and commercial facilities.*
- Set up additional "doggie bag" dispensers – *Doggie bag dispensers are located and maintained at most parks throughout the City.*
- Increase oversight of restaurant grease management – *The City worked with the three sanitary districts (LCWD, ESD and CSD) within its jurisdiction to focus efforts on grease problems that caused overflows in the sanitary sewer system. As a result all new and remodeled restaurants now required installing grease traps/interceptors. The City modified the commercial inspection form to inspect grease practices at restaurants. This modified inspection for has been used for two years.*

Sediment/Turbidity:

- Conduct pre-construction meeting at all construction sites, notifying developers and contractors of sediment problems within the watershed – *Engineering staff attends all pre-construction meetings to emphasize BMPs for erosion and sediment control.*
- *Sediment from horse paddocks and bedding areas have been identified as a source of sediment to local waterways so commercial inspections focused on horse stables were performed throughout jurisdiction and distributed a manure management brochure to homeowners and commercial facilities.*

Pesticides:

- Develop and implement neighborhood pesticide collection events – *Conducted a door-to-door HHHW pickup services to Encinitas residents.*
- Conduct Integrated Pesticide Management (IPM) training in the watershed – *Three Home & Garden Workshops to reduce water and chemical use were conducted.*
- *Distributed Diazinon brochure and Yard & Garden brochure (both developed by City in 2003) to residents and at public events.*
- *Placed Diazinon brochure and Yard & Garden brochure (both developed by City in 2003) on municipal website.*

Coordination Activities:

- Conduct meetings among WURMP Copermittees to exchange ideas of how to address sources of pollutants of concern in the watershed and evaluate the effectiveness of actions – *Attended, and actively participated in, all Carlsbad WURMP and Regional WURMP Workgroup meetings.*
- *Attended, and actively participated in, quarterly Escondido Creek Watershed Alliance (ECWA) meetings chaired by Encinitas Mayor Maggie Houlihan.*
- *Attended, and actively participated in, monthly Carlsbad Watershed Network (CWN) meetings.*

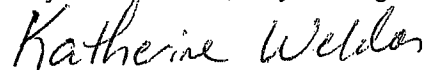
Based on these activities, we believe that we have complied with Section J.2.d of Order 2001-01. The Copermittees have worked diligently by meeting monthly to plan and implement activities to reduce high priority pollutants on a watershed basis. We believe that the Carlsbad Copermittees have performed watershed activities successfully and have made good progress towards implementing pollutant-specific activities.

We hope this letter adequately address your comments regarding our WURMP 2003-04 Annual Report. If you have any questions about this letter, please do not hesitate to call Kerry Miller at (760) 633-2611 or Kathy Weldon at (760) 633-2632.

Respectfully,



Kerry Miller
City of Encinitas, City Manager



Katherine Weldon
City of Encinitas, Carlsbad Lead Copermittee
Clean Water Program Coordinator

Attachment 1

RWQCB Notice of Violation



California Regional Water Quality Control Board San Diego Region



Stan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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Governor

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Phone (858) 467-2952 • FAX (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

CERTIFIED MAIL 7004 2890 0002 5799 1605

June 17, 2005

IN THE MATTER OF)

Ms. Kerry Miller)
City Manager)
City of Encinitas)
505 S. Vulcan Avenue)
Encinitas, California 92024-3633)

NOTICE OF VIOLATION
NO. R9-2005-0208

WDID NO.
9 000000510S16

Order No. 2001-01, NPDES No. CAS0108758

Subject: Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in San Diego Regional Water Quality Control Board (Regional Board) Order No. 2001-01, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District. Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The Regional Board has reviewed the Watershed Urban Runoff Management Program 2003-2004 Annual Reports and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information. Review of these documents exhibits that the City of Encinitas is in violation of Order No. 2001-01 for failure to implement adequate Watershed Urban Runoff Management Programs.

SUMMARY OF VIOLATIONS

I. Carlsbad Watershed Urban Runoff Management Program

You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program

California Environmental Protection Agency


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2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring and public education efforts have been conducted and/or planned that focus on watersheds and high priority constituents of concern, effective activities, which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

Questions pertaining to the issuance of this Notice of Violation should be directed to Bob Morris at (858) 467-2962 or bmorris@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Michael P. McCann
Supervising Water Resource Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340



Michael P. McCann
Supervising Water Resource Control Engineer

6/17/05

DATE

CC: Kathy Weldon
City of Encinitas
505 S. Vulcan Avenue
Encinitas, California 92024-3633



City of Carlsbad

Public Works

August 10, 2005

Sent via Certified Mail

Mr. Michael P. McCann
Supervising Water Resource Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

SUBJECT: Notice of Violation NO. R9-2005-0207

Dear Mr. McCann:

This is in response to the June 17, 2005 Notice of Violation sent to the City of Carlsbad and all Copermittees related to the WURMP 2003-2004 Annual Reports. The City has implemented a significant selection of the activities identified by the Regional Board as reducing pollutants and meeting the Maximum Extent Practicable standard of the Permit (October 8, 2004 Directive to the Carlsbad Watershed Copermittees (WPS:10-5000.02:morrb)). These activities were reported in the City of Carlsbad JURMP Annual Report, and therefore may have been overlooked by the Regional Board in their review of the WURMP Annual Reports. We therefore take this opportunity to summarize these activities.

The City of Carlsbad has been an active participant in the Carlsbad WURMP since the issuance of the permit. The City of Carlsbad has implemented activities which effectively address the highest priority water quality problems in the watershed. In addition to assessment, monitoring and public education efforts that the City of Carlsbad has conducted with the Watershed Copermittees and on a jurisdictional level, the City has also implemented activities to eliminate sources and reduce pollutant loadings contributing to high priority constituents of concern in the watershed. These high priority constituents, as identified in the Carlsbad WURMP Annual Report include Fecal Coliform, sediment, and Diazinon. Collective WURMP activities addressing these high priority constituents were detailed in the WURMP. Individual activities to reduce these pollutants were detailed in the City's JURMP Annual Report.

This response letter contains the Examples of Water Quality Activities sent in Attachment 2 in the October 8, 2004 directive from the Regional Board to the Carlsbad Watershed Copermittees (underlined), followed by a summary of the City's implementation of that activity.



SEP 10 2005 11:11 AM
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD
WMM 8/30/05
RM 9/15
Phil Hammer

BACTERIA

1. Conduct a source identification study for an identified problem area, such as the study conducted at Shelter Island Shoreline Park. The Shelter Island study was initiated in response to significant bacteria problems and beach closures/postings. The City of Carlsbad does not have a bacteria problem on the beaches resulting in postings. A small portion of Agua Hedionda Lagoon is listed for bacteria, yet results from our Coastal Lagoon Outfall Monitoring Program show that lagoon samples do not typically exceed water quality objectives. During June of 2004, the City initiated a bacteria study with the City of Vista in Agua Hedionda Creek and upper tributaries. Results from that small study showed good results in most locations in Carlsbad while Vista tracked some sources to irrigation flows. This was reported in Section 13 of our 03-04 JURMP Annual Report.
2. Increase dry weather monitoring for bacterial indicators in suspected problem areas. The City has increased dry weather monitoring for bacterial indicators in Agua Hedionda Lagoon and Creek. A monthly sampling program was initiated in October of 2003, and this was reported in Section 13 of the JURMP Annual report. The City also added four creek sites to the dry weather monitoring program, which are tested for bacteria and other potential pollutants (reported on page 3-3 of the WURMP annual report). Complete results are found in the Dry Weather report in appendix 8 of the JURMP Annual Report.
3. Reduce non-storm water discharges that serve as a transport mechanism – encourage water conservation. In April of 2004, the Water Conservation Specialist began working directly with the Storm Water Protection Program. These groups, with solid waste/HHW/Recycling, became part of Environmental Programs and a significant public outreach campaign was launched, including education on outdoor water conservation. The Water Conservation Specialist works directly with the Storm Water group to reduce over-watering and irrigation runoff which results in discharges that may serve as a transport mechanism to the storm drain system. This was reported in the 03-04 JURMP Annual Report Section 5 and more specific activities will be reported in future annual reports.
4. Increase cleaning of storm water conveyance systems in problem areas, such as tidally influenced coastal storm drains which contain decomposing kelp. The City does not have tidally influenced storm drains which contain decomposing kelp. However, the City does prioritize cleaning of the storm water conveyance system to address problem and high priority areas. Details will be reported in future annual reports.
5. Implement focused education efforts targeting sources of bacterial contamination. The City has done this on a watershed and jurisdictional level. Education has focused on pet waste, which is likely the major urban source of bacteria. The City first developed and distributed our pet waste brochure in 2002. This has been addressed in Section 9 and Section 11 of the JURMP Annual Reports.
6. Address residential and commercial fertilizer/manure use and manure management. The City has held workshops and conducted education on fertilizers (Section 9 of the JURMP Annual Report). Manure use is not common in the City, but inspection and compliance activities were conducted to ensure proper manure management at a horse stable in Carlsbad.
7. Set up additional “doggie bag” dispensers. The City placed additional dispensers along City trails. The City currently has at least 15 locations with bag dispensers, which includes the stretch along the seawall and various trailheads. This was discussed in Section 11 of the 03-04 JURMP Annual Report.

8. Increase enforcement at dog beaches and parks. The City of Carlsbad does not allow dogs on City beaches or City parks. In response to some concerns last year, the Police Department did increase enforcement at the beach to ensure that the “no dog” rule was being followed. The City has signage at 31 public locations across the City.
9. Reduce feeding of birds in problem areas. The City of Carlsbad does not have known bird feeding problem areas. There had previously been a location on Buena Vista Lagoon, but access to that site was shut down by the Department of Fish and Game who owns and operates that location.
10. Increase oversight of restaurant grease management. The Storm Water Protection Program has an active restaurant inspection program, and conducts enforcement activities to eliminate grease issues. The City has developed specific education/information materials on this issue and distributed them to restaurants. This was reported in Section 4 of the JURMP Annual Report.
11. Focus efforts in areas with documented REC-1 beneficial uses. Documented REC-1 uses occur primarily at the beach and in portions of Agua Hedionda Lagoon. The City has focused monitoring and cleaning activities in these areas.
12. Address homeless encampments. The City has removed illegal encampments from public property and worked with farmworker housing advocates and property owners to try to find appropriate locations for farmworker housing. This was addressed in Section 11 of the 03-04 JURMP Annual Report.
13. Increase oversight of yard waste disposal. Carlsbad residents can dispose of yard waste in designated cans at the curbside as part of their regular trash services. The City has also informed professional landscapers of BMP requirements, and this BMP implementation has been observed since issuance of the permit. Previously, they may have been observed blowing yard waste into gutters and storm drains, whereas now they are typically observed sweeping up and collecting yard waste for off-site disposal.

SEDIMENT/TURBIDITY

1. Treat all construction sites that disturb soil within the watershed as high priority construction sites (increase inspection frequencies). Since implementation of the Permit, the City has considered all sites with a grading permit to be high priority and these are inspected at the minimum high priority frequencies. This was reported in Section 7 of the JURMP Annual Reports.
2. Conduct pre-construction meetings at all construction sites, notifying developers and contractors of sediment problems within the watershed. Pre-con meetings are typically conducted for all sites that require a grading permit. This was reported in Section 7 of the JURMP Annual Report.
3. Implement focused education efforts targeting sources of sediment. The City has implemented focused education efforts targeting sources of sediment. Workshops and other education activities for construction site operators and developers were reported in Section 7 of the JURMP. Educational information on sources of sediment for residents was discussed in Section 5 of the JURMP Annual Report. This was also highlighted in Section 11 of the JURMP Annual Report.

PESTICIDES

Section 11 of the JURMP Annual Report summarizes that Diazinon and Chlorpyrifos were not detected at the creek sites (4) in Carlsbad and were not detected in the storm drain system (15

sites). The Dry Weather Report for 2004 was in Appendix 8 of the JURMP Annual Report. While these common problem pesticides were not found in Carlsbad during 2004, the City still implemented activities to reduce pesticides.

1. Conduct integrated Pesticide Management (IPM) training in the watershed. The City held "Less Toxic Yard and Garden" workshops addressing IPM issues during 03-04. These were discussed in Sections 9 and 11 of the JURMP Annual Report.
2. Develop and implement neighborhood pesticide collection events. City of Carlsbad residents can take unwanted pesticide to two HHW collection sites for free. The City is considering a curbside HHW collection program for 2005-2006.

COORDINATION ACTIVITIES

1. Coordinate and prioritize water quality projects that address pollutants of concern in the watershed. The City of Carlsbad has been an active participant in the Carlsbad Watershed and helped create a matrix of pollutant sources and reduction activities by pollutant for use by our Watershed Copermittees.
2. Co-sponsor applications for funding. The City of Carlsbad has co-sponsored applications for funding, and these were highlighted in the WURMP Annual Report. The City is currently the lead on a Prop. 50 Grant Application for a study to assess lagoon water quality and BMP implementation in the Carlsbad Watershed.
3. Conduct meetings among WURMP Copermittees to exchange ideas of how to address sources of pollutants of concern in the watershed and evaluate the effectiveness of actions. The City of Carlsbad has been an active participant in the Carlsbad Watershed, attending monthly meetings for the WURMP group and our watershed education group.

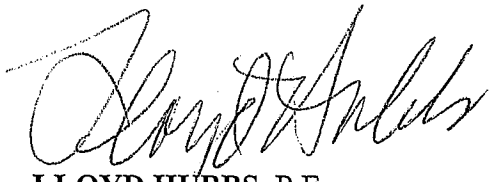
Of the 35 example activities provided by the Regional Board, the City of Carlsbad has implemented well over half of them.

While this response letter highlights the selection of Regional Board example activities that the City of Carlsbad has implemented, it is not, by any means, an exhaustive list of the water quality activities and BMPs that the City has implemented since issuance of the Permit to reduce or eliminate urban runoff contributions of bacteria, sediment, and pesticides. The City has also implemented activities to reduce urban contributions of nutrients (nitrogen and phosphorus), trash, oil and grease, and other pollutants. All of these activities have been detailed in the JURMP Annual Reports. The City concludes that many of these activities are effective at removing these pollutants of concern, as the City has directly measured or estimated the pollutant loading reduction. These will be further quantified in the next JURMP Annual Report.

Based on the City's implementation of these activities, the City believes that we have complied with Section J.2.d. of Order 2001-01. Clarification of where these activities are reported in future annual reports should simplify the Regional Board's review of pollutant reduction activities undertaken by the City jurisdictionally and on a watershed basis (Section L, footnote 6 of Order No. 2001-01).

Following is the signed certification statement for this response. If you have any questions, please contact Jayne Strommer at (760) 602-7580.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



LLOYD HUBBS, P.E.
Public Works Director

cc: Linda Kermott, Public Works Manager
Ron Kemp, Deputy City Attorney
Ray Patchett, City Manager
Jayne Strommer, Environmental Programs Manager

Attachment 3

**Review of Notices of Violation
Issued to the San Diego County Copermittees for
Watershed Urban Runoff Management Program Implementation**



California Regional Water Quality Control Board San Diego Region



Alan C. Lloyd, Ph.D.
Secretary for
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<http://www.waterboards.ca.gov/sandiego>

June 17, 2005

IN THE MATTER OF)

Mr. Keith Till)
City Manager)
City of Santee)
10601 Magnolia Avenue)
Santee, CA 92071)

NOTICE OF VIOLATION
NO. R9-2005-0191

WDID NO.
9 000510S19

10-5018.027

Order No. 2001-01, NPDES No. CAS0108758

Subject: Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in San Diego Regional Water Quality Control Board (Regional Board) Order No. 2001-01, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District. Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The Regional Board has reviewed the Watershed Urban Runoff Management Program 2003-2004 Annual Reports and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information. Review of these documents exhibits that the City of Santee (City) is in violation of Order No. 2001-01 for failure to implement adequate Watershed Urban Runoff Management Programs.

SUMMARY OF VIOLATIONS

I. San Diego River Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program

California Environmental Protection Agency

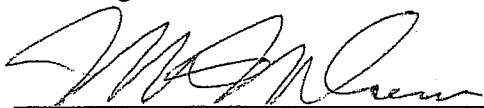
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2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While efforts to address bacteria at the mouth of the San Diego River have been conducted, sources and pollutant loadings contributing to this water quality problem in other portions of the watershed have not been addressed on a watershed basis.

Questions pertaining to the issuance of this Notice of Violation should be directed to Phil Hammer at (858) 627-3988 or phammer@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Michael P. McCann
Supervising Water Resource Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340



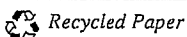
Michael P. McCann
Supervising Water Resource Control Engineer

6/17/05
DATE

CC: Cary Stewart
City of Santee
10601 Magnolia Avenue
Santee, CA 92071

Certified Mail No. 7005 0390 0005 2954 2849

California Environmental Protection Agency





California Regional Water Quality Control Board San Diego Region



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Phone (858) 467-2952 • FAX (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

June 17, 2005

IN THE MATTER OF)

Mr. Walt Ekard)
Chief Administrative Officer)
County of San Diego)
1600 Pacific Highway, Room 209)
San Diego, CA 92101)

NOTICE OF VIOLATION
NO. R9-2005-0196

WDID NO.
9 0000510S1

Order No. 2001-01, NPDES No. CAS0108758

Subject: Watershed Urban Runoff Management Program (WURMP) 2003-2004 Annual Reports

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in San Diego Regional Water Quality Control Board (Regional Board) Order No. 2001-01, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District. Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The Regional Board has reviewed the Watershed Urban Runoff Management Program 2003-2004 Annual Reports and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information. Review of these documents exhibits that the County of San Diego (County) is in violation of Order No. 2001-01 for failure to implement adequate Watershed Urban Runoff Management Programs.

SUMMARY OF VIOLATIONS

I. San Diego River Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program

California Environmental Protection Agency

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2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While efforts to address bacteria at the mouth of the San Diego River have been conducted, sources and pollutant loadings contributing to this water quality problem in other portions of the watershed have not been addressed on a watershed basis.

II. San Dieguito Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

III. Penasquitos Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While efforts to address erosion resulting from fires have been conducted, sources and pollutant loadings contributing to this water quality problem in other portions of the watershed have not been addressed on a watershed basis. Moreover, activities addressing other high priority water quality problems, such as bacteria, have not been implemented.

IV. San Diego Bay Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant

loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While monitoring efforts addressing total maximum daily loads and other water quality problems have been conducted, sources and pollutant loadings contributing to these water quality problems have not been addressed on a watershed basis.

V. Tijuana River Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

VI. Carlsbad Watershed Urban Runoff Management Program

- A. You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring, and public education efforts have been conducted and/or planned that focus on watersheds and high priority constituents of concern, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

VII. San Luis Rey Watershed Urban Runoff Management Program

You failed to comply with section J.2.d of Order No. 2001-01 by not implementing activities which effectively address the highest priority water quality problems in the watershed. Based on review of the Watershed Urban Runoff Management Program 2003-2004 Annual Report and the related Copermittee responses to the Regional Board's October 8, 2004 California Water Code Section 13267 Directives for Information, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented. While assessment, monitoring, and public education efforts have been conducted and/or planned that focus on watersheds and

high priority constituents of concern, effective activities which eliminate sources and reduce pollutant loadings contributing to high priority water quality problems in the watershed have not adequately been implemented.

Questions pertaining to the issuance of this Notice of Violation should be directed to Phil Hammer at (858) 627-3988 or phammer@waterboards.ca.gov. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Michael P. McCann
Supervising Water Resource Control Engineer
Attn: Phil Hammer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340



Michael P. McCann
Supervising Water Resource Control Engineer

6/17/05

DATE

CC: Chandra Waller
Assistant Director
Department of Public Works
County of San Diego
5201 Ruffin Road (MS-0336)
San Diego, CA 92123-4310

Jon Van Rhyn
DPW Watershed Protection Program
County of San Diego
9325 Hazard Way
San Diego, CA 92123

Cid Tesoro
DPW Watershed Protection Program
County of San Diego
9325 Hazard Way
San Diego, CA 92123

Mr. Walt Ekard

Page 5

June 17, 2005

Joe DeStefano
County of San Diego
9325 Hazard Way
San Diego, CA 92123

Certified Mail No. 7005 0390 0005 2954 2979

California Environmental Protection Agency

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Attachment 4

**Review of Notices of Violation
Issued to the San Diego County Copermittees for
Watershed Urban Runoff Management Program Implementation**



California Regional Water Quality Control Board

San Diego Region

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>
9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972



Gray Davis
Governor

March 10, 2003

Dear San Diego Municipal Storm Water Copermittee (Distribution List Attached):

Subject: Watershed Urban Runoff Management Plans

Thank you for your participation in the development and submittal of the Watershed Urban Runoff Management Plans (WURMPs) for the principal watersheds of San Diego County. The WURMPs provide useful characterizations of the watersheds and identify their most prominent urban runoff water quality problems. They also serve as a framework to begin to collaboratively address these urban runoff water quality problems with specifically targeted remedial actions. As such, the WURMPs should be valuable tools for both the public and governmental agencies as the plans continue to evolve.

The San Diego Regional Water Quality Control Board (SDRWQCB) understands that the submitted WURMPs are essentially a first step in the process of addressing urban runoff water quality problems on a watershed basis. As the Unified WURMP states, the WURMPs "will need to be refined and augmented over the long term as we develop a better understanding of the complex issues affecting our watersheds." Based on this adaptive approach to the continued development of the WURMPs, the SDRWQCB offers the following comments and guidance regarding its expectations for future WURMP implementation.

1. Any future revisions, updates, and clarifications proposed by the Copermittees which may change the development and implementation of the submitted WURMPs must be described in the WURMP Annual Reports. This information is required by the San Diego Municipal Storm Water Permit (Permit) at section M.1.e. These proposed revisions, updates, and clarifications should be described in detail in a specific section of each of the WURMP Annual Reports.
2. The WURMPs typically identify "data collection and analysis" as an action item the Copermittees will be implementing to address identified urban runoff water quality problems. The SDRWQCB expects this "data collection and analysis" to be implemented during the upcoming reporting period and discussed in the upcoming WURMP Annual Report. While the SDRWQCB understands that "data collection and analysis" will be an ongoing effort, assessment of existing water quality data is required by Permit section J.2.b and must be reported on in the next WURMP Annual Reports per Permit sections M.1.a and M.1.f.

The data sources considered in the submitted WURMPs were somewhat limited, apparently due to funding, timing, and other constraints. In future WURMP Annual reports, the

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The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

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Copermittees must address collection and analysis of other existing data sources, such as dry weather field screening and analytical monitoring, coastal storm drain monitoring, citizen monitoring, outside agency and research institution monitoring, and Copermittee special investigations. In addition, new data should be generated which specifically addresses urban runoff water quality problems already identified in the WURMPs. Discussions of any additional data used during future WURMP development and implementation should include information on the type of analysis performed with the newly considered data. Moreover, the discussion should report on whether analysis of the additional data validates previous assumptions regarding pollution sources, including whether the additional data warrants changing or adding new WURMP priorities and associated planned actions.

3. In identifying high priority water quality problems, the WURMPs primarily utilize the Clean Water Act section 303(d) list for impaired water bodies. As more data is collected and considered, water quality problems identified as high priorities should not be limited to those found on the 303(d) list only.
4. The WURMPs typically state that grant funding possibilities are used in the identification of high priority water quality problems. Grant funding opportunities should not be a determinant of which water quality problems are to be considered a high priority for planned actions.
5. The WURMPs in general did not include specific information on the likely sources of the urban runoff water quality problems identified. This information is required to be included in the WURMPs by Permit section J.2.c. While such information may not be available in all cases, the next WURMP Annual Reports must discuss likely sources of identified urban runoff water quality problems where possible.
6. The WURMPs generally describe broad planned actions to be implemented to address identified water quality problems. These broad planned actions often do not specifically address likely sources of water quality problems. While broad planned actions may be appropriate in situations where no likely sources of water quality problems have been identified, specific actions directly targeting identified likely sources of water quality problems are also needed. This particularly applies to impaired water bodies found on the Clean Water Act section 303(d) list. The water quality problems in these water bodies have been validated and pollution sources have often been identified.
7. Some of the WURMPs inordinately focus on the final receiving waters at the bottom of the watershed, such as bays or the Pacific Ocean. While these types of water bodies are likely to be some of the more significant receiving waters within a given watershed, attention must also be paid to the urban runoff water quality problems of the creeks and streams which drain to the water bodies. Where necessary, WURMPs must be expanded to address upstream

urban runoff water quality problems.

8. The WURMPs often identify planned actions which primarily focus on water quality impacts from new development. Implementation of Standard Urban Storm Water Mitigation Plans and Source Water Protection Guidelines are frequently cited as primary planned actions to address identified water quality problems. While these actions are certainly important components for preventing increased water quality problems, planned actions in the next WURMP Annual Reports must also specifically target existing sources of water quality problems.
9. The education and public participation efforts cited in the WURMPs are often primarily regional efforts which are not tailored to specific watershed urban runoff water quality problems. A watershed specific education program is required by Permit section F.2.g. As the WURMPs continue to be developed and implemented, specific education efforts targeting identified watershed urban runoff water quality problems must be implemented.
10. The WURMPs have identified some broad performance measures to be used to assess the effectiveness of WURMP implementation at this early stage. As more baseline data is collected and assessed, the SDRWQCB expects the performance measures to be expanded and tailored to assess the effectiveness of specific planned actions.
11. The WURMPs generally state that the workgroups will meet "as needed" to further develop and implement the programs. In light of the preliminary nature of the WURMPs, as well as plans for their continued expansion, the SDRWQCB recommends that these meetings be regularly scheduled at a set frequency. This will help ensure that development and implementation of the WURMPs progresses as planned.

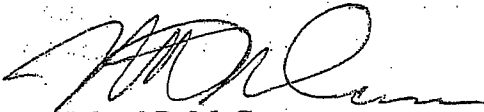
The SDRWQCB anticipates participating in these meetings when possible. We request that you notify appropriate SDRWQCB staff, as listed below, when the meetings are scheduled.

Watershed	SDRWQCB Contact Persons	Email
Santa Margarita	Megan Fisher	Fishm@rb9.swrcb.ca.gov
San Luis Rey	Chris Means	Meanc@rb9.swrcb.ca.gov
Carlsbad	Dave Gibson	Gibsd@rb9.swrcb.ca.gov
San Dieguito	Dat Quach	Quacd@rb9.swrcb.ca.gov
Penasquitos	Ben Tobler	Toblb@rb9.swrcb.ca.gov
Mission Bay	Ben Tobler	Toblb@rb9.swrcb.ca.gov
San Diego River	Mike Porter	Portm@rb9.swrcb.ca.gov
San Diego Bay	Phil Hammer Ben Neill Dat Quach	Hammp@rb9.swrcb.ca.gov neilb@rb9.swrcb.ca.gov quacd@rb9.swrcb.ca.gov
Tijuana	Kritin Schwall	Schwk@rb9.swrcb.ca.gov

12. The watershed maps included in the WURMPs generally do not completely map the municipal separate storm sewer systems (MS4s) within the watersheds. The MS4s are required to be mapped as part of the WURMPs by Permit section J.2.a. The WURMP watershed maps must continue to be updated as mapping of the MS4s occurs, until mapping of the MS4s is completed.
13. The WURMPs generally do not address coordination with other jurisdictions within the watersheds, such as Caltrans, the Department of Defense, and Native American Tribes. The Permit promotes Copermittee coordination with these types of watershed stakeholders at Finding 31. As the WURMPs continue to be developed and implemented, they should be expanded to address coordination with these types of entities.

Again, thank you for your efforts to address urban runoff water quality problems on a watershed basis. The SDRWQCB is looking forward to the continued development of this program. Please call Phil Hammer at 858-627-3988 if you have any questions regarding this letter.

Respectfully,



Michael P. McCann
Supervising Water Resource Control Engineer
Watershed Branch

Distribution List

Lloyd B. Hubbs, City of Carlsbad
Samir Nuhaily, City of Chula Vista
Scott Huth, City of Coronado
Lauraine Brekke-Esparza, City of Del Mar
Richard Odiorne, City of El Cajon
Kelly Miller, City of Encinitas
Rolf Gunnarson, City of Escondido
Hank Levien, City of Imperial Beach
Cameron Berkuti, City of La Mesa
Bob Richardson, City of Lemon Grove
Burton Myers, National City
Peter Weiss, City of Oceanside
Niall Fritz, City of Poway
Karen Henry, City of San Diego
Jack Miller, County of San Diego
David Merk, San Diego Unified Port District
Richard Wygant, City of San Marcos
Cary Stewart, City of Santee
Chandra Collure, City of Solana Beach
Dan York, City of Vista

Attachment 5

Review of Notices of Violation
Issued to the San Diego County Copermittees for
Watershed Urban Runoff Management Program Implementation



California Regional Water Quality Control Board

San Diego Region



Terry Tamminen
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>
9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972

Arnold Schwarzenegger
Governor

October 8, 2004

Certified Mail No. 7004 0750 0000 7625 1903
(Return Receipt Requested)

In reply refer to:
WPS:10-5000.02:hammp

Dear San Diego River Watershed Copermittee (Distribution List Attached):

Directive Issued Pursuant to California Water Code Section 13267 for Information on Implementation of the San Diego River Watershed Urban Runoff Management Program

We have completed our review of the San Diego River Watershed Urban Runoff Management Plan (WURMP) Fiscal Year 2003 Annual Report (Annual Report). During our review, we identified sections of the Annual Report where additional information is needed to fully assess past, current, and planned program implementation. We have divided our comments on the Annual Report into two categories: (1) requests that the next annual report include additional information in order for the Regional Board to more effectively assess program implementation and compliance during the reporting period, and (2) requests for information to ensure that compliance with permit requirements will be adequately achieved during fiscal year 2004-05.

Pursuant to California Water Code section 13267, you are hereby directed to submit the requested information to this office in the next WURMP Annual Report on January 31, 2005. The first category of comments outlined below, which apply to program implementation and compliance during the Annual Report's reporting period, shall be addressed within the standard sections of the Annual Report. The second category of comments outlined below, which apply to compliance with permit requirements during fiscal year 2004-05, shall be addressed in a separate section as an attachment to the Annual Report.

All of our comments are numbered to provide you the ability to track responses.

I. Program Implementation During the Annual Report's Reporting Period

1. Section 3.2.3 of Section II states that a Memorandum of Understanding (MOU) was signed in 1991 to improve awareness of development projects near jurisdictional boundaries. In the next Annual Report, please provide a copy of the MOU and list the projects for which the MOU was specifically used in the San Diego River watershed during the reporting period. In addition, since the MOU was signed prior to the adoption of Order 2001-01, please provide information regarding any changes or updates made to the MOU to address water quality and watershed-based issues.

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2. Section 3.3.2 of Section II discusses the San Diego River Watershed Management Plan, but does not discuss several of the Copermittees' involvement in the development of the plan. In your next Annual Report, please indicate the activities conducted by each of the San Diego River watershed Copermittees in developing and implementing the plan.
3. Section 3.3.3 of Section II discusses the City of San Diego's development of the San Diego River Park Master Plan, which appears to be currently limited to the jurisdiction of the City of San Diego. In your next Annual Report, please discuss efforts by the other Copermittees within the watershed to use or apply the concepts of the San Diego River Park Master Plan in their jurisdictions.
4. Section 4.2 of Section II states that the Copermittees are focusing their education efforts on priority pollutants of concern that span several watersheds (such as pesticides). In the next Annual Report, please identify and describe the education efforts that were conducted specifically within the San Diego River watershed for pollutants of concern that span several watersheds.
5. Table II-3 does not provide sufficient information to exhibit that watershed concepts and San Diego River watershed issues were addressed by the Public Service Announcements (PSAs) listed in the table. In the next Annual Report, please list only those PSAs which address watershed concepts and San Diego River watershed issues, and list the content of the PSAs.
6. Section 4.3.2 of Section II states that a draft Regional Watershed Brochure will be developed by July 2005. In your next Annual Report, please provide an update on this effort and explain why this extended length of time is necessary for the brochure to be developed.
7. Section 5.1 of Section II discusses meetings and other efforts to foster Copermittee and stakeholder collaboration. In your next Annual Report, please provide summary information regarding the meetings held while developing and implementing the San Diego River WURMP. Include the number of attendees, dates, content, public notification, and how stakeholders were identified and involved.
8. Section 5.4 of Section II identifies public participation activities that occurred outside the San Diego River watershed and do not address the San Diego River watershed. For example, presentations by the City of San Diego regarding Chollas Creek restoration should be included in the appropriate Annual Report, or it should be clarified how the presentations are related to the San Diego River watershed. In your next Annual Report, please identify only those public participation activities which specifically occurred in the San Diego River watershed and/or addressed specific San Diego River water quality issues.
9. The Annual Report includes considerable amounts of generic or "boilerplate" text. This boilerplate text is often not necessary in order for the Regional Board to assess compliance

and can at times prevent differences in watersheds from being distinguished. It also does not adequately describe how implementation of a particular program component is being implemented in a specific watershed. For your next Annual Report, please review the use of boilerplate text and consider reporting approaches to make the Annual Report more watershed specific, such as moving boilerplate text to the Unified WURMP Annual Report document. In addition, please review all boilerplate text to ensure that it is directly applicable to the San Diego River watershed. Also, please describe how the program components covered by the boilerplate text were specifically implemented within the San Diego River watershed.

10. The Water Quality Assessment conducted in Sections 2.0 and 3.0 of Section III is unclear in describing how "high priority water quality issues" are identified. For example, bacterial contamination is identified as a high priority water quality issue in Table III-4, even though it is not initially identified as having a high frequency of occurrence in Table III-2. Moreover, Table III-4 does not list all of the identified constituents of concern for consideration as a high priority water quality issue. All constituents of concern should be considered when identifying high priority water quality issues. In addition, a constituent's listing on the 303(d) list of impaired waterbodies should be used to identify constituents of concern, since 303(d) listings have been validated. In your next Annual Report, please describe the process that will be used to identify constituents of concern and high priority water quality issues, and discuss how constituents of concern will be assessed in order to identify high priority water quality issues.

11. In your next Annual Report, please describe how the San Diego River watershed Copermittees will coordinate with other jurisdictions within the San Diego River watershed, such as Caltrans and the San Diego River Conservancy.

II. Program Implementation for Fiscal Year 2004-05

12. Section 2.1 of Section II identifies dog feces as a probable source of bacterial contamination at Dog Beach. In your response to this letter, please identify short and long-term activities that will be conducted to specifically target this bacterial contamination source. In addition, please provide a schedule for when the activities will be conducted.

13. The Regional Board views the Water Quality Activities section as a key section which should be a primary focus of the Annual Report. As stated in Finding No. 31 of the Permit, the Regional Board finds that "it is essential for the Copermittees to coordinate their water quality protection and land use planning activities to achieve the greatest protection of receiving water bodies." To achieve this goal, the Copermittees must identify and implement activities to eliminate sources and reduce loading of the pollutants causing the identified high priority water problems within the watershed.

While the "water quality activities" identified in Section 2.0 of Section II of the Annual Report are a good first step, some of the activities do not specifically address likely sources of water quality problems within the watershed. The activities should be reassessed in light of the watershed's high priority water quality problems, and reworked and expanded where appropriate. In your response, please identify the short and long-term activities that will be conducted to specifically target likely sources of water quality problems in the San Diego River watershed (include an implementation schedule). It is recommended that the Copermittees generate a list of activities which can be conducted to address the sources of the watershed's high priority water quality problems. The list can then be evaluated to identify effective and efficient activities to be implemented. An example list is provided as Attachment 2.

14. Section 2.4 of Section II of the Annual Report states that the City of San Diego is developing Source Water Protection Guidelines for New Development as a "water quality activity" to be implemented in the San Diego River watershed. In your response, please indicate how the Source Water Protection Guidelines specifically apply to the San Diego River watershed. In addition, please describe where and when the guidelines will be implemented, and what steps will be taken to achieve full implementation.
15. Section 3.2 of Section II discusses several items meant to serve as mechanisms for inter-jurisdictional planning collaboration. However, these items are essentially short-term pre-existing notification procedures, rather than mechanisms through which long-term inter-jurisdictional collaboration on watershed issues occurs. In your response, please provide any information on other methods that the Copermittees within the San Diego River watershed will be using to implement long-term inter-jurisdictional collaborative planning.
16. Section 3.3.1 of Section II states that the draft Land Use Professional's Manual is to be available in spring 2004. If this document is available, please provide us with a copy and the date the document will be finalized. In addition, in your response to this letter, please clarify if planners within the San Diego River watershed will be required to implement the manual, and if the manual will contain watershed-specific sections to ensure that planners are appropriately addressing the watershed-based water quality concerns of the San Diego River watershed.
17. Section 4.2 of Section II states that the Copermittees are focusing their education efforts on priority pollutants of concern that span several watersheds prior to focusing on watershed-specific pollutants. Please identify and describe the upcoming education efforts specifically within the San Diego River watershed that will be conducted for pollutants of concern that span several watersheds. Also please identify when education efforts on watershed-specific pollutants will begin in the San Diego River watershed. Include information on the anticipated form, content, and location of the watershed-specific education efforts.

18. Please describe how data collection and analysis will be conducted using data from other existing data sources, such as coastal storm drain monitoring, ambient bay, lagoon, and coastal receiving water monitoring, citizen monitoring, outside agency and research institution monitoring, and Copermittee special investigations.
19. Please describe how the concepts outlined in the Copermittee document titled "A Framework for Assessing the Effectiveness of Jurisdictional Urban Runoff Management Programs" will be used in assessing the effectiveness of the San Diego River Watershed Urban Runoff Management Plan.
20. As the San Diego River watershed program develops and changes, the WURMP should be amended to reflect those changes. New education activities, planning activities, water quality activities, etc. should be added to the WURMP, while discontinued activities should be removed. Please provide updated WURMP sections which have been amended in order to reflect changes to the San Diego River watershed program.

The submitted report shall include the following signed certification by a principal executive officer or ranking elected official:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

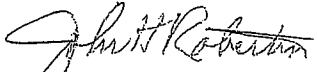
Failure to respond or late/inadequate responses to this request may subject the San Diego River watershed Copermittees to civil liability in an amount up to \$1,000 for each day the violation occurs (California Water Code section 13268):

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.

October 8, 2004

We appreciate your effort to preserve and enhance the quality of water resources in the San Diego River watershed. If you have any questions regarding this letter, please contact Phil Hammer at (858) 627-3988 or email: hammp@rb9.swrcb.ca.gov.

Respectfully,



JOHN H. ROBERTUS

Executive Officer

San Diego Regional Water Quality Control Board

Attachment 1 – Distribution List

Attachment 2 – Examples of Water Quality Activities

Attachment 1 - Distribution List

Julie Hamilton, City of El Cajon
Greg Homura, City of La Mesa
Erik Steenblock, City of Santee
Karen Henry, City of San Diego
Chandra Waller, County of San Diego
Jon Van Rhyn, County of San Diego
Cid Tesoro, County of San Diego
Joseph DeStefano, County of San Diego

ATTACHMENT 2

Review of Watershed Urban Runoff Management Plan (WURMP) Fiscal Year 2003 Annual Reports

Examples of Water Quality Activities

Implementation of water quality activities which eliminate sources and reduce the loading of pollutants which are causing high priority water quality problems within a watershed is a critical component of the WURMPs. Listed below are examples of the types of activities that can be conducted to address high priority water quality problems and meet the maximum extent practicable standard, as it is outlined in the requirements of section J.2.d of San Diego Regional Water Quality Control Board Order No. 2001-01 (the San Diego County Municipal Storm Water Permit). The lack of implementation of a selection of these types of activities (or their equivalent) during future reporting periods may constitute a violation of Order No. 2001-01.

Bacterial Indicators

1. Remove concrete from lined channels and v-ditches
2. "Daylight" underground storm water conveyance lines
3. Construct wetlands or similar structural treatment best management practices
4. Conduct a source identification study for an identified problem area, such as the study conducted at Shelter Island Shoreline Park
5. Implement a BMP pilot project in an identified problem area
6. Reduce non-storm water discharges that serve as a transport mechanism - encourage water conservation
7. Increase cleaning of storm water conveyance systems in problem areas, such as tidally influenced coastal storm drains which contain decomposing kelp
8. Increase dry weather monitoring for bacterial indicators in suspected problem areas
9. Focus efforts in areas with documented REC-1 beneficial uses
10. Implement focused education efforts targeting sources of bacterial contamination
11. Address homeless encampments
12. Address residential and commercial fertilizer/manure use and manure management

13. Set up additional "doggie bag" dispensers
14. Increase enforcement at dog beaches and parks
15. Reduce feeding of birds in problem areas
16. Increase oversight of restaurant grease management
17. Increase oversight of yard waste disposal

Sediment/Turbidity

1. Treat all construction sites that disturb soil within the watershed as high priority construction sites (i.e., increase inspection frequencies)
2. Adopt more stringent BMP requirements for construction sites located in the watershed
3. Conduct pre-construction meeting at all construction sites, notifying developers and contractors of sediment problems within the watershed
4. Survey the watershed to identify drainages and other areas that are excessively eroding, then address the excessive erosion
5. Implement focused education efforts targeting sources of sediment

Pesticides

1. Develop and implement neighborhood pesticide collection events
2. Conduct Integrated Pesticide Management (IPM) training in the watershed
3. Coordinate with farm and agriculture bureaus and organizations to reduce the use of pesticides
4. Direct homeowner assistance and training
5. Conduct seasonal awareness training (e.g., use of environmentally friendly ways to deal with ants in the summer)
6. Create a pesticide advice hotline

Coordination Activities

While coordination activities are not necessarily "water quality activities" which eliminate sources and reduce loadings of pollutants, they are a crucial part of WURMP implementation. Some examples are listed below:

1. Coordinate and prioritize water quality projects that address pollutants of concern in the watershed
2. Co-sponsor applications for funding
3. Prioritize drainages in the watersheds where actions should be focused and monitored
4. Conduct meetings among WURMP Copermittees to exchange ideas of how to address sources of pollutants of concern in the watershed and evaluate the effectiveness of actions
5. Identify what types of new projects would have a higher potential for contributing to the watershed problem and identify how the Copermittees have agreed to mitigate that threat
6. Agree to take low impact development approach especially with construction of municipal projects in the watershed
7. Establish load reduction goals for each Copermittee in the watershed.



California Regional Water Quality Control **ATTACHMENT C-1** San Diego Region

Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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Arnold Schwarzenegger
Governor

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

TO: John Robertus
Executive Officer
San Diego Regional Water Quality Control Board

FROM: Ben Neill
Water Resource Control Engineer
Southern Watershed Protection Unit

DATE: September 29, 2005

SUBJECT: NUMERIC EFFLUENT LIMITATION PANEL – SEPTEMBER 14, 2005

On Wednesday September 14, 2005, I attended the Numeric Effluent Limitation Panel meeting held at the Secretary of State's office building in Sacramento. State Board member Jerry Secundy and State Board vice-chair Pete Silva hosted the panel meeting. The panel members are:

- Dr. Gary Minton, PhD, PE, an Environmental Engineer with Resource Planning Associates and author of Storm Water Treatment.
- Ken Schiff, MS, Deputy Director of the Southern California Coastal Water Research Project.
- Brian Currier, MS, PE, Research Engineer with California State University – Sacramento, Office of Water Programs.
- Dr. Larry Roesner, PhD, Professor in the Department of Civil Engineering, Colorado State University.
- Dr. Michael Stenstrom, PhD, Professor in Civil and Environmental Engineering Department, University of California – Los Angeles.
- Eric Strecker, PE, a Principal Engineer with Geosyntec Consultants.
- Dr. Robert Pitt, PhD, PE, Professor and Director of Environmental Engineering Programs in the Department of Civil and Environmental Engineering, University of Alabama.
- Eric Strassler, USEPA Office of Science and Technology, Engineering and Analysis Division.

The specific questions the State Water Board has asked the panel to answer are:

Is it technically feasible to establish numeric effluent limitations, or some other objective criteria, for inclusion in storm water permits? How would such limitations or criteria be established, and what information and data would be required? The answer should address industrial general permits, construction general permits, and area-wide municipal permits. The answer should also address both technology – based limitations

California Environmental Protection Agency

or criteria and water quality-based limitations or criteria. In evaluating establishment of any objective criteria, the panel should address all of the following: (1) the ability of the Water Board to establish appropriate objective limitations or criteria; (2) how compliance determinations would be made; (3) the ability of dischargers and inspectors to monitor for compliance; and (4) the technical and financial ability of dischargers to comply with the limitations or criteria.

The panel listened to presentations from the environmental community and the regulated community. Following the presentations, the panel received oral and written public comments. The panel discussed among themselves at the end of the meeting and on the next day. The panel will write a "white paper" for the State Board's consideration. This paper will include the panel's recommendations on numeric effluent limitations. The paper is tentatively scheduled to be issued prior to Thanksgiving.

ENVIRONMENTAL COMMUNITY

The environmental community position was hosted by Coastkeeper and Natural Resource Defense Council (NRDC). David Beckman, senior attorney for NRDC, introduced Daniel Cooper of Coastkeeper for the initial presentation. Mr. Cooper described four problems with the current permits without numeric effluent limitations:

- Compliance oversight is resource intensive and judgment based.
- Judgment based compliance leaves permittees in uncertainty and complicates enforcement.
- Benchmark levels do not determine compliance.
- Complicated permits require significant documentation and reporting.

He provided some data showing compliance problems with current permits. His final contention was that numeric effluent limits are not infeasible and will result in resource savings at the State Board and Regional Board. Also, enforcement of numeric effluent limits will be efficient, certain and fair.

Next speaker for the environmental community was Dr. Richard Horner of the University of Washington who discussed developing feasible discharge limits for construction sites based on best available technologies (BATs). In this development, he considered several components including: potential pollutants, monitoring considerations, mixing zones, and baseline monitoring. He proposed using existing numeric water quality standards as effluent limitations for any pollutants discharged to a 303(d) listed water body for that pollutants. For water bodies not 303(d) listed, he proposed a numeric effluent limitation for sediment measured as turbidity and total suspended solids (TSS). For turbidity, he proposed a discharge mean of 25 NTU and discharge max of 75 NTU. For TSS, he proposed a discharge mean of 50 mg/L and a maximum of 260 mg/L. For pollutants other than sediment, he proposes using turbidity as an initial

assessment of discharge due to some pollutants ability to transport with sediment. He proposes using a limit for those pollutants based on a baseline, reference or mixing zone study.

The third speaker for the environmental community was Richard Rollins who discussed feasible numeric effluent limits for industrial/municipal storm water discharges. He proposed a percentile approach in developing numeric effluent limitations in the same manner that US EPA does for industrial discharges. In addition, he proposed that discharges during storms above the 50-year, 24-hour rain event would be exempt. He cited historical precedents for storm water numeric effluent limits in US EPA industrial regulations, individual permits and in the South Lake Tahoe municipal permit. His proposed numeric effluent limits for industrial storm water discharges are total phosphorous 0.2 mg/L, total suspended solids 50 mg/L, total nitrogen 2 mg/L, total copper 15 ug/L, total lead 15 ug/L, total zinc 110 ug/L, oil and grease 10 mg/L, BOD5 37 mg/L, and COD 40 mg/L. Municipal numeric effluent limits are proposed as in the South Lake Tahoe municipal permit which are total nitrogen 0.5 mg/L, total phosphorous 0.1 mg/L, total iron 0.5 mg/L, turbidity 20.0 NTU, and oil and grease 2.0 mg/L.

David Beckman of the NRDC and Mark Gold of Heal the Bay gave the environmental community's final remarks. He repeated the Federal Code of Regulations requirement that discharge permits include best management practices to control or abate the discharge of pollutants when numeric effluent limitations are infeasible. He showed several examples of regulations with numeric effluent limits demonstrating that such limitations are feasible. In conclusion, he reminded the panel that improving water quality is the goal. Trends show a decrease in water quality under current storm water permits. Without numeric effluent limits, permit compliance assurance will become more judgmental and more contentious. The State and Regional Boards will become less efficient and water quality will not improve.

REGULATED COMMUNITY

The California Storm Water Quality Association (CASQA) hosted the regulated community's position. Geoff Brosseau, executive director of CASQA, gave opening remarks describing several negative impacts of numeric effluent limits including:

- They are counter to US EPA approach.
- Dischargers cannot comply with limits.
- Dischargers cannot control pollutants from sources beyond their control.
- Limits will cause major economic ramifications.
- Limits will subject dischargers to mandatory minimum penalties
- Limits are pre-emptive of storm water policy development.

His key messages were that data is needed to develop limits; methods are needed to comply; feasible and meaningful limit implementation must be considered; and alternative quantifiable measures are available.

Susan Paulsen presented the technical and scientific issues for the regulated community. California hydrology and storm flows are highly variable throughout the state. Variables include wet northern California, arid southern California, tidal coastal waters, storm sizes, flood control channels, beneficial uses, pollutant concentrations, land uses, and sampling errors. The need for effluent limitations is triggered by a reasonable potential determination that has not been defined for storm flows. Technology based effluent limits are developed by a US EPA five step process consisting of data collection, industry profile, technology assessment, regulatory options, and economic analysis. Water quality based effluent limits based on existing water quality objectives do not consider the frequency, magnitude and duration of discharge, receiving water conditions, mixing zones, and sampling errors. Extensive sampling and data collection are required just to develop a proper water quality based effluent limit. Lastly, the beneficial uses should be reviewed for their appropriateness during high and low flows.

Timothy Simpson, P.E., presented implementation issues from an industrial viewpoint for the regulated community. Industrial dischargers have concerns that numeric effluent limits can never be exceeded under all conditions and mandatory minimum penalties are incurred for limit exceedances. Variables in industry type and design along with difficulties in where and when to sample will make numeric effluent limits hard to measure and determine compliance. Grab sampling at industrial sites is too variable to rely on. Automatic samplers are too expensive to install, maintain, and operate. Many facilities do not have the room to install treatment devices required by numeric effluent limits. In addition, the treatment devices will be too expensive for many industrial site owners. Even with advanced treatment, the facility owner does not have an assurance of meeting numeric effluent limits due to the variability of each storm. Numeric effluent limits will lead to industrial sites attempting to retain all storm water and/or divert to the sanitary sewer system.

Sandy Mathews presented the construction industry's implementation issues regarding numeric effluent limits. Construction sites would have unique difficulties in complying with numeric effluent limits because of the dynamic and nomadic nature of construction. Construction is dynamic due to the daily changing of activities and potential pollutants as construction progresses towards completion. Construction is nomadic because once completed the construction company moves to a new location. Due to the high variability in construction storm water data, individual permits would be needed to require numeric effluent limits. Numeric effluent limitations are inconsistent with US EPA's final rule on April 26, 2004 saying that such limits are not warranted as sediment was adequately controlled by the current permit systems. Sampling and analytical resources are extremely limited for the large number of permitted construction sites (~14,000).

Richard Boon from the Orange County storm water program presented the municipality's concerns about numeric effluent limitations. The municipality's first concern was being held accountable for pollutant discharges from sources outside of their control. Pollutant sources such

as agriculture, individual permitted dischargers, aerial deposition, rising groundwater, wildlife, and upstream polluters were all mentioned. Compliance would be difficult for a city with thousands of discharge points and outfalls. The municipalities are also concerned about the economic cost of compliance. Studies estimate compliance costs for TMDLs in the hundreds of millions of dollars up to over a billion dollars. The municipalities believe that water quality standards need to be appropriate for the beneficial use. Lastly, ecological integrity and sustainability is not accomplished through statewide watershed homogeneity.

Mike Flake from Caltrans gave a brief presentation focusing on their BMP retrofit pilot program. He stated that current BMP technologies could not meet numeric effluent limitations. Storm water treatment technologies are expensive to implement, and Caltrans does not have the space to implement many of the more effective treatment technologies.

Karen Ashby, CASQA chair, presented alternatives to numeric effluent limits, such as quantifiable measures and objective criteria for compliance. For industry, the State of Washington uses an "Adaptive Management Approach" that focuses on addressing problem sites through multi-level response actions, benchmark/action levels, monitoring, documentation, reporting, and inspection. For construction, measureable goals are proposed for compliance. Such goals could include requiring certification of SWPPP managers, layered BMPs, BMP effectiveness evaluation, SWPPP review prior to rainy season, standardized BMP specifications, and performance standards for advance treatment. For municipal storm water permits, the program effectiveness assessment guidance document outlines goals such as identifying measures, incorporating assessment into program elements, and correlating effectiveness measures to higher outcome levels.

CONCLUSION

Betsy Jennings, State Board attorney, and Bruce Fujimoto, State Board senior engineer, made closing remarks describing State Board's history with numeric effluent limits in storm water and what expectations they have for the panel. Following the presentations, the panel had a chance to question the presenters and take public comments. The panel meeting was well attended by about 150 people. Many public commenters were from the regulated community including industry, construction and municipal groups. They commonly spoke about the difficulty and cost of treatment to meet numeric effluent limits.

The panel reconvened the following day for a closed door meeting to discuss the issues presented before them. The panel will write a "white paper" for the State Board's consideration. This paper will include the panel's recommendations on numeric effluent limitations. The paper is tentatively scheduled to be issued prior to Thanksgiving.