

# San Diego Regional Water Quality Control Board



## Executive Officer's Report

February 10, 2010

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# SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

## EXECUTIVE OFFICER'S REPORT

February 10, 2010

### PART A

#### SAN DIEGO REGION STAFF ACTIVITIES (*Staff Contact*)

##### 1. Executive Officer's Activities (*Dave Gibson*)

Since November, I have been meeting with representatives of local agencies and giving presentations on key issues facing the Regional Board. Some of groups I have made presentations to include:

- CASQA Conference (November 3<sup>rd</sup>)
- Lake San Marcos Remediation Team (December 31<sup>st</sup>)
- San Diego Environmental Professionals (January 12<sup>th</sup>)
- Industrial Environmental Association (January 20<sup>th</sup>)
- San Diego Integrated Regional Water Management Advisory Committee (February 3<sup>rd</sup>)
- San Diego Bay Council (February 8<sup>th</sup>)

In addition, I have met with representatives of the U.S. Navy Region Southwest, City of Santee, San Diego River Park Foundation, Coastkeeper, County of Orange and City of Dana Point, City of San Diego, SCCWRP, San Diego IRWM Regional Advisory Committee, US Army Corps of Engineers, NOAA, USFWS, and Port of San Diego. During this time, I have also participated in Tijuana River Valley Recovery Team Steering Committee and workshops as well as several meetings with individually and jointly with stakeholders to address water quality in Lake San Marcos. I have also given interviews to the San Diego Union Tribune, Land Letter – The Natural Resources Weekly Report, and the Voice of San Diego on recent water quality issues in San Diego Bay and Tijuana River Valley.

In February, I will be meeting again with representatives of the County of Orange and participating in person at the State Water Board Management Coordinating Committee Meeting in Riverside.

In March, I will be meeting with District Director Laurie Berman of Caltrans District 11, the City Managers Association of San Diego County, and I will be participating in a joint presentation on storm water and land use management at the Association of Environmental Professionals Conference.

Finally, on December 2, 2009, I participated as Commissioner in the SCCWRP Commission Meeting. In March, I will participate in the next SCCWRP

Commission Meeting and the State Water Board-SCCWRP kick off meeting for the Biological Objectives initiatives:

**PART B**  
**SIGNIFICANT REGIONAL WATER QUALITY ISSUES**

1. Sanitary Sewer Overflows (SSOs) November-December 2009 (*Christopher Means*) (*Attachment B-1*)

The following is a summary of sewage spills that occurred during November and December 2009 that have been reported and certified by December 31, 2009. Sewage Collection Agencies now report Sanitary Sewer Overflows (SSOs) on-line at the State Water Resources Control Board's (State Water Board) CIWQS database pursuant to the requirements of State Water Board Order No. 2006-0003-DWQ (*General Statewide Waste Discharge Requirements for Sewage Collection Agencies*). Reports on sewage spills are available on a real-time basis to the public from the State Water Board's webpage at: <https://ciwqs.waterboards.ca.gov/>

**Public Spills:** From November 1 to November 30, 2009, there were 18 public SSOs in the San Diego Region that were reported on-line at the State Water Board's CIWQS database. These included 3 spills of 1,000 gallons or more and 4 that reached surface waters, including storm drains. The combined total volume of reported sewage spilled from all publicly-owned collection systems for the month of November 2009 was 9,111 gallons.

From December 1 to December 31, 2009, there were 13 public SSOs in the San Diego Region that were reported on-line at the State Water Board's CIWQS database. These included 2 spills of 1,000 gallons or more, and there were 4 spills that reached surface waters, including storm drains. The combined total volume of reported sewage spilled from all publicly-owned collection systems for the month of December 2009 was 94,117 gallons.

Eastern Municipal Water District reported a discharge of approximately 2,400,000 gallons of sewage to Murrieta Creek on December 25, 2009 from its Temecula Valley Water Reclamation Facility. The spill, which was caused by electronic failures in the automatic operation of the barscreens at headworks of the facility and in the alarm telemetry system, reached Murrieta Creek just north of Rancho California Road in the City of Temecula, where 966,800 gallons was recovered by the District. Sewage spills originating directly from wastewater treatment facilities are not regulated under State Water Board Order No. 2006-0003-DWQ, but are prohibited under the waste discharge requirements issued for treatment facility.

**Reported Private Spills:** In November and December 2009, 41 discharges of untreated sewage from private laterals were reported by the collection agencies on-line, pursuant to California Regional Water Quality Control Board, San Diego

Region (San Diego Water Board) Order No. R9-2007-0005 (*Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*). These included 3 spills of 1,000 gallons or more and 10 of the spills reached surface waters, including storm drains. The combined total volume of reported private lateral sewage discharges for the months of November and December 2009 was 40,669 gallons.

A total of 0.12 and 2.28 inches of rainfall were recorded at San Diego's Lindbergh Field for November and December 2009, respectively. For comparison, in November and December 2008, 19 and 16 SSOs were reported during a period of time when 1.60 and 4.63 inches of rainfall were recorded at Lindbergh Field, respectively. A total of 28 private lateral sewage discharges were reported during November and December 2008.

Attached are four tables titled:

- "November 2009 - Summary of Public Sanitary Sewer Overflows in Region 9"
- "December 2009 - Summary of Public Sanitary Sewer Overflows in Region 9"
- "November and December 2009 - Summary of Private Lateral Sewage Discharges in Region 9."
- "2009 - Annual Summary of Public Sanitary Sewer Overflows in Region 9."

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

## 2. Enforcement Actions for January 2010 and Water Code Section 13385(o) Enforcement Report (Jeremy Haas)

The following is a summary of all enforcement actions taken or initiated during the month of January 2010. During this period the San Diego Water Board initiated three enforcement actions; two revised waste discharge requirements and one Notice of Violation.

In addition to the summary information provided below, access to information on violations, enforcement actions, and mandatory minimum penalties (MMPs) is available to the public from the State Water Resources Control Board's Internet webpage at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/water_issues/programs/enforcement/)

### REVISED WASTE DISCHARGE REQUIREMENTS

#### **City of San Marcos, San Elijo Road County Dip Segment and Twin Oaks Valley Road Extension Projects**

Clean Water Act Section 401 Water Quality Certifications No. 03C-147 (Twin Oaks Valley Road Project) and No. 03C-067 (San Elijo Road Project) were amended on January 7, 2010 and January 25, 2010, respectively, following responses by the City of San Marcos to violations alleged in Notice of Violation No. R9-2008-0083. The amended certifications direct the City to perform

additional riparian and wetland habitat mitigation to resolve allegations that the City failed to perform mitigation as required by the two certifications.

#### NOTICES OF VIOLATION (NOV)

##### **Live Oak Springs Resort, Boulevard**

NOV No. R9-2010-0010 was issued to Live Oak Springs Resort on January 11, 2010 for alleged violations of WDR Order No. 94-41, *Waste Discharge Requirements for Nazar and Lauren Najor, Live Oak Springs Resort, San Diego County*. The NOV alleges failure to provide annual reports for 2007 and 2008 and failure to pay the 2008-2009 annual fee.

#### **WATER CODE SECTION 13385(O) ENFORCEMENT REPORT**

The State Water Board released the 2009 Water Code Section 13385(o) Enforcement Report on January 27, 2010. The report identifies and summarizes statewide violations of waste discharge requirements for NPDES wastewater and NPDES storm water programs during calendar year 2009 and the enforcement responses to those violations. The report also discusses enforcement at federal facilities and mandatory minimum penalties. The State Water Board will prepare a more comprehensive annual enforcement report in spring 2010.

The 13385(o) report is available on-line from the State Water Board enforcement web page at

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/water_issues/programs/enforcement/). Most of the tables in the report regularly updated and available at the State Water Board's public report page at:

[http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/publicreports.shtml](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml)

#### 3. Water Quality Petition Status Report (Jeremy Haas)

Any person who is aggrieved by an action, or a failure to act, by a Regional Water Board may be able to file a petition for review with the State Water Board. The State Water Board Office of Chief Counsel coordinates responses to petitions. As of January 11, 2010, the State Water Board had 47 active petitions, five of which are in response to San Diego Water Board actions. In addition, 253 petitions are being held in abeyance.

The five active petitions affecting the San Diego Water Board are:

<b>Petitioner &amp; Discharger (if different)</b>	<b>Action Appealed</b>	<b>Petition Number</b>	<b>Stay Requested</b>
San Diego Coastkeeper  DISCHARGER: The Poseidon Resources Corporation	Waste Discharge Requirements Order No. R9-2009-0038 [NPDES No. CA0109223] Amending Order No. R9-2006-0065 for The Poseidon Resources Corporation, Carlsbad Desalination Project Discharge to the Pacific Ocean via the Encina Power Station Discharge Channel	A-2024	No

Surfrider Foundation DISCHARGER: The Poseidon Resources Corporation	Same as above	A-2024(a)	No
Department of the Navy	Waste Discharge Requirements Order No. R9-2009-0081 [NPDES No. CA0109185] for the United States Department of the Navy, Naval Base Coronado, San Diego County STAY requested/DENIED in part/GRANTED in part WQ 2009-0013 [10-19-09]	A-2032	Yes
South Coast Water District and South Orange County Wastewater Authority	Administrative Civil Liability Order No. R9-2009-0048 for South Orange County Wastewater Authority, South Coast Water District Groundwater Recovery Facility, San Diego County	A-2035	Automatic since ACL is involved
Gregory Canyon, Ltd.	Denial of Clean Water Act Section 401 Water Quality Certification No. R9-2009C-073 for Gregory Canyon Bridge, 9708 Pala Road, Pala, San Diego County	A-2067	No

### Active Petitions

Petitions must be received by the State Water Board within 30 days of the action or within 60 days of a failure to act.

### Stay of an Action

Filing a petition does not automatically stay the effect of an action of a Regional Water Board. (For orders imposing administrative civil liability, the time for payment is stayed while the State Water Board considers the petition, and a stay is therefore not necessary.) Where a Regional Water Board action requires certain activities by the discharger, and the discharger files a petition seeking review of the action, the discharger may request a stay of the Regional Water Board's action pending resolution of the petition. A stay provides interim relief prior to final action on the petition by the State Water Board as to some part or all of a permit or other action. A stay will only be granted upon allegations and proof of (1) substantial harm to the petitioner or to the public interest if a stay is not granted; (2) a lack of substantial harm to other interested persons and to the public if a stay is granted; and (3) substantial questions of fact or law regarding the disputed action. (Cal. Code Regs., tit. 23, § 2053(a).) The State Water Board may only issue a stay after holding a hearing if any party requests one.

### Petitions Held in Abeyance

Petitioners may wish to file a petition within the deadline stated above, but plan to attempt to comply with the Regional Water Board's order, or for other reasons do not seek active review of the petition. Such petitions may be "held in abeyance" by the State Water Board, generally for up to two years. The request for abeyance status can be renewed by the petitioner.

**Responding to Petitions**

The State Water Board has unreviewable discretion to dismiss a petition for failure to raise substantial issues that are appropriate for review. The State Water Board may, then, dismiss a petition without ever requesting that the Regional Water Board or interested persons submit a response to the petition and without requesting or reviewing the administrative record for the matter. Alternatively, the State Water Board may request that responses to the petition be submitted and that the Regional Water Board submit the administrative record for the underlying matter.

**State Water Board Action on Petitions**

After reviewing the Regional Water Board record and responses, the State Water Board may (1) deny the petition, finding that the Regional Water Board's action was appropriate and proper or that the petition fails to raise substantial issues that are appropriate for review; (2) set aside or modify the Regional Water Board order; or (3) direct that the Regional Water Board take appropriate action. The State Water Board has the discretion to hold a hearing to receive oral argument or additional evidence or both prior to taking final action.

More information regarding water board petitions, including copies of all petitions, is available on-line at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/index.shtml](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml)

**4. Grants (Laurie Walsh)**

California voters approved Proposition 13, 40, and 50 ten years ago, authorizing the State of California to sell general obligation bonds to support safe drinking, water quality, flood protection and water reliability projects throughout the state. The State Water Board was authorized to allocate these funds to local projects throughout California. Most of this funding has been awarded to projects through competitive grant selection processes. The State Water Board Division of Financial Assistance administers the Proposition funded programs in California. The Regional Board participates in the development of grant guidelines, grant selection, and ultimately grant management. In addition, the Regional Board serves a similar role for federal grant dollars administered through the non-point source 319(h) program. While personnel dollars are no longer attached to the grants, participation by the Regional Board is appropriate as it serves to bring additional resources to bear against the water quality issues in the region.

The following is an update on the grants with active solicitation processes.

**Clean Water Act (CWA) 319(h) Nonpoint Source (NPS) 2010 Grant Program Guidelines**

The California NPS Program is making approximately \$4.5 million of CWA Section 319 grant funds available to support the restoration of waters impaired by NPS pollution. Funds are available for projects that either plan or implement



actions to restore impaired surface waters by controlling NPS pollution. Implementation projects include on-the-ground NPS pollutant reduction projects that achieve quantifiable water quality benefits identified in TMDLs and that are identified in comprehensive watershed management plans. Funds are also available to planning and assessment projects that will improve watershed plans by carrying out targeted planning/assessment efforts to achieve water quality goals.

The selection committee met on January 20<sup>th</sup> and 21<sup>st</sup> to review the concept proposals based on eligibility, completeness, and application criteria. Based on their review, the committee asked 24 applicants to submit full proposals. Full proposals are due March 1, 2010. More information on the 319h grant process is posted at [http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/319h/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/319h/index.shtml)

### **Integrated Regional Water Management Region Acceptance Process (RAP)**

The Proposition 50, Chapter 8, Integrated Regional Water Management (IRWM) Grant Program provides funding for projects to protect communities from drought, protect and improve water quality, and reduce dependence on imported water. The IRWM Grant Program includes two separate grant types - Planning Grants and Implementation Grants. The IRWM Grant Program is administered jointly by Department of Water Resources (DWR) and State Water Resources Control Board (State Water Board) and is intended to promote a new model for water management. The Region Acceptance Process (RAP) is a component of the IRWM Program used to evaluate and accept an "IRWM Region" into the IRWM grant program.

The Director of DWR approved the IRWM Program RAP final recommendations. DWR received 46 RAP proposals. DWR approved 36 regions and conditionally approved 10 others. All three San Diego Region applicants (San Diego County Water Authority on behalf of the San Diego Regional Water Management Group; County of Orange on behalf of the South Orange County Watershed Management Area; and Rancho California Water District on behalf of the Upper Santa Margarita Planning Area Regional Water Management Group) were approved **without** conditions. The final RAP recommendations and associated materials (review summaries, individual RAP documents, and maps) are posted at: [http://www.water.ca.gov/irwm/integregio\\_rap2.cfm](http://www.water.ca.gov/irwm/integregio_rap2.cfm)

### **Proposition 50 Supplemental IRWM Funding**

The Proposition 50 IRWM grant program provides funding for projects that protect communities from drought, protect and improve water quality, and reduce local dependence on imported water. DWR has approximately \$7.4 million available in funding to supplement prior Proposition 50 IRWM implementation grants. *Only those grantees who, under prior cycles of the Proposition 50 IRWM*

*implementation grant program, received partial grant funding will have an opportunity to compete for this supplemental grant funding.*

The Draft Proposition 50 Supplemental Funding IRWM Guidelines are posted at [http://www.water.ca.gov/irwm/integregio\\_implementation.cfm](http://www.water.ca.gov/irwm/integregio_implementation.cfm). Final guidelines are scheduled to be released in February 2010. For more information on the Proposition 50 Supplemental IRWM grant program, contact Trevor Joseph at (916) 651-9218.

#### **Proposition 84 Local Groundwater Assistance (LGA)**

LGA grants provide local public agencies with up to \$250,000 to conduct groundwater studies or carry out groundwater monitoring and management activities. Approximately \$4.7 million in funding from Proposition 84 is available for the fiscal year 2009-2010 LGA Grant Program.

The Draft Proposition 84 LGA Guidelines are posted at <http://www.water.ca.gov/lgagrants/>. Final guidelines are scheduled to be released in February 2010. For more information on the LGA, contact Jerry Snow at (916) 651-9264.

#### **Proposition 84 Storm Water Grant Program Solicitations - Still On Hold**

Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, was approved by California voters in the general election on November 7, 2006. The Proposition 84 Storm Water Grant Program provides matching grants to local public agencies for the reduction and prevention of Storm Water contamination of rivers, lakes, and streams.

Project solicitations for the Proposition 84 Storm Water Grant Program funds are currently on hold until further notice due to the continued budget crisis and Bond Fund Suspension ordered per the December 18, 2008 Budget Letter issued by the California Department of Finance.

**State Revolving Fund Project Priority List:** The current State Revolving Fund Project Priority List (PPL) for Fiscal Year (SFY) 2009/2010 was adopted by the State Water Board in September 2009. The approved Clean Water State Revolving PPL can be obtained at [http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/docs/cw\\_srf/fy09\\_10\\_cwsrf\\_ppl.pdf](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/cw_srf/fy09_10_cwsrf_ppl.pdf)

#### **Port of San Diego Environmental Advisory Committee**

The Regional Board Executive Officer is a member of the Environmental Advisory Committee (EAC). The EAC is a subcommittee to the Port of San Diego (Port) Board of Commissioners. This subcommittee is made up of a balance of resource and regulatory representatives from academia, environmental advocacy groups, government agencies and Port tenants. The

committee advises the Board of Commissioners on programs, policies, and projects that ensure the protection and improvement of conditions of San Diego Bay and the surrounding waterfront areas. The following is a partial list of the projects funded in whole or in part by the Port. Additional detailed information about these projects can be found on the Port's website at <http://www.portofsandiego.org/environment/committee.html>

Project Name	Project Description
NOAA Turtle tracking \$50,000	Endangered species project to purchase monitoring and data tracking devices for the endangered Eastern Pacific Green Sea Turtle.
Coastkeeper "Project Swell" \$50,000	Environmental hands-on education program for water quality and pollution prevention. Greater than 40,000 students educated.
SDSU eelgrass \$37,507	Research regarding healthy eelgrass beds and fisheries, trophic diversity, and ecosystem function in these eelgrass beds.
Scripps - Copper Research \$ 173,046	Research to quantify copper levels in sediment and water column from copper-bottom paints and to identify trends of copper contamination on benthic communities by examining invertebrate tissue for copper concentrations.
Urban Corps - Chollas Creek \$82,640	Habitat restoration project - conduct trash and debris removal in Chollas Creek. The project includes invasive species removal and planting native plants. Removed 166 cy of vegetation, 126 cy of debris, 2886 sq ft of graffiti and planted >350 native plants.
Audubon - D St restoration \$25,515	Habitat restoration project for the endangered Western Snowy Plover at the D Street Fill. The eroding slopes will be re-contoured, invasive species removed and replaced with native plants. Conducted 3 cleanup events including removing invasive plants.
CV Nature Center - Light-footed clapper rail - \$90,000	Endangered species propagation program. >210 birds released since inception.
Merkel & Assoc. Fish structures \$30,000	Installed 350 fish structures in the borrow pit of San Diego Bay to provide habitat for the fish. Currently conducting quarterly monitoring.
San Diego Zoo Stream Team Stewards \$45,750	Environmental Education for 4th grade students along Chollas Creek - 5 classroom and 5 field trips. Restoration of 1 acre at 38th & Alpha. 600 underserved elementary school students expected to participate.
Groundworks SD Chollas Creek Family Stream	Environmental Education program for South Crest students, weekly trash collection events - East of I-5, and signage for Chollas Creek. 2000

Project Name	Project Description
Team \$70,000	students expected to participate.

5. Southern California Lagoon Inlet Maintenance Meeting (*Chiara Clemente*)

On January 19, 2010, the San Diego Water Board (David Gibson and Chiara Clemente) participated in a multi-agency meeting sponsored by National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) to discuss measures that coastal resource agencies can take to protect and preserve southern California lagoons. Due to hydrologic disconnect from headwaters to the Ocean, the local lagoons no longer receive the freshwater flushing that was necessary to prompt recurring lagoon mouth openings evident in natural conditions. Many of our region's lagoon mouths are being actively managed to maintain tidal influence. Management measures include permanent openings (e.g. Batiquitos), dredge activities (e.g. San Dieguito), and periodic mechanical breaching (e.g. San Elijo). Lagoons lacking tidal flushing have decreased biodiversity and functional value, and can be subject to water quality conditions that result in fish kills.

Unfortunately these inlet maintenance measures can be costly over time; and permit conditions imposed by some of the resource agencies including the San Diego Water Board contribute to these management costs. The coastal resource agencies at this meeting (NMFS, U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Game, California Coastal Commission, State Coastal Conservancy, State Parks, State Lands Commission, and the San Diego Water Board) focused their discussion on how to minimize management costs by reducing unnecessary permit conditions and extending permit cycles. Discussions also focused on how to acquire additional funding and the wise management of resources to best maintain the lagoons. The group agreed to further investigate the development of a USACE Regional General Permit with a programmatic 401 certification, and a programmatic Endangered Species Act consultation from the USFWS. Longer term issues that need to be pursued also include developing alternative contractual and funding options that might include the creation of a Joint Powers Authority among the relevant coastal cities, the establishment of a non-profit NGO, and/or linking future mitigation obligations to existing maintenance needs. The San Diego Water Board intends to participate in any follow-up meetings to further determine the viability of some of these ideas.

6. Former Santa Ysabel Chevron Gas Station, Groundwater Cleanup Update (*Sue Pease*)

As reported in the November 18, 2009 Executive Officer's Report, the San Diego Water Board obtained funding from the State Water Board Emergency, Abandoned, and Recalcitrant account to continue cleanup activities at the former Santa Ysabel Chevron, located at 30350 Highway 78, Santa Ysabel. Four

drinking water wells have been impacted by low level gasoline constituents and require well head treatment. Mr. Ernest Moretti, the person responsible for cleaning up the site, ceased activities in April 2009 citing lack of funds to continue.

In October 2009, the San Diego Water Board entered into a contract with EnviroApplications, Inc. to collect and analyze groundwater samples from the four wells, evaluate the current treatment systems, make recommendations for improvements, and implement the actions necessary to ensure safe drinking water.

In November 2009, the San Diego Water Board accompanied consultants from EnviroApplications, Inc. to Santa Ysabel where they located and inspected the four drinking water wells, evaluated the current groundwater treatment systems, and obtained groundwater samples from the four wells.

The results from the groundwater monitoring show that low levels of methyl tertiary butyl ether are present in the groundwater pumped from the four wells. EnviroApplications, Inc. submitted a System Evaluation Report which recommended replacement of all four existing groundwater treatment systems which were judged to be inadequate because they appear to not use the appropriate treatment media. EnviroApplications, Inc. is ordering the necessary equipment for installation of the new groundwater treatment system.

#### 7. San Diego Water Board Underground Storage Tank Program Implementation of State Water Board Resolutions (Sean McClain)

The San Diego Water Board Underground Storage Tank (UST) Program is meeting and/or exceeding implementation deadlines in resolutions adopted by the State Water Board to improve the administration of the UST Program. As previously reported, the State Water Board adopted Resolution No. 2009-0042, *Actions to Improve Administration of the Underground Storage Tank (UST) Cleanup Fund and UST Cleanup Program* on May 19, 2009. The Resolution directs Regional Water Boards to reduce groundwater quarterly monitoring to semiannual or less frequent at all sites in the petroleum underground storage tank (UST) Cleanup Program unless site-specific needs warrant otherwise. The objective is to reduce costs to the responsible parties and to reduce impacts to the UST Cleanup Fund. The San Diego Water Board completed this task and the data was entered into the GeoTracker database which is used to track the UST program and to report to the State Water Board and the public.

Resolution No. 2009-0042 also requires Regional Water Boards to review all cases in the petroleum UST Cleanup Program to determine if the cases are ready for closure. Case reviews are to be made publicly available in the GeoTracker database. The due date to complete this activity is June 30, 2010. The UST staff recently completed the case reviews and the reviews are available in the GeoTracker database for public review.

In addition, the State Water Board adopted Resolution No. 2009-0081, *Directing Additional Actions to Improve Administration of the UST Cleanup Fund and UST Cleanup Programs* on November 17, 2009. Resolution No. 2009-0081 directs that a UST case should be closed not only where cleanup goals and objectives are currently met, but also where they will be met in a reasonable time period. Since the adoption of Resolution No. 2009-0042, UST staff has closed 7 UST cases, with an additional 6 UST cases currently in process for closure by June 30, 2010. If a case is not ready for closure, UST staff is working with responsible parties to identify issues that need to be addressed before the case can be considered for closure.

8. Effects of Recent Storm Events on the San Diego Region (Eric Becker)

El Niño storms hit the San Diego Region between January 17 and January 23, 2010. The storms dropped a total of 3.3 inches of rainfall at City of San Diego's Lindbergh Field, but rainfall totals varied greatly throughout the region. The County of San Diego estimated the storms to be a 5 to 8-year event for the week, with some desert areas receiving a 50-year event. The City of San Diego estimated that although none of the single storms exceeded a 25-year event, the series of back to back storms represented a 70-year event. To date, rainfall at Lindbergh Field is 20 % above normal.

**During Storm Events:** The Regional Water Board conducted inspections and monitored permitted facilities to check for impacts from the storms and investigated areas for potential unpermitted discharges. The Regional Water Board also coordinated with the local jurisdictions to check for significant weather related problems.

Sewage treatment plants performed adequately during the storms and no large sewage spills were reported. Approximately 30,000 total gallons of sewage were reported spilled in the region during the week. Padre Dam Municipal Water District's facility in Santee and the Ramona Municipal Water District's Santa Maria facility reported flow problems related to infiltration and inflow into their conveyance systems, but remained in compliance with their waste discharge requirements.

Municipalities or other entities must notify the Regional Water Board when they need to complete emergency work within waters of the United States to prevent flooding. The Regional Water Board received less than 10 of these notifications and some of those projects may not be considered emergency work.

**After Storm Events:** Construction sites were inspected by the Regional Board and local jurisdictions. Effective implementation of Best Management Practices (BMPs) resulted in most inspected sites not having significant erosion and sediment discharges. Sites that did have problems will be evaluated for potential enforcement actions.

The County of Orange, Waste and Recycling submitted a Notice of Intent (NOI) to comply with Conditional Waiver No. 10, after the Governor issued a State of Emergency for Orange County on January 22, 2010. The Basin Plan contains 11 conditional-waivers. Conditional Waiver No. 10 is for management and disposal of disaster related waste streams in the San Diego Region. Enrollment for coverage under the Conditional Waiver No. 10 allows the Prima Deshecha Landfill to accept emergency/disaster related debris resulting from the series of recent severe storms. The proposed discharges of storm related wastes to the Landfill are not expected to adversely affect the quality or beneficial uses of water resources in the San Clemente Hydrologic Area.

In conclusion, the recent storms did not have significant impacts to the San Diego Region.

9. Unfunded State Mandates (Commission on State Mandates Test Claim filed by San Diego County MS4 Copermittees) *(Catherine George Hagan)* *(Attachment B-9)*

On December 7, 2009, the Commission on State Mandates (Commission) released a 123 page draft staff analysis of the San Diego County Municipal Separate Storm Sewer System (MS4) Copermittees' Test Claim challenging many provision of the 2007 San Diego County MS4 Permit as imposing State mandates requiring reimbursement by the State. The draft staff analysis supports the copermittee's claims on most contested provisions. The State Water Board and San Diego Water Board filed joint comments on the draft staff analysis on January 27, 2010. The joint comments are attached. The hearing before the Commission at which it can adopt the draft staff analysis or request revisions is scheduled for March 26, 2010. Because this matter is active litigation, it is also listed on the Board's agenda under the closed session heading.

10. Orange County Municipal Storm Water Permit – Appeals of the Permit to the State Water Resources Control Board *(Ben Neill)*

The State Water Board received eleven (11) petitions from the Orange County Copermittees appealing the Regional Water Board's December 16, 2009 adoption of the Orange County Municipal Separate Storm Sewer Permit (Order No. R9-2009-0002). The only Copermittee not to file a petition was the City of Laguna Beach. The petitions are currently being held in abeyance at the request of each petitioner.

The County of Orange and Cities within Orange County, not including the City of Laguna Beach, argue that several of the Permit provisions are inappropriate, improper and not required by federal law. These provisions include the removal of the previously exempt overirrigation discharges, the imposition of retrofitting requirements, the standards applicable to low impact development and hydromodification, and implementation of Total Maximum Daily Loads. In addition, the Copermittees have concerns that the Regional Water Board's future implementation and enforcement of storm water and non-storm water action

levels may be inappropriate or improper. The Copermitees raised these concerns during the reissuance process. The Regional Water Board considered these concerns in their response to comments and responded by making changes to the Permit where appropriate.

#### 11. Shelter Island Yacht Basin TMDL Implementation – Port of San Diego (Lilian Busse)

The TMDL (adopted on February 8, 2005 as Resolution No. R9-2005-0019) technical analysis determined that passive leaching of copper-based antifouling paints from boat hulls is the main source of dissolved copper in the Shelter Island Yacht Basin (SIYB) area of San Diego Bay. The San Diego Water Board adopted the SIYB TMDL in 2005, for dissolved copper to address water quality impairment. The compliance schedule for this TMDL, started in 2007, requires a 10 percent reduction of dissolved copper in the water column for the first five years, and a final reduction of 76 percent after 15 years.

The Port of San Diego developed an implementation plan and a monitoring plan, in October 2009. The implementation plan describes the approach to planning, implementing, and assessing reductions in copper loading into SIYB in order to preserve and restore the beneficial uses. The monitoring plan establishes a process to determine compliance with TMDL load reductions, and the effectiveness of the Best Management Practices. The monitoring plan consists of three components: (1) Annual surveys to determine the number of vessels with non-copper based paints; (2) Annual water quality sampling to determine dissolved copper and toxicity; and (3) Integration of the data from the current Regional Harbor Monitoring Program (RHMP) to determine if conditions are protective of the marine and wildlife habitats beneficial uses designated for San Diego Bay.

Annual surveys of vessel conversion from copper-based to non-copper-based paints will be conducted by owners/operators of marinas and yacht clubs. The annual water quality monitoring includes the sampling of dissolved copper and toxicity from the water column once per year in the summer at six stations in the SIYB. The RMHP is performed every five years, and assesses water quality, sediment chemistry, sediment toxicity, and benthic infauna. The analysis of biological indicators for the RHMP will allow for assessments for the beneficial uses marine and wildlife habitats.

The first five years of the compliance schedule includes the tracking of vessels that convert to non-copper-based paint as the primary assessment method to evaluate load reductions and attainment of compliance targets. The assumption for the TMDL calculation was that all vessels in SIYB have copper-based antifouling paints; therefore, any reported reduction in the percentage of boats with copper-based paints would equate to a proportional decline in copper loading into the water column. Water quality monitoring alone will not be used for determining compliance because of the high variability of dissolved copper, the short time period (five years), and the low reduction percentage (10 percent). In



the subsequent years, water quality monitoring will supplement tracking studies to assess long-term improvements in copper concentrations and toxicity levels, occurring as a consequence of loading reductions. Achievement of final compliance waste load allocations will depend upon loading reductions, decreases in water column copper concentrations, and the assessments of the beneficial uses of marine and wildlife habitats completed by the RHMP.

12. Atmospheric Deposition of Pollutants and Water Quality (*Charles Cheng*)

Atmospheric/Aerial deposition of pollutants, such as metals and nutrients, may contribute to water pollution as a non-point source waste load at either local or regional scales. Currently, the mechanisms and water quality impacts associated with air deposition are not well understood. Further development of scientific tools and regulatory policies may be necessary to address this emerging issue. The December 2009 TMDL roundtable meeting included an agenda topic for discussion of air deposition as a TMDL pollutant source. Several Regional Water Boards are developing or have developed TMDLs that include atmospheric deposition a source of pollutants. The San Diego Water Board is investigating sources, including atmospheric deposition, in the technical analysis of TMDLs for Chollas, Switzer and Paleta creeks. Effectively reducing atmospheric pollutant loads requires coordination between regulatory agencies, water boards' and air quality agencies, and other stakeholders.

Early efforts to address the atmospheric deposition issue are beginning on both a statewide and local scale as discussed below.

The State Water Board and the Air Resources Board (ARB) conducted a joint public meeting in 2007 to formulate plans and opportunities for agencies to work together on atmospheric deposition issues. Plans include producing a "white paper" on mercury deposition and coupling agency requirements affecting air deposition of pollutants. The State Board is seeking additional resources from ARB and USEPA to support related activities, including:

- monitoring, modeling and incorporation of meteorological information;
- establishment of workgroups;
- development of guidance documents and implementation plans.

It is our understanding that the State Water Board plans to pursue further coordination efforts and provide a perspective on addressing atmospheric deposition in TMDLs.

The City of San Diego provided the San Diego Water Board staff with a presentation on January 7, 2010, concerning the City's efforts to investigate aerial deposition mechanisms for metals to address data gaps in the technical analysis for the Chollas Creek metals TMDL.

The staff will continue to update the San Diego Water Board on this issue in future Executive Officer Reports.

13. California Environmental Quality Act Scoping Meeting for Shipyard Sediment Site (Tom Alo)

On January 21, 2010, the San Diego Water Board's Shipyard Sediment Cleanup Team held a California Environmental Quality Act (CEQA) scoping meeting to receive comments on (1) the Initial Study prepared by the Cleanup Team, and (2) the scope of the environmental issues to be addressed in the Environmental Impact Report (EIR) for the Cleanup and Abatement Order (CAO) for the Shipyard Sediment Site. The proposed project and location are described below:

**Project Description:** The project is a tentative CAO for cleanup of contaminated marine sediments at the National Steel and Shipbuilding Company Shipyard (NASSCO)/BAE Systems Shipyard Sediment Site in San Diego Bay. The cleanup remedy may include dredging, capping, and/or natural recovery. Dredge spoils may be dewatered at an onshore facility and disposed of at an appropriate landfill site.

**Location:** The Shipyard Sediment Site is located along the eastern shore of central San Diego Bay and encompasses an area extending approximately from the Sampson Street Extension to the north and Chollas Creek to the south and from the NASSCO and BAE Systems shipyard facilities shoreline out to the San Diego Bay main shipping channel on the west.

The potential environmental impacts of the proposed project are those associated with the remedies of dredging, capping, and natural recovery. The Initial Study was posted on the San Diego Water Board's website on December 22, 2009 for a 30-day public review and comment period. The Initial Study indicates that the proposed project may have a significant effect on Air Quality and Geology/Soils and as such, an EIR should be prepared. No written comments were received from the public prior to the CEQA scoping meeting.

The organizations that attended the CEQA scoping meeting and those that provided comments at the meeting are shown below:

ORGANIZATION	PROVIDED VERBAL COMMENTS	PROVIDED WRITTEN COMMENTS
NASSCO	x	
BAE Systems	x	x
Environmental Health Coalition	x	
Sierra Club	x	
San Diego Coastkeeper	x	
Brown & Caldwell		
Geosyntec Consultants		
Nautilus Environmental		
Brown & Winters		
Haley & Aldrich		
deMaximus		
Anchor QEA		
AMEC Earth & Environmental		
Hinz Claims Management		

Also in attendance were Mr. David King - Board Member and Presiding Officer for Prehearing Proceedings, Mr. David Gibson - Executive Officer, Mr. James Smith - Assistant Executive Officer, and Mr. Michael McCann - former Assistant Executive Officer.

Following the CEQA scoping meeting, the next steps for the proposed project are to:

- Retain a consultant to prepare the EIR.
- Extend the comment period on the Initial Study.
- Prepare written responses to comments received from the CEQA scoping meeting and on the Initial Study and then post on the San Diego Water Board's website.
- Prepare the draft EIR.
- Set a 45-day public review and comment period on the draft EIR.
- Prepare written responses to comments received on the draft EIR and post on the San Diego Water Board's website.
- Prepare the final EIR.

#### 14. AMETEK Cleanup (*Brian McDaniel*)

Since the imposition of a civil liability fine (Order No. R9-2009-0091) and issuance of Cleanup and Abatement Order No. R9-2009-0073 on August 19, 2009, AMETEK, Inc. (AMETEK) and ERM-West, Inc. (ERM) met with the San Diego Water Board in August and November 2009 and January 2010 to review investigation progress, discuss proposed additional activities, review the content of upcoming reports, and review updates to the conceptual site model. AMETEK has installed and sampled 10 off-site monitoring wells to further delineate contaminants in groundwater. These wells were in addition to the 11 on- and off-site monitoring wells installed in 2009. In addition, two rounds of quarterly groundwater monitoring and one round of semi-annual soil vapor / indoor air monitoring were conducted at the site. AMETEK has also conducted one round of soil vapor monitoring at the adjacent Magnolia School, under DTSC Consent Order HAS-CO 07/08-198.

AMETEK has proposed additional investigation to further characterize the nature and extent of groundwater contamination and build upon the work performed during 2008/09. The additional investigation includes data gathering from nearby leaking underground storage tank sites under the oversight of the San Diego County Department of Environmental Health, discrete-depth groundwater sampling using passive-diffusion bags, and compound-specific isotope analyses of groundwater samples to evaluate natural attenuation processes and investigate anomalous concentration trends west of State Route 67. AMETEK described bench-scale treatability tests of bioremediation and chemical oxidation treatment technologies, in support of an ongoing evaluation of potential interim remedial measures to address groundwater contamination. CAO Directive B.2.

requires that a Site Investigation and Characterization Report be submitted February 15, 2010. A follow up meeting is scheduled on April 28, 2010.

15. Naval Base Point Loma- Restoration Advisory Board Meeting (*Brian McDaniel*)

On January 21, 2010, Brian McDaniel of the Groundwater Basins Branch, attended the initial Restoration Advisory Board (RAB) meeting held for Naval Base Point Loma (NBPL). NBPL consists of 24 environmental sites which are in various phases of investigation and includes rubble sites, pipelines, tanks, sumps, and reported leak, spill and disposal areas. NBPL is comprised of the following complexes:

- Submarine Base San Diego (SUBBASE)
- Space and Naval Warfare Systems Center, Point Loma and Old Town Campus (SPAWAR)
- Fleet and Industrial Supply Center (FISC)
- Fleet Combat Training Center Pacific (FCTCPAC)
- Navy Exchange Gas Station - NTC (NEX)

Ms. Allison Basche, Navy Project Manager for NBPL defined the role of the RAB to act as an advisory body for the exchange of information, between NBPL and the local community, regarding restoration activities. The RAB is also designed to facilitate stakeholder participation for the Department of Defense (DOD) Installation Restoration (IR) Program. Naval and regulatory agency personnel were identified during the meeting including roles and responsibilities for the NBPL complex. Future meetings will include the election of a community co-chair, defining a mission statement and identifying training for future RAB members. The next meeting will be held March 4<sup>th</sup> at 6:30 PM at the United Portuguese S.E.S., 2818 Avenida de Portugal, San Diego, California, 92106. Additional information on the RAB and NBPL is available at: <https://www.cnic.navy.mil/pointloma/index.htm>

16. Drought and Water Conservation Update (*Robert Pierce*)

2010 is expected to be the fourth year of drought in California, marked by below average precipitation and runoff, despite the recent rain and snow that covered California. While the snowpack is currently above normal levels, the deficit in the State's reservoirs will take much more precipitation to reach normal levels, as stated in a recent Union Tribune article (<http://www.signonsandiego.com/news/2010/jan/30/have-we-been-saved-by-the-snowpack/>). Water districts are encouraging users to maintain conservation practices that were making a difference even before mandated cutbacks.

The San Diego City Council voted on January 26 to approve a contractor managing a pilot project of indirect potable reuse. The project will show whether current technology that treats wastewater to augment drinking water supplies will satisfy public health officials. The pilot project will not actually augment reservoirs, although that would happen if a full system is designed. The Indirect

Potable Reuse Coalition of government, business, and environmental groups helped persuade the Council by giving presentations to address the Council's concerns and jointly supporting the project.

The Congressional Subcommittee on Water and Power held an oversight field hearing on "Perspectives on California Water Supply: Challenges and Opportunities" on January 25, 2010 at the Metropolitan Water District of Southern California in Los Angeles. Chairwoman Grace Napolitano and the rest of the Subcommittee heard testimony from a panel including leaders of government agencies, water districts, and research institutions focusing on southern California. The purpose of the hearing was to discuss and learn about the challenges that face California and the efforts already being made to address them, and how working together the federal, state and local groups can implement real solutions. For more information on the statements provided at the hearing:

[http://resourcescommittee.house.gov/index.php?option=com\\_jcalpro&Itemid=27&extmode=view&extid=314](http://resourcescommittee.house.gov/index.php?option=com_jcalpro&Itemid=27&extmode=view&extid=314)

17. South Bay Power Plant Update (*Kristin Schwall, Chad Loflen, and Robert Pierce*) Order No. R9-2004-00154, NPDES No. CA0001368 (Order), establishes waste discharge requirements for the South Bay Power Plant (SBPP) located in the City of Chula Vista, south San Diego Bay. The Order was amended on November 9, 2009 to reflect a schedule for interim flow reduction to 225 million gallons per day (MGD), resulting from the shutdown of power generating Units 3 and 4 at the plant, and the termination of all discharges with the anticipated shutdown of Units 1 and 2. In accordance with the Order as amended, the discharges from Units 1 and 2 will terminate on the date California Independent Systems Operator (CAISO) determines that Reliability Must Run (RMR) services from Units 1 and 2 are no longer needed or December 31, 2010, whichever occurs first, absent further action by the San Diego Water Board. By letter dated January 11, 2010, Dynegy South Bay LLC reported that Units 3 and 4 were shut down as of December 31, 2009, resulting in the reduction of maximum flow rate from 601 MGD to 225 MGD (63 percent reduction). Unit 3 last operated on December 10, 2009 and Unit 4 last operated on November 3, 2009.

At their December 16, 2009 meeting, the San Diego Water Board directed staff to schedule a public hearing to obtain information regarding the impacts of the South Bay Power Plant on beneficial uses and water quality of San Diego Bay. Accordingly, a public hearing has been scheduled for the March 10, 2010 San Diego Water Board meeting to receive testimony, technical evidence, and supporting documentation relevant to determining:

1) Whether South Bay Power plant intake and discharge operations endanger human health or the environment and can only be regulated to acceptable levels by NPDES permit modification or termination [see 40 CFR 122.64(a)(3)]; and

2) Whether any effects identified in item 1 above provide a sufficient basis for the San Diego Water Board to require that South Bay Power Plant discharges be terminated earlier than December 31, 2010 and prior to CAISO's release of Units 1 and 2 from RMR status.

The public notice for the March 10, 2010 hearing is posted at the following website:

[http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/npdes/southbay\\_power\\_plant/southbay\\_power\\_plant.shtml](http://www.waterboards.ca.gov/sandiego/water_issues/programs/npdes/southbay_power_plant/southbay_power_plant.shtml)

The Notice identified Dynegy South Bay LLC and No More South Bay Power Plant Coalition as designated parties that will present evidence and testimony. Requests for designated party status from the City of Chula Vista and CAISO were received and are under review by the San Diego Water Board. Interested persons may generally only submit non-evidentiary policy statements or comments. The San Diego Water Board will evaluate the technical evidence and public comments provided at the March hearing and may direct staff to draft an order for consideration of adoption at a future Board meeting. Any draft order would be circulated for review and comment prior to consideration by the Board at a public hearing.

#### 18. Hydrostatic Test Water and Potable Water Discharges General NPDES Permit Workshop (Michelle Mata)

The San Diego Water Board Core Regulatory Unit conducted a public workshop on January 27, 2010, regarding the reissuance of Order No. R9-2002-0020, NPDES Permit No. CAG679001, *General Waste Discharge Requirements for Discharges of Hydrostatic Test Water and Potable Water to Surface Waters and Other Conveyance Systems Within the San Diego Region* (Order). The purpose of the workshop was to increase public awareness and encourage stakeholder participation in the NPDES permit reissuance process. The workshop was jointly sponsored by the San Diego Water Board and the Technical Advisory Committee (TAC), and hosted by the City of Oceanside. The TAC is comprised of staff from the City of San Diego, Olivenhain Municipal Water District, Santa Fe Irrigation District, San Dieguito Water District, Vallecitos Water District, Vista Irrigation District, Carlsbad Water District, Sweetwater Authority, Rainbow Municipal Water District, the City of Poway, Helix Water District, and the San Diego County Water Authority. The TAC was set up to help facilitate coordination between the various public drinking water purveyors and the San Diego Water Board, and to streamline the NPDES permit reissuance process. Approximately 30 attendees heard presentations on the current draft of the tentative Order and best management practices (BMPs) used to control hydrostatic test water and potable water discharges and ensure their compliance with water quality standards. Agencies in attendance included representatives from the above mentioned agencies within San Diego County, representatives from South Orange County (Laguna Beach Water District, Santa Margarita Water District, and South Coast Water District), and representatives from Riverside County (Eastern Municipal

Water District). Stakeholders were invited to discuss monitoring and compliance within the draft tentative Order.

The San Diego Water Board provided clarification on proposed changes from the current permit, who needs to enroll, what type of discharges need coverage under the permit, monitoring methods and requirements, how past data and future data will be used, and how monitoring required by other agencies may satisfy certain requirements in the tentative Order. The stakeholders also discussed characterizing the effluent on a San Diego region-wide basis, since 90 percent of the supply water is delivered by the Metropolitan Water District. The TAC invited representatives from South Orange County and Riverside County to join the group to help facilitate incorporation of stakeholder comments into the tentative Order and to assist in updating the *Standardized BMPs for Potable Water Discharges* within the San Diego Region. For more information visit the San Diego Water Board website at <http://www.waterboards.ca.gov/sandiego/>.

19. Mexican Wastewater Treatment Plant Operator Training (*Michelle Mata*)  
During the week of January 25-29, 2010, approximately 40 Mexican wastewater officials attended a five-day Wastewater Treatment Plant Operator Training course offered by the State Water Board and hosted by the San Diego Water Board. The five-day training, which was a result of an agreement between Governor Arnold Schwarzenegger and Mexican President Felipe Calderón to team up against climate change, protect the environment, and conserve our natural resources, covered a range of topics including conventional and non-conventional treatment of domestic sewage, wastewater calculations, and an overview of Mexico's regulatory system for discharges of wastewater. Instructors for the training included Jose L. Angel, Assistant Executive Officer of the Colorado River Basin Water Board, Frank Gonzalez, Caltrans Region 6, Julio C. Lara, Water Resource Control Engineer with the Santa Ana Water Board, Jose Osvaldo Morales, Hazardous Substance Scientist with the Department of Toxic Substances, Felix de Leon, City of El Centro Wastewater Treatment Plant, Brenda Garcia, Chemical Engineer Lab Technician with the City of Calexico, Arturo Estrada, Chief Operator with the City of Calexico Wastewater Treatment Plant, and representatives from the Mexican Water Commission (CONAGUA).

During the fourth day of training the group had the opportunity to tour the Padre Dam Water Recycling Facility in Santee. This Facility provides treatment for up to 2.0 million gallons per day of municipal wastewater and is operated as a "skimming" plant to produce recycled water for beneficial reuse, including recreational lakes. On the last day of training, Linda S. Adams, Secretary of Environmental Protection with the California Environmental Protection Agency, awarded certificates to each attendee.

20. Tijuana River Valley Restoration Team Meeting (*Benjamin Tobler*)  
The Tijuana River Valley Recovery Team (TRVRT) convened its monthly meeting on January 29, 2010, including 61 representatives of various agencies

and organizations. San Diego Regional Water Quality Control Board Member Grant Destache and Executive Officer David Gibson participated in the workshop and active member of the Steering Team. The TRVRT's includes four Action Teams, comprised of the: Border Team, Bi-national Team, Restoration Team, and the Cleanup Team. The teams met for approximately two hours and the chair persons of each Action Team reported on the status of the various projects. These projects include:

#### **Binational Action Team**

- Study sediment loads Place Trash Booms/Sediment Basins in each of the five canyons.
- Purchase conservation easements to protect undeveloped areas and reduce sediment loads.
- Implement a Tijuana tire reutilization program to use tires where they are generated for building projects that create engineered retaining walls that will stabilize a defined number of acres, shredding for pavement, creating cells to confine trash in landfills, and other uses.
- Establish a plastic recycling program that includes recycling centers and redemption funding for turning in plastics.

#### **Border Action Team**

- Design and implement a Smuggler's Gulch sediment basin and trash capture facility. The design would be completed in a defined period of time and would include the location, size and design of basins, need for CEQA and other studies, and information about how complement the downstream configuration.
- Upgrade existing Goat Canyon sediment basin to increase capacity and identify costs to cover ongoing operation and maintenance, including disposal of sediment.
- Design and implement Main River Channel sedimentation basin and trash capture facility.
- Raise portions of Monument Road above flood areas, and act as a buffer to project marsh areas and Border Field State Park. Work should be integrated as part of the Smuggler's Gulch plan (see above).
- Install flow monitoring systems in the main river channel, Smugglers Gulch, Goat Canyon, Silva's Drain and Stewart's Drain.

#### **Cleanup Action Team**

- Completely characterize all trash, sediment and pollutant sources in the Tijuana River Valley providing a basis for the "Cleanup Action Plan."
- Complete a hydraulic and hydrology study of the Tijuana River Valley to provide information on the quantity, types of sediment, and trash deposited in the Tijuana River Valley. Estimated Cost: \$750,000.
- Develop a plan to dispose of and/or reuse sediment from past, current, and future deposits on an ongoing basis. The team believes this can be a cost neutral action with good planning and agency cooperation.



- Remove sediment on a regular basis. With an effective reclamation plan the costs for sediment removal can be mitigated and offset as stated above. This includes maintenance, placement/location, and removal of illegal fill.
- List Tijuana River Valley properties that could be best purchased for long term mitigation. Privately held properties should be compiled in an effort to analyze which properties have the most potential for inundation and where acquisition would facilitate clean up.

#### **Restoration Action Team**

- Develop a Restoration Master Plan and Guiding Principles to unify various plans, visions, and project plans, (e.g. ACOE plan, and Estuary and County Habitat Plans, etc.
- Unify the various agencies/parties plans and projects for the river and estuary.
- Verify the "models" used in the plans and projects.
- Develop an ecosystem-scale monitoring and assessment program that includes stream gauging and flood control.
- Remove the fill on the Peggy Brown property to restore river elevation. Fill was unpermitted and property is now deeded to County.

The agenda also included a presentation on the status of the Border Infrastructure System re-vegetation activities. The presentation included a slide show which showed the major progress made in establishing vegetation on the Border Fence site. The presentation also acknowledged that further stabilization was needed and funding was authorized for the extension of an existing drainage channel and the additional seeding of areas that have inadvertently been disturbed during patrolling activities. On February 2, 2010, Water Resource Control Engineers Benjamin Tobler and Dat Quach visited the site and confirmed the success of the re-vegetation activities, and the additional need for the further stabilization. Future inspections are being scheduled.

The Regional Board supports the continued work of the TRVRT, which has the following mission: To bring together the governmental administrative, regulatory, and funding agencies in tandem with advice from the scientific community, the environmental community, and affected stakeholders to protect the Tijuana River Valley from future accumulations of trash and sediment, identify, remove, recycle or dispose of existing trash and sediment, and restore the Tijuana River floodplain to a balanced wetland ecosystem.

**PART C**  
**STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION**

1. State Water Board to Provide Wastewater-Related Training to Small Disadvantaged Communities (*Julie Chan*) (*Attachment C-1*)

The State Water Board executed a contract in December 2009 with the Rural Community Assistance Corporation to provide wastewater-related training to small, disadvantaged communities (SDACs) statewide that own and operate wastewater treatment facilities. The State Water Board's Division of Financial Assistance defines a SDAC as a public body with a population of 20,000 persons or less, and an annual median household income (MHI) of less than 80 percent of the current statewide MHI. The assistance will help improve SDAC compliance with waste discharge requirements, and ensure that funds available through the State Water Board are used as effectively as possible in implementing practical, cost-effective wastewater projects that will be adequately maintained over the long-term. Classroom as well as web-based training courses will be offered beginning February 2010. The types of training courses to be offered include: Board Governance: Roles and Responsibilities; Budgeting; Operation and Maintenance for Small Wastewater Utilities; and Rate Setting, Proposition 218, and Community Outreach.

A brochure (Attachment C-1) has a full list of courses for February through June 2010. The brochure will also be made available online via the Small Community Wastewater Strategy webpage at:

[www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/small\\_community\\_wastewater\\_grant/strategy.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/small_community_wastewater_grant/strategy.shtml).

2. Southern California Coastal Water Research Project: Annual Symposium (*Bruce Posthumus*)

The Southern California Coastal Water Research Project (SCCWRP) is a research organization focusing on the ecosystems of southern California coastal watersheds and marine waters. SCCWRP was formed in 1969 to enhance the scientific understanding of linkages among human activities, natural events, and the health of the southern California coastal environment; to communicate this understanding to decision makers and other stakeholders; and to suggest strategies for protecting the coastal environment for this and future generations. SCCWRP is a joint powers agency; the San Diego Water Board is one of fourteen SCCWRP member agencies. (More information on SCCWRP is available at <http://www.sccwrp.org/>.)

The third annual SCCWRP symposium was held at the SCCWRP offices in Costa Mesa on January 20, 2010. Several San Diego Water Board staff attended the symposium, which included sessions on the following topics.

**Emerging Contaminants** (*Lynn Berlad*)

The number of "Contaminants of Emerging Concern" (CECs) increases faster than their effects can be assessed using traditional dose-response methods. Pharmaceuticals and personal care products (PPCPs), pesticides, and industrial compounds such as flame retardants are among the thousands of CECs not yet regulated under the Clean Water Act. Some CECs have been found to impact beneficial uses at trace levels. Innovative approaches to monitoring and regulation are necessary.

SCCWRP CEC research has included use of gene microarrays to assess endocrine disruption in coastal fish exposed to wastewater treatment plant effluent. A panel of experts at the symposium agreed that more research on the ecological and human health impacts of CECs is needed prior to establishing regulatory guidance.

For more information on current CEC research, monitoring, and collaborations, see:

- Workshop Report: Managing Contaminants of Emerging Concern in California:  
[ftp://ftp.sccwrp.org/pub/download/DOCUMENTS/TechnicalReports/600\\_CEC\\_wkshp2009.pdf](ftp://ftp.sccwrp.org/pub/download/DOCUMENTS/TechnicalReports/600_CEC_wkshp2009.pdf)
- USEPA PPCP webpage: [www.epa.gov/ppcp](http://www.epa.gov/ppcp)

**Nutrients** (*Chiara Clemente*)

The symposium session on nutrients included presentations on:

- Eutrophication;
- Development of tools for assessment of California streams using algae as indicators;
- Development of numeric criteria for nutrients in California estuarine waters; and
- Nutrient loadings from atmospheric deposition.

**Rapid Methods in Beach Monitoring** (*Bruce Posthumus*)

Because of the relatively long time involved in using conventional methods to determine whether water quality meets standards for swimming, it is possible that beaches might be posted on days when those standards are actually met and/or not posted on days when those standards are actually not met. Consequently, methods to rapidly determine if water quality meets standards for swimming would be highly desirable.

Issues that must be considered in developing rapid methods include the relationship between health risk and the results produced using rapid methods, differences between results produced by different laboratories using rapid methods, equivalency of results produced by conventional methods and rapid methods, and potential for false negatives and/or false positives using rapid methods. SCCWRP is involved in studies on all of these issues.

**Bioassessment** *(Charles Cheng)*

The stated objective of the Clean Water Act is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." For the most part, however, conditions in waters in California and throughout the nation have been assessed using chemical and physical parameters. There is a need to use biological parameters as a direct measure of water quality conditions. The State Water Board has a goal of developing biological objectives within three years and has asked SCCWRP to provide technical support for this task.

Biological objectives will be situation-specific. Fresh water biological objectives will be different from those of saltwater; different ecoregions will have different biological objectives. The philosophy for developing biological objectives is to use multiple indicators, such as fish, macroinvertebrates and algae; to have numeric endpoints; and to be consistent statewide with regional flexibility. A nine-step development process was proposed, including both technical and non-technical tasks.

**Regional Monitoring** *(Robert Pierce)*

SCCWRP organizes and/or participates in several collaborative regional monitoring programs, with a variety of stakeholders contributing resources for data collection. The value of regional monitoring is in consistent approaches, indicators, methods, language, and quality that provide the context for assessing and comparing conditions. Regional monitoring also promotes collaboration, combining of resources, and interaction between regulatory and regulated entities.

SCCWRP has played a leadership role in the Southern California Bight Regional Monitoring Program, which has been conducted in marine waters periodically since 1994. SCCWRP has also been involved in development of tools for monitoring and assessment of wetland and riparian areas. SCCWRP has also helped develop and implement the Stormwater Monitoring Coalition regional stream monitoring program, which, over five years, will sample 450 coastal southern California stream sites representing open, agricultural, and urban land uses.

**Natural Water Quality** *(Bruce Posthumus)*

Defining "natural water quality" is of interest both scientifically and for regulatory purposes. For example, the California Ocean Plan requires that discharges be located a sufficient distance from designated areas of special biological significance "to assure maintenance of natural water quality conditions in these areas." Although the concept of natural water quality may seem relatively straightforward, determining what constitutes natural water quality is difficult in practice, because of spatial and temporal differences in natural phenomena and because of the extent, degree, and variety of anthropogenic influences on the environment.

SCCWRP has been involved in various efforts to define reference water quality conditions, which may approximate but are not necessarily the same as natural water quality conditions. SCCWRP has also been involved in work to distinguish between conditions in ocean outfall wastewater plumes and background conditions in ocean waters, i.e., to distinguish between waters under greater and lesser degrees of anthropogenic influence.

***Sediment Quality*** (Brian McDaniel)

The California Water Code requires the State Water Board to develop sediment quality objectives (SQOs) for protection of beneficial uses in enclosed bays and estuaries. SCCWRP is assisting the State Water Board in development of technical approaches for SQO use.

SCCWRP has developed tools and assessment frameworks for investigating direct and indirect effects of sediment contamination. This work can be applied to California bays and estuaries. These tools relate the three lines of evidence needed to assess sediment quality (chemical, toxicity, and benthic community indicators), as well as the integration of these three indicators. Sediment quality assessment tools developed by SCCWRP provide a consistent and reliable scientific foundation for sediment quality assessments within monitoring and regulatory programs. The State Water Board has proposed using these tools to assess sediment quality in bays and estuaries as part of their SQOs. SQO adoption is expected by late 2010. (For more information on sediment quality assessment, see <http://www.sccwrp.org/view.php?id=565> ).

***Watershed Runoff*** (Chad Loflen)

The regulation, management, and study of storm water runoff from impervious surfaces has begun to focus at scales that allow determination of how discharges from municipal separate storm sewer systems (MS4s) are impacting surface waters within each watershed. A focus on the watershed scale is expected to allow for the measurement of quantifiable results from actions taken in compliance with NPDES MS4 permit requirements.

SCCWRP has been involved in quantifying and predicting the impact of watershed runoff resulting from storm events. SCCWRP has also been working to determine how runoff from storm events may vary based on storm duration and size, which in turn aids in the understanding of the impacts from those storm events. SCCWRP staff presented research on hydromodification assessment and prediction, an initial study for analyzing mass loadings of pollutants from storm water to the ocean, and a process for detecting the distribution of sediment particle sizes in storm water over the duration of a storm event.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

Significant NPDES Permits,  
WDRs, and  
Actions of the Regional Board

February 10, 2010

APPENDED TO EXECUTIVE OFFICER'S REPORT

DATE OF REPORT  
February 4, 2010

TENTATIVE SCHEDULE  
SIGNIFICANT NPDES PERMITS, WDRS, AND ACTIONS OF THE SAN DIEGO WATER BOARD

Scheduled Board Meeting Date	Action Agenda Item	Action Type	Initial Document Application Complete	Discharge & Receiving Water Quality Limits and Monitoring Plan Known	Draft Complete	Public Review & Comment	Consent Item	Comments
March 10, 2010 Regional Board Meeting San Diego Regional Water Board Office								
3/10/2010	Sweetwater Authority Groundwater Demineralization ( <i>Michelle Mata</i> )	NPDES Permit Reissuance	90%	80%	50%	0%	No	
3/10/2010	Mountain Water Ice ( <i>Joann Cofrancesco</i> )	NPDES Permit Rescission	75%	NA	50%	0%	Yes	Discharge to be terminated
3/10/2010	Dynegy South Bay LLC, South Bay Power Plant Discharge to San Diego Bay ( <i>Brian Kelley &amp; David Barker</i> )	NPDES Permit Rescission	0%	NA	NA	0%	No	
3/10/2010	Administrative Civil Liability against San Diego Unified School District, Bell Jr. High Landfill. ( <i>Rebecca Stewart</i> )	Administrative Civil Liability	100%	100%	50%	0%	No	Recommended liability of \$227,000 for failure to provide monitoring reports prescribed in Order No. 97-11, General WDRs for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills Within the San Diego Region.
3/10/2010	Administrative Civil Liability against County of San Diego Municipal Storm Water Program ( <i>Frank Melbourn</i> )	Administrative Civil Liability	100%	100%	50%	0%	No	Recommended liability of \$77,800 for violation of Construction season requirements within Order No. R9-2007-0001

DATE OF REPORT  
February 4, 2010

TENTATIVE SCHEDULE  
SIGNIFICANT NPDES PERMITS, WDRS, AND ACTIONS OF THE SAN DIEGO WATER BOARD

Scheduled Board Meeting Date	Action Agenda Item	Action Type	Initial Document Application Complete	Discharge & Receiving Water Quality Limits and Monitoring Plan Known	Draft Complete	Public Review & Comment	Consent Item	Comments
3/10/2010	Administrative Civil Liability against County of Riverside Municipal Storm Water Program ( <i>Christina Arias</i> )	Administrative Civil Liability		100%	0%	0%	No	Recommended liability of \$612,591 for violations of Order No. R9-2004-0001
April 14, 2010 Regional Board Meeting San Diego Regional Water Board Office								
4/14/2010	Initial Hearing -Riverside County MS4 Permit ( <i>Ben Neill</i> )	NPDES Permit Reissuance	0%	0%	0%	0%	No	
4/14/2010	USMC Las Pulgas Landfill ( <i>Amy Grove</i> )	Update WDR	100%	100%	75%	0%	Yes	Construction of new phase.
4/14/2010	NPDES General Permit Hydrostatic Testing and Potable Water Discharge ( <i>Michelle Mata</i> )	NPDES Permit Reissuance	100%	95%	95%	85%	No	
4/14/2010	US Navy--Naval Base San Diego (Including Graving Dock) - San Diego Bay ( <i>Vicente Rodriguez</i> )	NPDES Permit Reissuance	90%	90%	80%	0%	No	NPDES Workplan FY 2007-08
4/14/2010	US Navy, Naval Base Coronado NPDES Permit Amendment for Steam Condensate Discharges ( <i>Vicente Rodriguez</i> )	NPDES Permit Revision	90%	100%	0%	0%	Yes	



DATE OF REPORT  
February 4, 2010

TENTATIVE SCHEDULE  
SIGNIFICANT NPDES PERMITS, WDRS, AND ACTIONS OF THE SAN DIEGO WATER BOARD

Scheduled Board Meeting Date	Action Agenda Item	Action Type	Initial Document Application Complete	Discharge & Receiving Water Quality Limits and Monitoring Plan Known	Draft Complete	Public Review & Comment	Consent Item	Comments
4/14/2010	Sea World - Mission Bay (Brian Kelley)	NPDES Permit Reissuance	0%	0%	0%	0%	No	
May 12, 2010 Regional Board Meeting San Diego Regional Water Board Office								
5/12/2010	Adoption Hearing -Riverside County MS4 Permit (James Smith)	NPDES Permit Reissuance	0%	0%	0%	0%	No	
5/12/2010	UCSD Scripps (Brian Kelley)	NPDES Permit Reissuance	0%	0%	0%	0%	No	Stormwater ASBS Issue
5/12/2010	NPDES General De Minimis Discharges Permit - San Diego Region (Michelle Mata)	NPDES Permit Adoption	NA	0%	0%	0%	No	
5/12/2010	Carlsbad Energy Center, LLS Power, Agua Hedionda Lagoon Seawater Intake and Brine Discharge To Pacific Ocean (Michelle Mata)	NPDES Permit New	90%	80%	50%	0%	No	Proposed use of existing Encina Power Station Intake structure

DATE OF REPORT  
February 4, 2010

TENTATIVE SCHEDULE  
SIGNIFICANT NPDES PERMITS, WDRS, AND ACTIONS OF THE SAN DIEGO WATER BOARD

Scheduled Board Meeting Date	Action Agenda Item	Action Type	Initial Document Application Complete	Discharge & Receiving Water Quality Limits and Monitoring Plan Known	Draft Complete	Public Review & Comment	Consent Item	Comments
5/12/2010	US Navy-- Naval Base Pt. Loma - San Diego Bay ( <i>Vicente Rodriguez</i> )	NPDES Permit Reissuance	100%	90%	80%	0%	No	NPDES Workplan FY 2007-08
<p>June 8, 2010 Regional Board Meeting San Diego Regional Water Board Office</p>								
6/8/2010	San Elijo JPA Ocean Outfall ( <i>Brian Kelley</i> )	NPDES Permit Reissuance	0%	0%	0%	0%	No	
6/8/2010	Initial Hearing -2008 Basin Plan Triennial Review ( <i>Deborah Woodward</i> )	Hearing: Basin Plan Triennial Review	NA	0%	0%	0%	No	moved from April Meeting
6/8/2010	City of Escondido Ocean Outfall ( <i>Brian Kelley</i> )	NPDES Permit Reissuance	0%	0%	0%	0%	No	

November 2009 - Summary of Public Sanitary Sewer Overflows in Region 9												
Responsible Agency	Collection System	Total Number of SSO locations	Total Vol of SSOs (gal)	Total Vol Recover (gal)	Total Vol Reach Surface Water	Percent Recover	Percent Reach Surface Water	Miles Pressure Sewer	Miles Gravity Sewer	Miles of Laterals	Total Number of SSO locations per 100 miles of Sewer	Tot Vol of SSOs Reach Surface Water per 100 miles of Sewer
<b>Category 1 SSO</b>												
Carlsbad MWD	Carlsbad MWD CS	1	75	0	0	0	0	4.8	282	0	0.3	0
Encinitas, City	City Of Encinitas CS	1	650	200	450	30	69	4	120	0	0.8	362.9
Fallbrook Public Utility Dist	Fallbrook Plant 1, Oceanside of CS	1	600	50	550	8	91	4.6	76.6	0	1.2	677.3
Leucadia Wastewater District	Leucadia Wastewater District CS	1	500	50	450	10	90	11.4	191	0	0.4	222.3
Moulton Niguel Water District	Moulton Niguel Water District CS	1	150	30	120	20	80	20	510	0	0.1	22.6
Ramona MWD	San Vicente Treatment Plant CS	1	1,200	800	0	66	0	1	40	21	1.6	0
San Diego, City	San Diego City CS	2	4,124	2,100	0	50	0	145	3,002.00	2,000.00	0	0
San Diego County	County Of San Diego CS	1	900	0	0	0	0	4	371	0	0.2	0
<b>Category 2 SSO</b>												
AC/S Environmental Security, MCB Camp Pendleton	Usmc Base, Camp Pendleton CS	2	28	2	n/a	7	n/a	32	104	80	0.9	n/a
Chula Vista, City	City Of Chula Vista CS	1	300	300	n/a	100	n/a	2.6	488	0	0.2	n/a
Eastern Municipal Water District	Eastern Municipal Water District CS	1	90	90	n/a	100	n/a	105	1,724.00	0	0	n/a
La Mesa, City	City Of La Mesa CS	1	3	3	n/a	100	n/a	0	155	0	0.6	n/a
Laguna Beach City	City Of Laguna Beach CS	2	220	10	n/a	4	n/a	4.5	95	0	2	n/a
Rancho California Water Dist	Santa Rosa WRF- Recycled Wtr CS	1	100	100	n/a	100	n/a	11	70	1	1.2	n/a
San Diego, City	San Diego City CS	1	171	171	n/a	100	n/a	145	3,002.00	2,000.00	0	n/a
<b>TOTALS</b>		<b>18</b>	<b>9111</b>	<b>3906</b>	<b>1670</b>			<b>494.9</b>	<b>10230.6</b>	<b>4102</b>		

December 2009 - Summary of Public Sanitary Sewer Overflows in Region 9

Responsible Agency	Collection System	Total Number of SSO locations	Total Vol of SSOs (gal)	Total Vol Recover (gal)	Total Vol Reach Surface Water	Percent Recover	Percent Reach Surface Water	Miles Pressure Sewer	Miles Gravity Sewer	Miles of Laterals	Total Number of SSO locations per 100 miles of Sewer	Tot Vol of SSOs Reach Surface Water per 100 miles of Sewer
<b>Category 1 SSO</b>												
Escondido, City	Harrf Disch To San Elijo Oo CS	1	60	20	40	33	66	10.7	365	0	0.2	10.6
Leucadia Wastewater District	Leucadia Wastewater District CS	1	800	600	200	75	25	11.4	191	0	0.4	98.8
Oceanside PWD	La Salina WWTP, Oceanside Ofll CS	2	390	0	240	0	61	40	450	0	0.4	48.9
San Diego, City	San Diego City CS	1	64,200	62,100	2,100	96	3	145	3,002.00	2,000.00	0	40.8
Trabuco Canyon WD	Trabuco Canyon Water District CS	1	27,225	27,225	0	100	0	3	44	0	2.1	0
<b>Category 2 SSO</b>												
AC/S Environmental Security, MCB Camp Pendleton	Usmc Base, Camp Pendleton CS	1	2	0	n/a	0	n/a	32	104	80	0.4	n/a
Carlsbad MWD	Carlsbad MWD CS	1	80	80	n/a	100	n/a	4.8	282	0	0.3	n/a
Eastern Municipal Water District	Eastern Municipal Water District CS	1	300	300	n/a	100	n/a	105	1,724.00	0	0	n/a
Elsinore Valley Municipal Water Dist	EVMWD Regional Plant CS	1	607	1,000	n/a	164	n/a	11.5	246.2	0	0.3	n/a
Ramona MWD	San Vicente Treatment Plant CS	1	250	0	n/a	0	n/a	1	40	21	1.6	n/a
San Diego, City	San Diego City CS	1	78	0	n/a	0	n/a	145	3,002.00	2,000.00	0	n/a
Vista, City	City Of Vista CS	1	125	125	n/a	100	n/a	0.2	229.1	0	0.4	n/a
<b>TOTALS</b>		<b>13</b>	<b>94117</b>	<b>91450</b>	<b>2580</b>			<b>509.6</b>	<b>9679.3</b>	<b>4101</b>		

**November and December 2009 - Summary of Private Lateral Sewage Discharges in Region 9**

Reporting Agency	Collection System	Total Number of PLSD locations	Total Vol of PLSDs (gal)	Total Vol Recover (gal)	Total Vol Reach Surface Water	Percent Recover	Percent Reach Surface Water	Miles Private Lateral	Total Number of PLSD locations per 100 miles of Sewer	Tot Vol of PLSDs Reach Surface Water per 100 miles of Sewer
<b>Category 1 PLSD</b>										
Carlsbad MWD	Carlsbad MWD CS	1	500	10,000	50	2,000	10	124	0.8	40.3
Chula Vista, City	City Of Chula Vista CS	3	27,975	2,120	1,730	7	6	0	0	0
El Cajon, City	City Of El Cajon CS	1	250	25	225	10	90	189	0.5	119
Fallbrook Public Utility Dist	Fallbrook Plant 1, Oceanside of CS	2	750	600	0	80	0	18	11.1	0
Lemon Grove, City	City Of Lemon Grove CS	1	850	600	250	70	29	124	0.8	201.6
Laguna Beach, City	City Of Laguna Beach CS	1	75	70	5	93	6	102	0.9	4.9
Leucadia Wastewater District	Leucadia Wastewater District CS	2	120	65	5	54	4	300	0.6	1.6
Moulton Niguel Water District	Moulton Niguel Water District CS	1	700	600	100	85	14	500	0.2	20
Ramona MWD	Santa Maria CS	1	1,400	100	0	7	0	62	2.5	0
San Clemente, City	City Of San Clemente CS	1	215	0	215	0	100	0	0	0
San Diego, City	San Diego City CS	8	4,233	2,561	0	60	0	4,049.00	0.3	0
<b>Category 2 PLSD</b>										
Chula Vista, City	City Of Chula Vista CS	4	350	150	0	42	0	0	0	0
El Cajon, City	City Of El Cajon CS	2	65	65	0	100	0	189	1	0
Escondido, City	Harr Disch To San Elijo Oo CS	1	20	0	0	0	0	83.2	1.2	0
Imperial Beach, City	City Of Imperial Beach CS	1	15	15	0	100	0	103	0.9	0
San Diego City	San Diego City CS	8	2,550	2,532	0	99	0	4,049.00	0.3	0
Vallecitos Water District	Meadowlark CS	2	576	450	0	78	0	298	0.6	0
Vista, City	City Of Vista CS	1	25	25	0	100	0	151.5	0.6	0
<b>TOTAL</b>		<b>41</b>	<b>40669</b>	<b>19978</b>	<b>2580</b>			<b>10341.7</b>		

2009 - Annual Summary of Public Sanitary Sewer Overflows in Region 9

Responsible Agency	Collection System	Total Number of SSO locations	Total Vol of SSOs (gal)	Total Vol Recover (gal)	Total Vol Reach Surface Water	Percent Recover	Percent Reach Surface Water	Miles Pressure Sewer	Miles Gravity Sewer	Miles of Laterals	Total Number of SSO locations per 100 miles of Sewer	Tot Vol of SSOs Reach Surface Water per 100 miles of Sewer
ACS Environmental Security, MCB Camp Pendleton	Usmc Base, Camp Pendleton CS	16	60,788	16,159	42,435	26	69	32	104	80	7.4	19,645.80
Carlsbad MWD	Carlsbad MWD CS	6	3,865	12,270	10	317	0	4.8	282	0	2	3.4
Coronado, City	City Of Coronado CS	4	335	335	0	100	0	6.6	39.3	1	8.5	0
Chula Vista, City	City Of Chula Vista CS	2	1,800	1,000	800	55	44	2.6	488	0	0.4	163
Del Mar, City	City Of Del Mar CS	1	1,125	1,125	0	100	0	1.8	29	0	3.2	0
Eastern Municipal Water District	Eastern Municipal Water District CS	6	22,190	1,740	20,450	7	92	105	1,724.00	0	0.3	1,118.00
Elsinore Valley Municipal Water Dist	EVMWD Regional Plant CS	1	697	1,000	0	184	0	11.5	246.2	0	0.3	0
Encinitas, City	City Of Encinitas CS	1	650	200	450	30	69	4	120	0	0.8	362.9
Escondido, City	Harr Disch To San Eljo Ob CS	2	17,785	2,020	15,765	11	88	10.7	365	0	0.5	4,196.10
Fallbrook Public Utility District	Fallbrook Plant 1, Ocean side of CS	8	5,845	165	4,920	2	84	4.5	76.5	0	9.8	6,059.10
Imperial Beach, City	City Of Imperial Beach CS	2	80	80	0	100	0	4.4	39.5	0.3	4.5	0
LEMON GROVE, CITY OF	City Of Lemon Grove CS	3	1,001	200	760	19	75	0.1	62.4	0	4.8	1,216.00
La Mesa City	City Of La Mesa CS	7	2,058	1,503	0	73	0	0	155	0	4.5	0
Laguna Beach City	City Of Laguna Beach CS	11	807	437	30	54	3	4.5	95	0	11	30.1
Leucadia Wastewater District	Leucadia Wastewater District CS	4	1,405	705	700	50	49	11.4	191	0	1.9	345.8
MURRIETA WMMWD	Murrieta WMMWD CS	1	450	75	375	16	83	0	200	0	0.5	187.5
Moulton Niguel Water District	Moulton Niguel Water District CS	4	27,700	530	27,170	1	98	20	510	0	0.7	5,126.40
Oceanside PWD	La Salina WWTP, Ocean side Off CS	8	28,242	26,200	1,892	92	6	40	450	0	1.6	386.1
Padre Dam Municipal Water District	Padre Dam CS	4	28,052	52	27,500	0	98	5	181	0	2.4	16,565.20
Ramona MWD	San Vicente Treatment Plant CS	2	1,450	800	0	55	0	1	40	21	3.2	0
Rancho California Water Dist	Santa Rosa WRF-Recycled Wtr CS	2	350	100	0	28	0	11	70	1	2.4	0
Rancho Santa Fe Community Services District	Rancho Santa Fe San Dist Plant CS	1	500	500	0	100	0	6	60	0	1.5	0
Rancho Santa Fe Community Services District	Santa Fe Valley CS	1	525	2,500	0	476	0	2	14.2	0	6.1	0
Solana Beach, City	City Of Solana Beach CS	3	2,175	1,245	930	57	42	2	39	0	7.3	2,288.20
San Clemente, City	City Of San Clemente CS	1	300	0	300	0	100	1	180	0	0.6	186.3
San Diego, City	San Diego City CS	80	173,027	138,351	26,069	80	15	145	3,002.00	2,000.00	0.9	506.4
San Diego County	County Of San Diego CS	7	6,450	600	4,900	9	75	4	371	0	1.8	1,306.60
San Juan Capistrano, City	City Of San Juan Capistrano CS	1	50	50	0	100	0	0.2	123	0	0.8	0
Santa Margarita WD	Santa Margarita Water District CS	1	900	900	0	100	0	12	525	165	0.1	0
South Coast Water District	South Coast Water District CS	2	605	605	0	100	0	3.2	138	0	1.4	0
Trabuco Canyon WD	Trabuco Canyon Water District CS	1	27,225	27,225	0	100	0	3	44	0	2.1	0
UC San Diego	University Of California, San Diego CS	7	1,160	90	850	7	73	2	25	3	23.3	2,833.30
Valley Center MWD	Lower Moosa Canyon Recl Facil CS	1	40	30	10	75	25	5	50	0	1.8	18.1
Vallejos Water District	Meadowlark CS	2	19	4	0	21	0	19.7	248.8	0	0.7	0
Vista, City	City Of Vista CS	3	905	705	200	77	22	0.2	229.1	0	1.3	87.2
Totals		176	420,466	235,701	176,516	486.3	10,477.10	2,271.30	486.3	10,477.10	2,271.30	87.2



Linda S. Adams  
Secretary for  
Environmental Protection

## State Water Resources Control Board

### Executive Office

Charles R. Hoppin, Chairman  
1001 I Street • Sacramento, California 95814 • (916) 341-5615  
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100  
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Arnold Schwarzenegger  
Governor

January 27, 2010

### HAND DELIVERED

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

COMMISSION ON STATE MANDATES - RESPONSE TO DRAFT STAFF ANALYSIS RE:  
*DISCHARGE OF STORMWATER RUNOFF* 07-TC-09, ORDER NO. R9-2007-0001  
(NPDES NO. CAS0108759)

The State Water Resources Control Board (State Water Board) thanks the Commission staff for its review of the test claim filed by many co-permittees of the San Diego County Municipal Separate Storm Sewer System permit issued by the San Diego Regional Water Quality Control Board (San Diego Water Board). While we appreciate the thorough review and analysis, we have significant concerns with some of the discussion and findings in the draft staff analysis. We believe that the Commission staff has misunderstood some fundamental aspects of the federal program, which are explained in more detail in the enclosed memorandum.

The municipal storm water program is a federal regulatory program intended to reduce the most significant water pollution problem that exists today. In 1972, the United States Congress adopted the Clean Water Act, which amended the earlier Federal Water Pollution Control Act. The most significant aspect of the 1972 amendments was the prohibition on all discharges of pollutants to waters of the United States (generally, lakes, rivers and oceans) except in compliance with a federal national pollutant discharge elimination system (NPDES) permit. Before the Clean Water Act was adopted, pollution was rampant, and the major causes were discharges from large industrial plants and from sanitary sewer systems, which are operated by local agencies (publicly owned treatment works, or POTWs).

In 1972, California became the first state in the nation to issue permits implementing federal law, in lieu of issuance by the United States Environmental Protection Agency (U.S. EPA). In stepping into the federal government's role, the State Water Board and the nine regional water quality control boards (Regional Water Boards) became the agencies that issue these permits to industries and local agencies in California--the same permits that would otherwise have been issued by U.S. EPA. California is the regulator of discharges of pollutants to federal waters within California; it did not take on the responsibility to comply with or pay for others to comply with the federally-mandated requirements in the permits issued to dischargers.

*California Environmental Protection Agency*

In 1987, the Congress noted that the traditional sources of water pollution had been largely controlled and that the most significant unregulated source of pollution was storm water runoff. (Unlike discharges from factories and POTWs, storm water runoff generally does not go through a treatment process.) In response, Congress amended the Clean Water Act, requiring industrial dischargers and municipal separate storm sewer systems (MS4s) to obtain NPDES permits. The amendments include more stringent requirements for the industrial sources than for the MS4s. As the federal NPDES permitting authority in California, the State Water Board and the Regional Water Boards were required by federal law to issue these permits to industrial facilities and local agencies.

The test claim concerns an MS4 permit adopted by our San Diego Water Board pursuant to the federal regulations and the federal Clean Water Act. The County of San Diego, San Diego Unified Port District, San Diego County Regional Airport Authority and 18 incorporated cities within San Diego County applied for the permit. The permit is clearly a federal mandate that Congress imposed directly on local agencies through the 1987 amendments to the Clean Water Act. There is no "shifting" of responsibility-legal or financial-from the state to local agencies. The state was never charged with the responsibility of controlling municipal storm water pollution. The state's role is exclusively to issue and administer the permits that govern the municipalities' federally mandated obligations; the local agencies discharge pollutants to federal waters and are mandated by federal law to reduce pollutants in these discharges to the maximum extent practicable.

The Commission's staff report provides a detailed analysis of many of the issues associated with the test claim, but takes an overly simplistic view of the Clean water Act's municipal storm water permitting scheme. Essentially, the staff analysis looks for the permit requirements in federal law, and not finding the exact text of the contested provisions in federal law, concludes that the contested provisions may therefore be considered state mandates. This approach fails to recognize that NPDES storm water permits, whether issued by U.S. EPA or California's Water Boards, are designed to translate the general federal mandate into specific programs and enforceable requirements. Whether issued by U.S. EPA or the California Water Boards, the NPDES permit will identify specific requirements for municipalities to reduce pollutants in their storm water to the maximum extent practicable. The federally required pollutant reduction is a federal mandate. The fact that state agencies have responsibility for specifying the federal permit requirements for municipalities does not convert the federal mandate upon municipalities into a state mandate.

In summary, the mandate in the permit is a federal mandate that federal law specifically applies to local agencies. While there could be circumstances where a California Water Board imposed requirements on a local agency more onerous than required by federal law, that is not the case here. The permit itself complies with federal law and does not impose any additional requirements beyond what the federal law requires. There has been no shifting of responsibility from the state to local agencies. The federal mandate applies to both private and public dischargers, the only difference being that the MS4s have less stringent requirements than



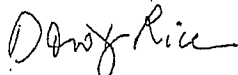
Ms. Paula Higashi, Executive Director

- 3 -

January 27, 2010

industries. Therefore, the costs are federally mandated and they do not constitute a program limited to local agencies. We request that the staff analysis be revised.

Sincerely,

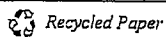


Dorothy Rice  
Executive Director

Enclosure

cc: Service List for 07-TC-09, Exhibit A to Proof of Service

*California Environmental Protection Agency*





Linda S. Adams  
Secretary for  
Environmental Protection

## State Water Resources Control Board

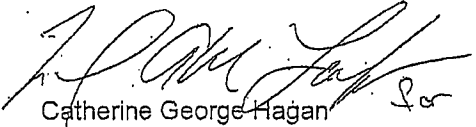
### Office of Chief Counsel

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Arnold Schwarzenegger  
Governor

TO: Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

FROM:   
Catherine George Hagan  
Senior Staff Counsel  
OFFICE OF CHIEF COUNSEL

DATE: January 27, 2010

SUBJECT: COMMISSION ON STATE MANDATES – RESPONSE TO DRAFT STAFF  
ANALYSIS RE: DISCHARGE OF STORMWATER RUNOFF 07-TC-09, ORDER  
NO. R9-2007-0001, (NPDES NO. CAS0108759)

On October 27, 2008, the State Water Resources Control Board (State Water Board) and the San Diego Regional Water Quality Control Board (San Diego Water Board) (collectively, the Water Boards) submitted lengthy comments on the above Test Claim. We will not repeat those comments here. Instead, this memorandum attempts to explain and rectify some areas of confusion concerning the federal permitting scheme as described in the draft staff analysis.

As required by federal law, the claimants sought a permit allowing them to discharge pollutants in storm water runoff to the nation's waters. Federal law required the claimants (not the state itself) to obtain a permit. Federal law provides that authorized states shall issue permits in compliance with federal law. As required by federal law, the San Diego Water Board issued the permit. Also as required by federal law, the permit required claimants to implement practices that would reduce the pollutants in storm water discharges to "the maximum extent practicable." The claimants do not qualify for reimbursement for their costs to comply with the permit under Article XIII B, Section (6) of the Constitution because the costs are directly mandated on the claimants by federal law. Numerous dischargers of storm water, including industrial facilities, construction companies, and state and federal agencies, must also obtain storm water permits. The permit does not create a program unique to local government. Further, the Water Boards disagree with the conclusion in the draft staff analysis that procedural limitations that apply to local agency fee authority through article XIII D of the California Constitution invalidate that fee authority within the meaning of Government Code section 17556, subdivision (d).

*California Environmental Protection Agency*

## FEDERAL LAW REQUIRES THAT LOCAL AGENCIES OBTAIN NPDES PERMITS FROM CALIFORNIA WATER BOARDS

Since 1972, the federal Clean Water Act<sup>1</sup> has prohibited "any person" from discharging pollutants to waters of the United States, except in compliance with a national pollutant discharge elimination system (NPDES) permit.<sup>2</sup> "Person" is defined in the Clean Water Act as: "an individual, corporation, partnership, association, State, *municipality*, commission, or *political subdivision of a State*, or any interstate body."<sup>3</sup> Thus, the federal law clearly mandates that local agencies must obtain permits—it is the discharger of pollutants who must obtain the permit. States themselves that discharge pollutants to waters of the United States are required to obtain permits. For example, state prisons and state universities operate sewage treatment plants or industrial facilities that require NPDES permits. Federal facilities must also obtain permits.<sup>4</sup>

The Clean Water Act provides that NPDES permits shall be issued by the United States Environmental Protection Agency (U.S. EPA), but that as soon as U.S. EPA promulgated guidelines, the Governor of each state could request authorization to be the permitting authority for discharges within its borders.<sup>5</sup> Once a state program has been approved, the U.S. EPA no longer has authority to issue NPDES permits in the state, except under very limited circumstances.<sup>6</sup> All state-issued permits must implement federal law and comply with U.S. EPA's regulations.<sup>7</sup> The federal law mandates that all NPDES permits that are issued within the state of California must be issued by either the State Water Board or the appropriate regional water quality control board.<sup>8</sup> California was the first state in the nation to be authorized to issue NPDES permits, in lieu of U.S. EPA, in 1972. Delegated states implement the federal law by issuing permits and enforcing their terms; the states are not themselves responsible for complying with the terms of the permits issued to industry, construction, federal facilities, or municipalities.<sup>9</sup>

In 1987, Congress amended the federal Clean Water Act to mandate that dischargers of storm water runoff obtain NPDES permits and comply with specified substantive requirements.<sup>10</sup> While the original Clean Water Act had been interpreted by courts, as early as 1977, to require permits for storm water discharges, U.S. EPA had never adopted regulations implementing that requirement. The 1987 amendments to the Clean Water Act specifically required NPDES

<sup>1</sup> Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; popular name, Clean Water Act (CWA).

<sup>2</sup> CWA § 301(a) (33 U.S.C. § 1311(a)). Generally, waters of the U.S. include lakes, rivers, wetlands, and oceans.

<sup>3</sup> CWA § 502(5) (33 U.S.C. § 1362(5)). (Emphasis added.)

<sup>4</sup> CWA § 313 (33 U.S.C. § 1323).

<sup>5</sup> CWA § 402(b) (33 U.S.C. § 1342(b)).

<sup>6</sup> CWA § 402(c) (33 U.S.C. § 1342(c)).

<sup>7</sup> CWA § 402(c)(2) (33 U.S.C. § 1342(c)(2)).

<sup>8</sup> CWA § 402(b) (33 U.S.C. § 1342(b)); Wat. Code, § 13370 et seq.

<sup>9</sup> CWA § 309 (33 U.S.C. § 1319).

<sup>10</sup> CWA § 402(p) (33 U.S.C. § 1342(p)).

permits be issued to municipal separate storm sewer systems (MS4s) and to dischargers of storm water from industrial activities.<sup>11</sup> "Municipality" is defined in the federal law to include "a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes."<sup>12</sup> The permit requirements for the MS4s are less stringent than for the industrial sites.<sup>13</sup>

In sum, the federal Clean Water Act requires that local agencies that operate MS4s must obtain NPDES permits. The federal Clean Water Act requires that, when a state issues permits in lieu of U.S. EPA, the NPDES permits must comply with the substantive provisions of federal law. The U.S. EPA cannot issue NPDES permits in California, and if municipalities were to operate their MS4s without an NPDES permit, they would be in violation of federal law and subject to enforcement actions by U.S. EPA and to citizen suits authorized by federal law.<sup>14</sup>

#### FEDERAL LAW MANDATES THE PERMIT THAT WAS ISSUED, WHICH IS LESS STRINGENT THAN PERMITS FOR PRIVATE INDUSTRY

Regulating storm water discharges is generally considered to be more difficult than regulating traditional point sources. Traditional point sources include discharges from factories, from refineries, and from the sanitary sewer treatment systems (publicly owned treatment works or POTWs) that local agencies operate. These traditional point sources have engineered treatment systems; and the NPDES permits for these facilities generally contain numeric effluent limitations that must be met at the end of the discharge pipe. Numeric effluent limitations are pollutant restrictions placed on the discharge, with the restriction expressed as concentration and/or mass limits for specific constituents. The Clean Water Act states that such facilities must meet technology-based limitations, and where necessary to meet ambient water quality standards, more stringent water quality-based effluent limitations.<sup>15</sup> The Clean Water Act states that storm water discharges from industrial sites must meet all of these requirements, but that MS4s have a less stringent standard: the permit "shall require controls to reduce the discharge of pollutants to the maximum extent practicable."<sup>16</sup> As discussed in the Water Boards' October 2008 comments and more fully below, the fact that private industry is subject to similar, though more stringent, discharge requirements underscores the conclusion that the permit requirements are not unique to local government and therefore no reimbursable state mandate exists.<sup>17</sup>

<sup>11</sup> CWA § 402(p)(2) (33 U.S.C. § 1342(p)(2)).

<sup>12</sup> CWA § 502(4) (33 U.S.C. § 1362(4)).

<sup>13</sup> CWA § 402(p)(3) (33 U.S.C. § 1342(p)(3)).

<sup>14</sup> CWA § 505 (33 U.S.C. § 1365).

<sup>15</sup> CWA § 301(b) (33 U.S.C. § 1311(b)).

<sup>16</sup> CWA § 402(p)(3)(B) (33 U.S.C. § 1342(p)(3)(B)).

<sup>17</sup> *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4<sup>th</sup> 1190.

**THE DRAFT STAFF ANALYSIS INCORRECTLY APPLIES THE HAYES CASE: THE STATE DID NOT SHIFT THE COST OF THE FEDERAL MANDATE TO THE LOCAL AGENCIES – THE FEDERAL MANDATE IS IMPOSED DIRECTLY ON THE LOCAL AGENCIES AND NOT ON THE STATE**

The draft staff analysis oversimplifies and misconstrues the federal Clean Water Act when it equates the decision in 1972 by California to administer the NPDES permit program in lieu of U.S. EPA with the obligation of the claimants to obtain and comply with their NPDES permit. On page 38 of the draft staff analysis, it states: "The federal statutory scheme indicates that California is neither required to have an NPDES program nor to issue stormwater permits." The analysis goes on to state: "Based on. . . Water Code section 13370, in which California voluntarily adopts the permitting program, and on the federal statutes. . . that authorized but do not expressly require states to have this program, the state has freely chosen to effect the stormwater permit program." (Footnote omitted.) The analysis then cites *Hayes v. Commission on State Mandates*.<sup>18</sup>

In general, a federal mandate is not subject to reimbursement. In *Hayes*, the federal Education of the Handicapped Act imposed requirements on *the state* and the state "freely chose" to shift those costs to local agencies.<sup>19</sup> The court stated: "A central purpose of the principle of state subvention is to prevent the state from shifting the cost of government from itself to local agencies."<sup>20</sup> Thus, the court held that if there is a federal mandate on the state, and the state "freely chooses" to shift the mandate to local agencies, the costs constitute an reimbursable state mandate.<sup>21</sup> In this case, there is no federal mandate on the state. The federal mandate always has been, and remains, on the local agencies.

In the test claim under consideration in this proceeding, the draft staff analysis treats the state's decision to *administer* the NPDES permit program in 1972 as the "choice" referred to in *Hayes*. That analysis is completely incorrect, and leads to results that are absurd on their face. It is true that in 1972, California became the first state to administer the NPDES program in lieu of U.S. EPA. But administering the permit program—issuing permits to dischargers who are mandated by law to obtain such permits and enforcing compliance with federal law—is not the same thing as complying with the permits themselves. The federal Clean Water Act requires municipalities to apply for an NPDES permit that requires pollutant reductions to the maximum extent practicable. The state's "choice" to administer the program in lieu of the federal government does not alter the federal requirement on municipalities to reduce pollutants in these discharges to the maximum extent practicable.

The federal mandate is imposed specifically upon the municipalities that own and operate MS4s discharging pollutants to the nation's waters. As indicated above, there are times when the

<sup>18</sup> *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564.

<sup>19</sup> *Hayes, supra*, 11 Cal.App.4th at p. 1587 states: "Since the 1975 amendment, the Education of the Handicapped Act has required recipient states to demonstrate a policy that assures all handicapped children the right to a free, appropriate education."

<sup>20</sup> *Id.*, at p. 1593.

<sup>21</sup> *Id.*, at p. 1594.

state (or a state agency) owns and operates an MS4. In those instances, the state agency is subject to its own NPDES permit issued by the State Water Board and bears the cost of compliance in that case. For instance, the California Department of Transportation (Caltrans) is subject to its own NPDES permit, issued by the State Water Board.<sup>22</sup> To equate the role of administering a federal regulatory program with complying with federal substantive law is absurd, and is not at all similar to the fact in *Hayes*. The staff analysis misconstrues *Hayes* in applying it to California's decision to issue permits in lieu of the U.S. EPA. The Clean Water Act specifies who must obtain an NPDES permit and what level of pollutant reduction they must achieve. The fact that California administers the NPDES program with permission and in lieu of U.S. EPA does not change the NPDES permitting requirements for Caltrans or the test claimants, which are mandates upon the persons who discharge pollutants. If the state had not decided, in 1972, to administer the NPDES program, these same municipalities would have received a permit from U.S. EPA with the very same substantive requirement -- to achieve compliance with MEP. Operating in the absence of a permit would subject municipalities to fines and penalties, as well as citizen suit, for failure to comply with federal law.

Clean Water Act section 402(p) requires that permits be issued to "municipal separate storm sewer systems." It requires that the entities that own and operate these systems obtain NPDES permits that require them to undertake practices that reduce the pollutants to the MEP. In this case, the federal mandate is directly on the local agencies because they own and operate the MS4 in San Diego County. There has been no shifting of legal or financial responsibility from the state to the local agencies-- the state does not bear the legal or financial responsibility in the first instance so has no responsibility to shift.<sup>23</sup> There is no mandate on the state to obtain or to comply with the NPDES permit for the claimants' MS4.

**THE DRAFT STAFF ANALYSIS MISAPPLIES THE LONG BEACH CASE AND FAILS TO PROPERLY APPLY THE SAN DIEGO UNIFIED SCHOOL DISTRICT CASE: THE PERMIT PROVISIONS ARE NOT IN ADDITION TO, BUT ARE REQUIRED BY FEDERAL LAW.**

The draft staff analysis relies on *Long Beach Unified School District v. State of California*,<sup>24</sup> to conclude that the permit requires specific actions beyond what federal law requires. Staff concludes with respect to numerous contested provisions that the state has "freely chosen to impose these requirements" and therefore these provisions are not a federal mandate.<sup>25</sup> In *Long Beach*, the court held that subvention does apply where actions are mandated by the state, which go beyond the federal constitution or case law. Because federal law clearly would not have required steps for de-segregation where there was no finding of segregation, subvention applied. Staff's reliance on *Long Beach* to support finding there are state mandates in the Test Claim is misplaced.

<sup>22</sup> See State Water Board Order No. 99-06-DWQ.

<sup>23</sup> See, e.g., *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4<sup>th</sup> 1176, 1193 (citing *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4<sup>th</sup> 1264, 1289).

<sup>24</sup> *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155

<sup>25</sup> Draft Staff Analysis, e.g., p. 51.

Despite courts having found that MS4 permits issued by the Regional Water Boards did not exceed the federal minimum requirements for MS4 permits,<sup>26</sup> the draft analysis ignores these judicial findings and takes an overly simplistic view of the Clean Water Act's municipal storm water permitting scheme. Essentially, the staff analysis looks for the permit requirements in federal law, and not finding the exact text of the contested provisions, concludes that certain provisions of the permit may therefore be considered state mandates. The draft staff analysis misunderstands the nature of the federal regulations and federal mandates applicable to local governments.

This approach fails to recognize that NPDES storm water permits, whether issued by U.S. EPA or California's Water Boards, are designed to translate the general federal mandate into specific programs and enforceable requirements. Whether issued by U.S. EPA or the California's Water Boards, the federal NPDES permit must identify specific requirements for municipalities to reduce pollutants in their storm water to the maximum extent practicable. The federally required pollutant reduction is a federal mandate.

The Clean Water Act mandates that the *permit* "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."<sup>27</sup> Similarly, federal storm water regulations clarify that permitting authorities will consider federally mandated permit applications "when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable."<sup>28</sup> These provisions have been interpreted by the Ninth Circuit Court of Appeals to require states that issue NPDES permit to specify the required controls in the permit.<sup>29</sup> The federal law requires that the specific requirements that will achieve MEP be inserted in the permit, and when the State is the permit program administrator, the state is expressly required by federal law to specify these controls in MS4 permits, as would the U.S. EPA if it issued the permit. The state has done no more than follow federal law to include specific requirements that achieve MEP in the permit. The fact that state agencies have responsibility for specifying the federal permit requirements for municipalities does not indicate that requirements extend beyond federal law, as in *Long Beach*, or convert the federal mandate into a state mandate.

The federal requirement to prescribe best management practices (BMPs) was addressed succinctly by the Court of Appeal in *Rancho Cucamonga v. Regional Water Quality Control Bd., Santa Ana Region*:<sup>30</sup>

<sup>26</sup> *County of Los Angeles v. State Water Resources Control Board*, (2006) 143 Cal.App.4<sup>th</sup> 985; *City of Rancho Cucamonga v. Regional Water Quality Control Bd., Santa Ana Region* (2006) 135 Cal.App.4<sup>th</sup> 1377.

<sup>27</sup> CWA § 402(p)(3)(B)(iii) (33 U.S.C. § 1342(p)(3)(B)(iii)). The reference to the Administrator is only for permits issued within states that do not administer the NPDES program. See, CWA § 402(b) (33 U.S.C. § 1342(b)).

<sup>28</sup> 40 C.F.R. § 122.26(d)(2)(iv).

<sup>29</sup> *Natural Resources Defense Council, Inc. v. U.S. EPA* (9<sup>th</sup> Cir. 1992) 966 F.2d 1292, 1308.

<sup>30</sup> *Rancho Cucamonga, supra*, 135 Cal.App.4<sup>th</sup> 1377.

In creating a permit system for dischargers from municipal storm sewers, Congress intended to implement actual programs. (*Natural Resources Defense Council v. Costle* (D.C. Cir. 1977) 568 F.2d 1369, 1375.) The Clean Water Act authorizes the imposition of permit conditions, including: "management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants;" (33 U.S.C. § 1342, subd. (p)(3)(B)(iii).) The Act authorizes states to issue permits with conditions necessary to carry out its provisions. (33 U.S.C. § 1342, subd. (a)(1).) The permitting agency has discretion to decide what practices, techniques, methods and other provisions are appropriate and necessary to control the discharge of pollutants. (*NRDC v. EPA* (9<sup>th</sup> Cir. 1992) 966 F.2d 1292, 1308.) That is what the Regional Board has created in the 2002 permit.<sup>31</sup>

As in *Rancho Cucamonga*, this permit, like its predecessors, requires BMP implementation to comply with the federal standard of reducing pollutants from the MS4 to the MEP. The MEP standard that must be complied with has been in effect since it was first established in the Clean Water Act. The fundamental requirement that municipalities reduce pollutants in MS4s to the MEP remains the cornerstone of the mandate imposed upon municipalities by the federal Clean Water Act and implementing NPDES regulations. What has changed in successive permits is the level of specificity included in the permit to define what constitutes MEP. The San Diego Water Board exercised its duty under federal law and adopted permit provisions as federal requirements. The fact that the level of specificity has changed over time is consistent with U.S. EPA's guidance that successive permits for the same MS4 must become more refined and detailed as needed.

The EPA also expects stormwater permits to follow an iterative process whereby each successive permit becomes more refined, detailed, and expanded as needed, based on experience under the previous permit. See, 55 Fed. Reg. 47990, 48052 ("EPA anticipates that storm water management programs will evolve and mature over time."); 64 Fed. Reg. 67722, 68754; Dec. 8, 1999 ("EPA envisions application of the MEP standard as an iterative process.") Interim Permitting Approach for Water Quality-Based Effluent Limitations in Stormwater Permits (Sept. 1, 1996) ("The interim permitting approach uses BMPs in first-round storm water permits, and expanded or better-tailored BMPs in subsequent permits, where necessary, to provide for the attainment of water quality standards.")<sup>32</sup>

<sup>31</sup> *Rancho Cucamonga*, *supra*, 135 Cal.App.4<sup>th</sup> at p. 1389.

<sup>32</sup> See Letter from Alexis Strauss to Tam Doduc and Dorothy Rice, April 10, 2008, concerning Los Angeles County Copermitee Test Claims Nos. 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21, attached to Water Boards October 27, 2008, comments as Exhibit 32.



The fact that requirements in permits may be specified and expanded or better-tailored as necessary to achieve the federal MEP standard does not mean that the permits extend beyond federal requirements as in *Long Beach*.

The Clean Water Act sets forth the requirement that municipalities control pollutants in storm water discharges to the maximum extent practicable. U.S. EPA adopted regulations that tell municipalities what specific information must be included in their permit applications. Thus, federal storm water regulations specify application requirements, but not permit provisions. According to the regulations, the permitting authorities must consider the applications, but bear the ultimate responsibility for "developing permit conditions to reduce pollutants in discharges to the maximum extent practicable."<sup>33</sup> Even following just the "application requirements" in the regulations, as Commission staff has done, is not consistent with federal law. Instead, taking staff's conclusions in the draft analysis to their logical extension, municipalities would be required to submit detailed applications regarding their storm water programs, but the NPDES permit could only require the dischargers to "to effectively prohibit non-stormwater discharges into the storm sewers; and...to reduce the discharge of pollutants to the maximum extent practicable..."<sup>34</sup> This is the only language that states on its face what words must be included in MS4 permits. But this reading ignores the rest of the statute requiring controls, management practices, control techniques, and so forth. It also ignores federal case law interpreting the federal requirements. And it ignores the lengthy regulations and guidance documents U.S. EPA has adopted laying out the varying program requirements that should be applied to MS4s.

Under staff's approach, an MS4 permit would need to do no more than simply direct permittees to reduce pollutants to the maximum extent practicable. There would be no place for, nor need for, the state (or U.S. EPA) to exercise any discretion in crafting permit conditions to provide guidance and to ensure that dischargers comply with federal minimum requirement of controlling discharges to the MEP. As the federal regulations remain unchanged, successive federal permits would never evolve into more refined, detailed or expanded permits, as envisioned by U.S. EPA.

In considering and rejecting challenges to the claimants' 2001 MS4 permit, the court of appeal in *Building Industry Association of San Diego County v. State Water Resources Control Board*<sup>35</sup> recognized that the federal requirement "is a highly flexible concept that depends on balancing numerous factors, including the particular control's technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness. This definition conveys that the Permit's maximum extent practicable standard is a term of art. . . ."<sup>36</sup> Under Staff's analysis, there would be no need for "balancing numerous factors" as recognized by the *Building Industry* court. The federal permit would always remain static.

Even if the Commission accepts staff's conclusion that some contested permit provisions extend beyond the requirements of federal law, under *San Diego Unified School District v. Commission*

<sup>33</sup> 40 C.F.R. § 122(d)(2)(iv).

<sup>34</sup> CWA § 402(p)(3)(B) (33 U.S.C. §1342(p)(3)(B)).

<sup>35</sup> *Building Industry Association of San Diego County v. State Water Resources Control Board* (2004) 124 Cal.App.4<sup>th</sup> 866.

<sup>36</sup> *Id.*, at p. 889.

on *State Mandates*,<sup>37</sup> these provisions are not state mandates because they are incidental to, and intended to implement, the federal law. In *San Diego Unified School District*, the school district sought subvention of funds to conduct expulsion hearings. The federal law made expulsions discretionary, but where expulsions occurred, the federal law mandated certain hearing procedures. The state law mandated expulsions whenever firearms were involved, and made all other expulsions discretionary. It also mandated some hearing procedures in addition to the federal requirements. The Supreme Court held that for firearms expulsions, the state mandated a higher level of service, and that all hearing costs for these expulsions were reimbursable, even those attributable to procedures mandated by federal law. It also held, however, that no hearing costs are reimbursable for expulsions that are discretionary under state law. Even if the hearing procedures are mandated by state law, the court found they are incidental to federal due process requirements and are *de minimis* and therefore not reimbursable. In determining that any additional state-mandated hearing costs were *de minimis*, the court found that the state reasonably set forth requirements that were intended to implement the federal hearing requirements: "challenged state rules or procedures that are intended to implement an applicable federal law and whose costs are, in context, *de minimis* should be treated as part and parcel of the underlying federal mandate."<sup>38</sup>

As all of the permit provisions at issue are intended to implement the federal law and regulations applicable to MS4 discharges and whose costs, in context, are *de minimis*, the permit provisions likewise should be treated as "part and parcel of the underlying federal mandate."

In sum, because the federal mandate requires the Water Boards to choose specific BMPs that are included in MS4 permits as requirements, the "discretion" exercised in selecting those BMPs is necessarily a part of the federal mandate. It is not comparable to the discretion that the courts in *Hayes* or *San Diego* spoke of, where the state truly had a "free choice." Since neither federal law nor U.S. EPA has defined MEP, the San Diego Water Board was mandated by federal law to select BMPs that would result in compliance with the federal MEP standard. This is completely different from the state discretion exercised in *San Diego*, where the state law compelled expulsions for bringing firearms to school, while the federal law clearly did not mandate such expulsions. Therefore, it is clear that the mere exercise of discretion in selecting BMPs, does not create a reimbursable mandate.

#### **EVEN THOUGH MUNICIPALITIES ARE SINGLED OUT IN THE FEDERAL STORM WATER LAW, THE LAW IS ONE OF GENERAL APPLICATION**

The draft staff analysis notes that "the courts have defined a 'program' subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state."<sup>39</sup> The draft staff analysis finds that the permit activities constitute a program subject to subvention because they "are limited to local governmental entities." The

<sup>37</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859.

<sup>38</sup> *Id.*, at p. 889.

<sup>39</sup> Draft Staff Analysis, p. 32.

analysis correctly notes that the permittees are all local agencies, but it fails to consider that private entities, as well as certain state agencies and even federal agencies, must also receive NPDES permits for storm water discharges, and that those permits must include *more stringent* requirements than the requirements in the test claims. Where local agencies have separate, but similar requirements as private entities, there is no reimbursable mandate.<sup>40</sup>

The federal Clean Water Act requires persons who discharge storm water from industrial activities or from municipal separate storm sewer systems to obtain NPDES permits.<sup>41</sup> The industrial dischargers must comply with all of the requirements that any NPDES permit must contain,<sup>42</sup> including installing best practicable control technology currently available for conventional pollutants,<sup>43</sup> best available technology economically achievable for toxic pollutants,<sup>44</sup> and any more stringent limitation necessary to meet water quality standards and any other federal law or regulations.<sup>45</sup> NPDES permits for municipal storm water discharges, on the other hand, generally only include requirements established to reduce the discharge of pollutants to the maximum extent practicable.<sup>46</sup> It is clear that the municipal dischargers have a less stringent federal mandate than the industries. In ruling that municipal permits are not required by statute to achieve compliance with ambient water quality standards, the Ninth Circuit Court of Appeal referred to "Congress' choice to *exempt* municipal storm-sewer discharges from strict compliance with [§ 301]."<sup>47</sup>

In *City of Richmond*,<sup>48</sup> the court held that where municipalities have separate but not more stringent requirements than private entities, there is no program subject to reimbursement. In *Richmond*, local governments were newly required to pay double death benefits for local safety members, under both the public retirement system and workers' compensation. The court noted that the revised law had eliminated a prior exemption from providing workers' compensation death benefits for safety employees, putting the local agencies on an equal footing with private entities. Here, the municipal entities are not on an equal footing; they are *exempt* from meeting the more stringent requirements that private industry must meet. The fact that a separate statutory provision applies to municipalities—where that provision is less stringent than the provision that applies to private industry—does not create a program eligible for reimbursement.

<sup>40</sup> *City of Richmond, supra*, 64 Cal.App.4th 1190.

<sup>41</sup> CWA § 402(p)(2) (33 U.S.C. § 1342(p)(2)).

<sup>42</sup> CWA §§ 402(p)(3)(A) and 301(a) (33 U.S.C. §§ 1342(p)(3)(A), 1311(a)).

<sup>43</sup> CWA § 301(b)(1)(A) (33 U.S.C. § 1311(b)(1)(A)).

<sup>44</sup> CWA § 301(b)(2)(A) (33 U.S.C. § 1311(b)(2)(A)).

<sup>45</sup> CWA § 301(b)(1)(C) (33 U.S.C. § 1311(b)(1)(C)).

<sup>46</sup> CWA § 402(p)(3)(B) (33 U.S.C. § 1342(p)(3)(B)). These permits must also include requirements to effectively prohibit non-storm water discharges into storm sewers.

<sup>47</sup> *Defenders of Wildlife v. Browner* (9<sup>th</sup> Cir. 1999) 191 F.3d 1159, 1165. (Emphasis added).

<sup>48</sup> *City of Richmond, supra*, 64 Cal.App.4th 1190.

**POTENTIAL LIMITATIONS ON THE EXERCISE OF FEE AUTHORITY DUE TO SECTION 6 OF ARTICLE XIII D OF THE CALIFORNIA CONSTITUTION (PROPOSITION 218) DO NOT INVALIDATE THE CLAIMANTS' FEE AUTHORITY; GOVERNMENT CODE SECTION 17556, SUBSECTION (D) DOES NOT REQUIRE UNLIMITED OR UNILATERAL FEE AUTHORITY**

As indicated above, the Water Boards maintain that all of the contested requirements are federal, not state, mandates, and thus not subject to reimbursement. Even assuming, arguendo, that the provisions are state mandates, the Water Boards believe that the local agencies possess fee authority within the meaning of section 17556, subdivision (d), of the Government Code such that no reimbursement by the state is required.<sup>49</sup>

Section 17556, subdivision (d), of the Government Code provides:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency . . . if, after a hearing, the commission finds any one of the following: [¶] (d) The local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

The draft staff analysis reviews existing local government authorities to impose fees to fund permit activities, including the "police powers" regulatory authority provided in Article XI, section 7 of the California Constitution. It also reviews authority provided in the Health and Safety Code section 5471 (applicable to conveyance system cleaning) and in Public Resources Code section 40059 (applicable to refuse collection). Staff conclude that while claimants would have regulatory authority to raise fees for their test claim activities within the meaning of Government Code section 17556(d) under these provisions, the voter approval requirement in article XIII.D of the California Constitution (Proposition 218) invalidates the authorities that would otherwise apply to most of the contested provisions.<sup>50, 51</sup> The staff concludes that if existing authorities are subject to a procedure that includes a protest or an election, such a procedure "extinguishes" local fee authority for purposes of section 17556.<sup>52</sup>

The Water Boards do not disagree that in order to raise new fees to fund many of the contested provisions, the claimants would be required to comply with the voting requirements in

<sup>49</sup> While the Water Boards do not agree that provisions concerning hydromodification (part D.1.g), low-impact development (part D.1.d.), and certain education components in part D.5, related to development are state mandates, the Water Boards support the draft staff analysis conclusion that the claimants have fee authority within the meaning of section 17556, subdivision (d), of the Government Code to fund activities associated with these permit provisions under the Mitigation Fee Act.

<sup>50</sup> Draft Staff Analysis, pp. 100, 111-12.

<sup>51</sup> Similarly, with regard to street sweeping activities, staff, at p. 108, finds that regulatory fee authority exists under Public Resources Code section 40059 (applicable to refuse collection), but that fee authority within the meaning of Government Code section 17556, subdivision (d), is lacking because "the fee may be contingent on the outcome of a written protest by a majority of the parcel owners."

<sup>52</sup> *Id.*, at p. 110.

article XIID of the California Constitution (Proposition 218).<sup>53</sup> However, the Water Boards disagree that the requirement to subject new or increased fees to these voting or protest requirements strips the claimants of "fee authority" within the meaning of Government Code section 17556, subdivision (d).

In resolving an issue of apparent first impression before the Commission -- whether local agencies have "sufficient" fee authority under Government Code section 17556, subdivision (d), in light of the voter approval requirement for fees under article XIII D (Proposition 218)<sup>54</sup>-- staff inappropriately accept claimants' assertion that the words "unilateral" or "unlimited" should be read into section 17556, subdivision (d) before the word "authority." The statute contains no such qualifying language.

In *Connell v. Superior Court*,<sup>55</sup> the court of appeal considered the issue of fee authority under Government Code section 17556, subdivision (d). In *Connell*, the water districts argued that they lacked "sufficient" fee authority due to the economic climate making it infeasible to levy fees sufficient to pay for increased services. The water districts did not dispute that they had authority to levy fees, but believed that economic infeasibility made it unlikely they would be successful in raising fees sufficient to pay the mandated costs.<sup>56</sup> The court determined that "the plain language of the statute precludes reimbursement where the local agency has the authority, i.e., the right or the power, to levy fees sufficient to cover the costs of the state-mandated program."<sup>57</sup> In examining the word "authority," the court found that the "legal meaning of 'authority' includes the 'Right to exercise powers . . .'" [Citation:] "The lay meaning of 'authority' includes 'the power or right to give commands [or] take action . . .'" [Citations.] Thus, power, when we commonly ask whether a police officer has the 'authority' to arrest a suspect, we want to know whether the officer has the legal sanction to effect the arrest, not whether the arrest can be effected as a practical matter."<sup>58</sup>

While in *Connell*, the ability to raise fees was not affected by Proposition 218 or other voting requirements, the districts nonetheless advanced the position that as a practical matter, their authority was limited. Similar to the example of the police officer referred to by the *Connell* court, whether the right or power to raise fees exists within the meaning of section 17556 does not depend on whether the authority can be carried out "as a practical matter" but whether the authority exists in the first place. The draft staff analysis establishes that fee authority exists but may be limited or impractical to carry out due to voting requirements. This does not mean that

<sup>53</sup> Article XIII D, section 8(c), of the California Constitution, provides in relevant part: "Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area."

<sup>54</sup> *Id.*, at p. 100.

<sup>55</sup> *Connell v. Superior Court* (1997) 59 Cal.App.4<sup>th</sup> 382

<sup>56</sup> *Id.*, at p. 399.

<sup>57</sup> *Id.*, at p. 401.

<sup>58</sup> *Connell, supra*, 59 Cal.App.4<sup>th</sup> at p. 401.

the local agencies' authority is "extinguish[e]d" as staff concludes. Rather, the municipalities may exercise authority, subject to certain procedural requirements.

There are many factors that come to bear on a local agency, or any agency's, decision whether to exercise its authority to carry out a governmental function. Practical or political realities subject many, if not most, discretionary governmental decisions to some level of uncertainty. For example, members of a governing body may be influenced or persuaded to vote a certain way against funding a program, despite existing authority. In many cases, although governmental authority exists, the function may not be approved due to an inability to secure sufficient affirmative votes. An agency decision, made with requisite authority, may be appealed to a higher governing body or reconsidered by the agency making the decision in the first instance. Either process may result in reversal of a policy or funding decision, and may stem from a lack of practical or political ability to carry out a particular action-not a lack of power. That some degree of uncertainty over an action or outcome exists does not mean that the body lacks authority to take an action in the first instance.

The draft staff analysis notes that a local agency's fee authority under Government Code section 17556, subdivision (d) is "extinguish[e]d" because of voting requirements that make the decision to fund a particular action uncertain. "It is possible that voters in the local agency may never adopt the proposed fee or assessment, but the local agency would still be required to comply with the state mandate."<sup>59</sup> It is equally possible that voters may adopt the proposed fee or assessment, and as the Water Boards noted in their October 2008 comments, there have been several recent examples of success on this score. Similarly, claimants argue that the Water Boards have pointed to no authority that requires the local agencies to first attempt to raise fees through a vote of affected property owners under article XIII D as a prerequisite to establishing they lack fee authority. The Water Boards are not aware of explicit authority in this regard, but observe that the local agencies are in the unique position to attempt to raise fees to pay for the activities required in their federally-required permit before asserting that they simply lack authority because it is not unilateral.

The draft staff analysis finds that fees imposed in compliance with constitutional voting requirements would be identified as off-setting revenue against any reimbursable amounts. As a policy matter, it seems that the agencies have little incentive to attempt to raise fees from those directly benefitting from the services to be provided if the agency has already obtained a determination that the activities are subject to reimbursement, based in part on the grounds that only limited fee authority exists. Since the permit was adopted in January 2007, the Water Boards are not aware of the any efforts by the claimants to exercise their fee authority under Public Resources Code section 40059 (subject to a protest by a majority of property owners) or to subject proposed fees to a vote of affected property owners or the electorate under article XIII D of the California Constitution. In sum, rarely is there certainty in carrying out governmental decisionmaking. Lack of certainty, however, does not eviscerate underlying authority. Nor should the Commission find that constitutionally-imposed voter requirements invalidate the claimants' fee authority in this case.

<sup>59</sup> Draft Staff Analysis, p. 101.

Moreover, in *County of Fresno v. State of California*,<sup>60</sup> the Supreme Court said that "read in its textual and historical context, section 6 of article XIII, B requires subvention only when the costs in question can be recovered *solely from tax revenues*."<sup>61</sup> The Supreme Court explained: "Considered within its context, [section 17556(d)] effectively construes the term 'costs' in the constitutional provision as excluding expenses that are recoverable from sources other than taxes. Such a construction is altogether sound. As the discussion makes clear, the Constitution requires reimbursement only for those expenses that are recoverable solely from taxes."<sup>62</sup> This was because the constitutional subvention (reimbursement) requirements were added in 1979 as a direct response to the tax limitations added to the constitution in 1978 by Proposition 13.<sup>63</sup> However, there was no similar constitutional revision following the passage of Proposition 218 in 1996. Hence, California has simply not revised the Constitution to provide a separate funding mechanism to local agencies that are limited by Proposition 218's restrictions. The staff's interpretation would essentially enact the nonexistent constitutional revision. This is not the Commission's role. Its role is to interpret the Constitution as written. The staff's analysis would add new subvention opportunities in spite of the Supreme Court's clear statement that reimbursement is required only when costs can be recovered solely from tax revenues. Since fees are not taxes, were the Commission to adopt staff's analysis, the Commission would be substituting its judgment for the Supreme Court's in absence of any amendments to article XIII B.

#### CONCLUSION

Federal law requires that claimants obtain and comply with their MS4 permits. While raising the necessary funds to carry out the permit's activities may be difficult, the municipalities face harsh penalties, including fines from the Water Boards, from U.S. EPA and from citizen suits authorized under the Clean Water Act, if they fail to comply. The municipalities would be in violation of federal law, risking substantial fines and penalties, for failure to obtain an MS4 permit. The state, on the other hand, would not face any fines and penalties. This, again, underscores the point that the state is not shifting the costs of complying with the MS4 permit to local agencies — it lacks the financial and legal responsibility to do so. Accordingly, the State Water Board respectfully requests that the draft staff analysis be modified to reflect that the mandate to obtain and comply with MS4 NPDES permits is federal mandate, imposed directly on the municipalities that operate the MS4s, and that at least insofar as the MS4 permit imposes requirements that are consistent with the federally mandated MEP standard, that Article XIII B, section (6) is inapplicable.

<sup>60</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482.

<sup>61</sup> *Id.*, at p. 487 (emphasis in original).

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.* (citing *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 61).

PROOF OF SERVICE

I, Roni Dickerson, declare that I am over 18 years of age and not a party to the within action. I am employed in Sacramento County at 1001 I Street, 22<sup>nd</sup> Floor, Sacramento, California 95814. My mailing address is P.O. Box 100, Sacramento, CA 95812-0100. On January 27, 2010, I served the within documents:

**COMMISSION ON STATE MANDATES - RESPONSE TO DRAFT STAFF ANALYSIS RE:  
DISCHARGE OF STORMWATER RUNOFF 07-TC-09, ORDER NO. R9-2007-0001  
(NPDES NO. CAS0108759)**

	<b>BY FACSIMILE:</b> I caused a true and correct copy of the document to be transmitted by a facsimile machine compliant with rule 2003 of the California Rules of Court to the offices of the addresses at the telephone numbers shown on the service list.
<b>X</b>	<b>BY ELECTRONIC MAIL:</b> I caused a true and correct copy of the document(s) to be transmitted by electronic mail compliant with section 1010.6 of the California Code of Civil Procedure to the person(s) as shown.
<b>X</b>	<b>BY HAND DELIVERY:</b> I caused a true and correct copy of the document(s) to be hand-delivered to the person(s) as shown.
	<b>BY OVERNIGHT MAIL TO ALL PARTIES LISTED:</b> I am readily familiar with my employer's practice for the collection and processing of overnight mail packages. Under that practice, packages would be deposited with an overnight mail carrier that same day, with overnight delivery charges thereon fully prepaid, in the ordinary course of business.
<b>X</b>	<b>BY FIRST CLASS MAIL TO PARTIES NOT RECEIVING EMAIL:</b> I am readily familiar with my employer's practice for the collection and processing of mail. Under that practice, envelopes would be deposited with the U.S. Postal Service that same day, with first class postage thereon fully prepaid, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing shown in this proof of service.



By placing a true copy thereof in first class mail or electronic mail addressed to:

cc: Mr. Timothy Barry  
County of San Diego  
Office of County Counsel  
1600 Pacific Highway, Room 355  
San Diego, CA 92101-2469

Mr. John Robertus [via email only]  
San Diego Regional Water Quality  
Control Board  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

Ms. Ginny Brummels  
State Controller's Office (B-08)  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

Mr. David Wellhouse  
David Wellhouse & Associates, Inc.  
9175 Kiefer Boulevard, Suite 121  
Sacramento, CA 95826

Ms. Carla Castaneda  
Department of Finance (A-15)  
915 L Street, 11<sup>th</sup> Floor  
Sacramento, CA 95814

Ms. Dorothy Rice [via email only]  
Executive Office  
State Water Resources Control Board  
P.O. Box 2815  
Sacramento, CA 95812-2815

Mr. Allan Burdick  
MAXIMUS  
4320 Auburn Boulevard, Suite 2000  
Sacramento, CA 95841

Ms. Juliana F. Gmur  
MAXIMUS  
2380 Houston Avenue  
Clovis, CA 93611

Mr. Glen Everroad  
City of Newport Beach  
3300 Newport Blvd.  
P.O. Box 1768  
Newport Beach, CA 92659-1768

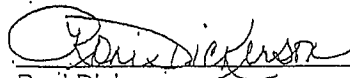
Mr. Steve Smith  
Steve Smith Enterprises, Inc.  
2200 Sunrise Boulevard, Suite 220  
Gold River, CA 95670

Ms. Annette Chinn  
Cost Recovery Systems, Inc.  
705-2 East Bidwell Street, #294  
Folsom, CA 95630

Ms. Harmeet Barkschat  
Mandate Resource Services  
5325 Elkhorn Boulevard, Suite 307  
Sacramento, CA 95842

Ms. Elizabeth Miller Jennings  
Office of Chief Counsel [via email only]  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on January 27, 2010 at Sacramento, California.

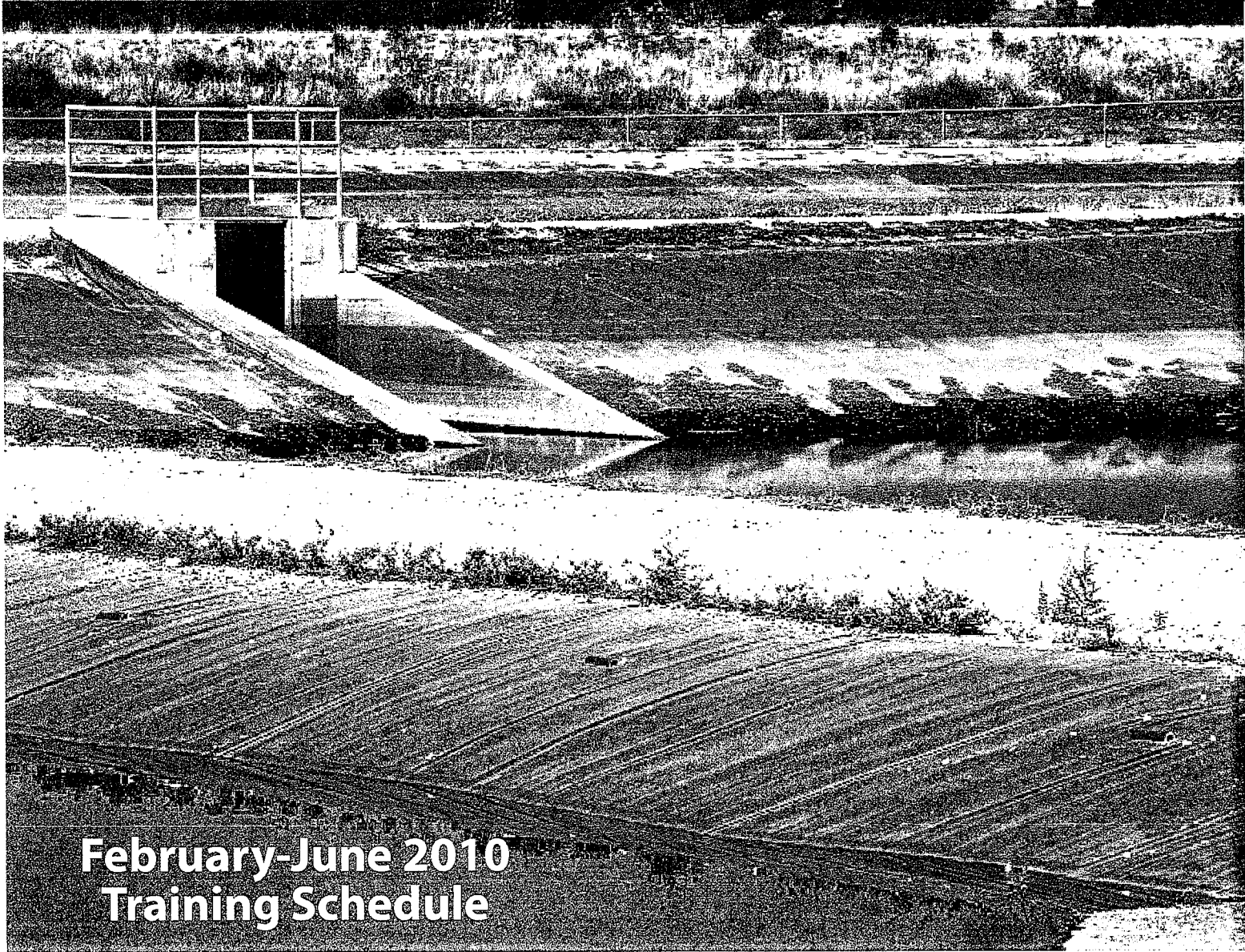


Roni Dickerson  
Legal Secretary

**FREE**

Attachment C-1

# **Wastewater Workshops for California Wastewater Operators, Owners, Board Members and Communities**



**February-June 2010  
Training Schedule**

Presented by:



**RCAC**  
www.rcac.org

Funded by:



## ABOUT THE WORKSHOPS

### About the workshops:

Many small and/or disadvantaged communities have failing septic systems or old and undersized wastewater treatment plants that cannot meet current water quality standards. These communities lack the economies of scale to build and maintain adequate wastewater systems, and are typically located in rural, sparsely-populated areas that present infrastructure challenges.

On July 1, 2008 the California State Water Resources Control Board (State Water Board) adopted Resolution No. 2008-0048, which promotes strategies to assist small and/or disadvantaged communities with wastewater needs. A variety of infrastructure funding programs have been available to wastewater systems on and off through the years, but many of the smaller communities need more than just financial assistance.

Training is needed to help rural and disadvantaged communities more effectively plan for their long-term technical, managerial, and financial needs. RCAC is pleased to provide this training to California's small and disadvantaged communities. Our goal is to help these communities achieve measurable improvements in compliance with water quality objectives, more stable and sustainable community governance with enhanced public awareness of wastewater issues, improved asset management, fiscal planning and accountability. This leads to more financially sound and credit-worthy State financial assistance applicants and an increase in complete and eligible applications submitted to the State Water Board's Clean Water State Revolving Fund Program and State Water Board grant programs.

### Cost:

There is no fee to attend these workshops. **Priority of attendance will be given to those from small, disadvantaged wastewater systems.** When space permits, on-site registration will be on a first come, first served basis with priority given to those who have registered in advance and small, disadvantaged systems. Class size for each workshop is noted in the workshop description.

### Registration:

For more information or to register for any workshop, please contact Greta Quirk, RCAC, at 916/447-9832 ext. 1016 or by e-mail at [gquirk@rcac.org](mailto:gquirk@rcac.org). You can also register online at [www.rcac.org](http://www.rcac.org), under Trainings and Events, or mail or fax in the registration form found on page 7 of this brochure.

These workshops are presented by:

Funded by:



RCAC is a private, nonprofit [501(c)3] organization dedicated to assisting rural communities achieve their goals and visions by providing training, technical assistance and access to resources.

# ONLINE WORKSHOPS

## Wastewater Board Basics: Wastewater Basic Operations

Many board members lack a basic technical understanding of the wastewater systems that they govern. This module introduces the fundamentals of wastewater collection, treatment and disposal in layman's terms. It includes a component-by-component description of a basic wastewater collection and treatment system with a stop at each major point in the system. New board members and entry-level operators find this module especially helpful in gaining an understanding of their responsibilities. Topics covered include:

- Lift stations and maintenance issues
- The advantages, disadvantages and differences between various wastewater treatment technologies
- The regulatory framework governing wastewater systems in California
- Solids disposal options and NPDES permits

Feb. 23, 2010 @ 11 a.m.      Feb. 23, 2010 @ 4 p.m.

## Wastewater Math Refresher

This workshop prepares wastewater operators to solve the math problems typically associated with wastewater treatment plants. These include volume, flow, chemical dosage, F/M (Food to Microorganism) ratio, sludge age,

detention time, hydraulic loading and MCRT's (Mean Cell Retention Time). Participants will become familiar with the conversion sheet provided to state certification examinees, be shown how to do the problems, then solve the problems one by one with instructor assistance provided as needed.

Mar. 8, 2010 @ 11 a.m.      Mar. 8, 2010 @ 4 p.m.

## Wastewater Board Basics: Roles and Responsibilities

This condensed online version of our popular Board Governance workshop focuses on the many responsibilities attached to serving on a wastewater utility board. Many board members are unaware of the scope and breadth of these responsibilities, which range from fiscal responsibility to environmental compliance. You will learn about:

- Why a public wastewater system must operate as a viable business
- The importance of financial, technical and managerial capacity to the operation of a wastewater system
- The key legal responsibilities of governing bodies of wastewater entities

Mar. 16, 2010 @ 11 a.m.      Mar. 16, 2010 @ 4 p.m.

All online workshops are offered twice:

11 a.m.-1 p.m.  
and 4-6 p.m.

Each session is limited to 20 participants.

## Online Workshops Schedule

Wastewater Board Basics: Wastewater Basic Operations

Feb. 23, 2010

Wastewater Math Refresher

Mar. 8, 2010

Wastewater Board Basics: Roles & Responsibilities

Mar. 16, 2010

Wastewater Board Basics: Budgeting

Apr. 13, 2010

Wastewater Board Basics: Financial Management

May 18, 2010

Wastewater Board Basics: Rate Setting

June 1, 2010

## Online Workshops

RCAC's online trainings are instructor-led, interactive, internet-based workshops designed to provide quality training without the participant having to travel. *Each session is two hours.*

RCAC uses the Elluminate training platform and you will need to download the Elluminate software before you can get started in an online session for the first time. Once you register for an online workshop, RCAC will send you specific instructions on downloading the FREE Elluminate software so that you can participate in the online training. Once the software is loaded on your computer, you will not have to repeat this process for further RCAC online trainings using the same computer.

You should ensure that your computer is able to support the needs of the collaboration environment. Your computer should meet or exceed the following minimum requirements:

### Minimum System Requirements

#### Windows

- Windows 98/ME/2000/XP
- Pentium III 500 MHZ processor
- 128 MB RAM (98/ME); 256 MB RAM (2000/XP)
- 20 MB free disk space
- Soundcard with speakers and microphone or headset
- 28.8 kbps Internet connection

#### Macintosh

- Mac OS 9.2, Mac OS X 10.2.8, 10.3.9, and 10.4
- G3, G4, G5, or Intel processor
- 128 MB RAM (OS 9.x); 256 MB RAM (OS X)
- 20 MB free disk space
- Microphone (internal, USB, or iSight)
- 28.8 kbps Internet connection

### Audio recommendations

For a better audio signal, we recommend using an external microphone and headset or speakers. Common PC microphones do not work in a Mac microphone jack, so Mac users should use USB microphones.

# ONLINE WORKSHOPS

All online workshops are offered twice: 11 a.m.-1 p.m. and 4-6 p.m. Each session is limited to 20 participants.

## Online Workshops Schedule

Wastewater Board Basics: Wastewater Basic Operations  
Feb. 23, 2010

Wastewater Math Refresher  
Mar. 8, 2010

Wastewater Board Basics: Roles & Responsibilities  
Mar. 16, 2010

Wastewater Board Basics: Budgeting  
Apr. 13, 2010

Wastewater Board Basics: Financial Management  
May 18, 2010

Wastewater Board Basics: Rate Setting  
June 1, 2010

**Wastewater Board Basics: Budgeting**  
The budgeting process may not be the most glamorous part of a wastewater system's operations, but it is one of the most vital, ensuring that the financial resources needed will be available. Join us online in the comfort of your own office or home to learn what considerations should be weighed when developing a realistic budget BEFORE you develop your rates, including customer policies and their corresponding fees and the importance of establishing reserve accounts. We'll provide an Excel template that you can modify for your system's needs, to help you begin OR strengthen your own budgeting process.

Apr. 13, 2010 @ 11 a.m.      Apr. 13, 2010 @ 4 p.m.

**Wastewater Board Basics: Financial Management**  
Financial management is more than just the annual budget process. Join us online to unlock the mysteries of the financial statements to determine if your system's financial health is improving or declining. We will discuss some tools to improve your own financial health through the development and adherence to sound customer policies, typical reserve accounts and the importance of asset management, in addition to developing a realistic budget.

May 18, 2010 @ 11 a.m.      May 18, 2010 @ 4 p.m.

**Wastewater Board Basics: Rate Setting**  
Setting wastewater rates can be a challenge, especially in today's tough economic times. Rates must recover necessary revenues using utility policies which may include recovery of revenues based on volume discharged, strength (the relative concentration of contaminants) costs and other surcharges. Fairness to all customers is the goal! This 2-hour online workshop will give you the tools and information to formulate a wastewater rate structure that is equitable, defensible if challenged, and recovers the true and full cost of collecting and treating your community's wastewater.

June 1, 2010 @ 11 a.m.      June 1, 2010 @ 4 p.m.



## Need Financing For Infrastructure Improvements? CFCC Funding Fairs Can Help!

The California Financing Coordinating Committee (CFCC) Funding Fairs provide opportunities for utilities to obtain information about currently available infrastructure grant, loan and bond financing programs and options. The Funding Fairs are free to attend and provide an opportunity for attendees to speak directly with program staff about specific projects and issues affecting their community. Check in starts at 8:30 a.m.; the Fair is from 9 a.m.-4 p.m.

### THE 2010 CFCC FUNDING FAIRS WILL BE HELD:

**February 2, 2010**  
Desert Alliance for Community Empowerment  
53-990 Enterprise Way, Suite 1  
Coachella, CA 92236

**March 9, 2010**  
Fresno County Farm Bureau  
1274 W. Hedges Avenue  
Fresno, CA 93728

**February 4, 2010**  
Veteran's Memorial Building  
511 Second Street  
Fillmore, CA 93015

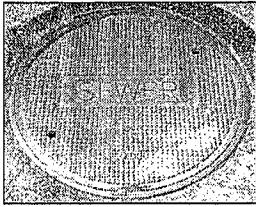
**April 14, 2010**  
Redding/Shasta Public Library  
1100 Parkview Avenue  
Redding, CA 96001

**May 6, 2010**  
California Environmental Protection Agency Headquarters Building  
1001 I Street  
Sacramento, CA 95814

For more information on CFCC or to register to attend a funding fair, please visit:

[www.cfcc.ca.gov](http://www.cfcc.ca.gov)

## CLASSROOM WORKSHOPS



### Wastewater Board Governance: Roles and Responsibilities

Have you thought about your responsibilities to those you serve in your community? Are you aware of the importance of your

role as a board member in the protection of public health? This six hour workshop will take participants through a typical wastewater board meeting, from the first call to order to adjournment. Along the way participants will be faced with a variety of tricky issues from contentious personnel matters to threats of legal action, culminating in a closed session to debate the dismissal of a key employee. Participants gain a thorough understanding of:

- Business, legal, financial and moral responsibilities
- Board versus manager duties
- Open meeting laws (The Brown Act)
- The importance of financial statements and how to understand them

This popular workshop stimulates lively discussion, and is certain to provide a unique perspective for new and experienced board members alike.

Feb. 17, 2010

Limited to 40 attendees  
Embassy Suites Napa Valley  
1075 California Blvd.  
Napa, CA 94559

### Wastewater Board Governance:

#### Brown Act and Ethics

Do you have poor policies? Are you curious if your existing policies are sufficient for your wastewater system? Learn which policies are most important to protect your system, and what valuable resources may assist you in strengthening your policies. Are ethics really important? From a legal standpoint, yes. It is required that all board members receive ethics training every year. We'll cover open meeting laws, the required noticing and timeframe for regular, special and emergency meetings. Attend this workshop and learn how the lack of ethics, policies and meeting notices can ultimately affect your wastewater system and what is needed to protect your system, staff and the public.

Feb. 18, 2010

Limited to 30 attendees  
Self-Help Enterprises  
8445 W. Elowin Court  
Visalia, CA 93291

### Wastewater Operator Certification

#### Test Preparation

The purpose of state wastewater certification exams is twofold: to protect public health, and to ensure that operators passing a particular exam grade will have a

minimum level of knowledge needed to operate facilities classified at the same level. This six hour class is geared specifically toward preparing operators to pass the Grade 1 and 2 state certification exams. Topics covered include common wastewater treatment processes such as ponds and lagoons, fixed film systems (Rotating Biological Contactors and trickling filters) and activated sludge. We will also cover the basics of preliminary treatment, primary and secondary processes, post treatment, sludge digestion and solids handling, and disinfection of wastewater effluent.

Mar. 30, 2010

Limited to 40 attendees  
Ukiah Valley Conference Center  
200 South School Street  
Ukiah, CA 95482

### Wastewater Math

This expanded six hour workshop prepares wastewater operators to solve the math problems typically associated with wastewater treatment plants. These include volume, flow, chemical dosage, F/M (Food to Microorganism) ratio, sludge age, detention time, hydraulic loading and MCRT's (Mean Cell Retention Time). Participants will become familiar with the conversion sheet provided to state certification examinees, be shown how to do the problems, then solve the problems one by one with instructor assistance provided as needed.

Mar. 31, 2010

Limited to 40 attendees  
Ukiah Valley Conference Center  
200 South School Street  
Ukiah, CA 95482

### Infiltration and Inflow, and SSMPs

The USEPA estimates that about 40,000 Sanitary Sewer Overflow (SSO) events occur in the United States each year. Although the volume of untreated sewage spilled is less than 0.01 percent of all treated sewage in the US, the total volume amounts to several billion gallons and accounts for thousands of cases of gastrointestinal illness. Many of these overflow events are caused or exacerbated by Infiltration and Inflow (I&I), the leakage of rainwater and ground water into sewer collection systems. The Regional Water Boards in California are moving forward to implement a vigorous Sanitary Sewer Overflow (SSO) control program, the focus of which is the Sewer System Management Plan, or SSMP. This six hour workshop will provide a description of each component of the SSMP, and guide participants through the process of developing an SSMP for their system.

Apr. 28, 2010

Limited to 40 attendees  
River Lodge Conference Center  
1800 Riverwalk Drive  
Fortuna, CA 95540

All classroom workshops start at 8:30 a.m.

Lunch is on your own.

Certificates of completion will be provided.

There is NO FEE to attend any of these workshops. **Priority of attendance will be given to those from small, disadvantaged wastewater systems.**

Class size limitation is noted in the workshop listing.



# CLASSROOM WORKSHOPS

All classroom workshops start at 8:30 a.m.

Lunch is on your own.

Certificates of completion will be provided.

There is NO FEE to attend any of these workshops. **Priority of attendance will be given to those from small, disadvantaged wastewater systems.**

Class size limitation is noted in the workshop listing.

## Capital Improvement Planning, Asset Management and Funding Options

As a wastewater system manager, board member or operator, your job is assuring that water quality standards are met, while making certain that worn out equipment and infrastructure are replaced before they fail. This depends on having not just an effective maintenance program, but a proactive plan for rehabilitation and replacements. An asset management plan is a vital tool for achieving these goals. Do you have the financial resources to meet the current needs of your utility? Have you thought about what your system's condition might be in 10 years? Do you know where to go for loans or grants? If you are unsure of the answers to these questions, this workshop is for you! You will learn:

- How to conduct a thorough asset inventory
- How to prioritize replacements
- Tools to create and implement an asset management plan
- How to develop a capital improvement budget
- Funding options

Apr. 29, 2010

Limited to 40 attendees  
Holiday Inn Express at Arcata/Eureka Airport  
3107 Concorde Drive  
McKinleyville, CA 95519

## Operation & Maintenance Practices for Small Wastewater Utilities

A wastewater treatment plant operator has many duties. Most of them are directly related to monitoring and control of the process to achieve compliance with effluent limits. But an equally important task of the operator, especially in smaller systems, is maintenance. Wastewater collection and treatment systems are complex, costly, and subject to a wide range of problems if poorly operated or maintained. Proper installation, inspection, maintenance and repair of wastewater equipment and infrastructure is vital to achieving the longest service life, lowest operating cost and highest reliability levels. This six hour workshop will give wastewater personnel the information they need to operate and maintain their systems in a proactive rather than reactive mode. Topics covered will include collection systems, mechanical and electrical systems, plant structures, odor control, instrumentation, record-keeping, reading of blueprints and diagrams, and more.

May 11, 2010

Limited to 40 attendees  
Fairfield Inn & Suites El Centro  
503 E. Danenberg Drive  
El Centro, CA 92243

## Wastewater Regulations and The Clean Water Act

Do you sometimes feel overwhelmed by the variety and complexity of California's wastewater rules and regulations? The Clean Water Act (CWA) is the primary federal law in the United States governing water pollution. The act established the goals of limiting releases of toxic substances into receiving waters and ensuring that surface waters would meet standards necessary for human activities, recreation and wildlife protection. The California Water Resources Control Board (CWRCB) and its Regional Boards have the statutory mandate of enforcing the CWA. In addition, there is an array of state laws and measures that have been passed by voters and the legislature through the years to protect California's unique environment. This six hour workshop will explain in layman's terms the regulatory framework affecting wastewater collection, treatment and disposal in California, and the information you need to stay in compliance.

May 12, 2010

Limited to 40 attendees  
Fairfield Inn & Suites El Centro  
503 E. Danenberg Drive  
El Centro, CA 92243

## Rate Setting, Prop 218 and Community Outreach

Proposition 218 fundamentally changed the way water and wastewater rates can be set and enforced in California. Utilities must not only explain to their customers why a rate adjustment is needed, they must gain the approval of a majority of customers before an increase can be implemented. Customer outreach and education cost public utilities time and money, but they cannot be ignored. This 6-hour workshop will cover the basics of an effective customer outreach and education campaign, and include hands-on exercises that will allow small breakout groups of attendees to test various wastewater rate scenarios with laptop computers (included), right at their tables.

June 2, 2010

Limited to 35 attendees  
RCAC  
Sal Solinas Room  
3120 Freeboard Drive  
West Sacramento, CA 95691

# FEBRUARY-JUNE 2010 WASTEWATER WORKSHOPS REGISTRATION FORM

There is no fee to attend these workshops. Please register in advance as space may be limited in some locations. When space is limited, priority will be given to small, disadvantaged wastewater systems. When space permits, you may register onsite on a first come, first served basis, with priority given to those who have registered in advance and smaller water systems. Class size for each workshop is noted in the workshop location information. Lunch is on your own. Please complete one form for each person who will attend. You can also register online at [www.rcac.org](http://www.rcac.org) under Trainings and Events/ California Wastewater Trainings.

Name: \_\_\_\_\_ Operator Certification #: \_\_\_\_\_

Agency/Wastewater System: \_\_\_\_\_ System ID #: \_\_\_\_\_ Number of service connections: \_\_\_\_\_

Mailing address: \_\_\_\_\_ System serves a population less than 20,000:  Yes  No  N/A

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: ( \_\_\_\_\_ ) \_\_\_\_\_ Fax: ( \_\_\_\_\_ ) \_\_\_\_\_ E-mail: \_\_\_\_\_

**Special needs:** If you have special needs addressed by the Americans with Disabilities Act, please notify RCAC at 916/447-9832 ext. 1009 at least one week prior to the workshop(s) you are attending, so that we may make accommodations for you.

**Please register me for the following workshop(s):**

**Online Workshops** are internet-based, two-hour workshops offered two times per day: 11 a.m.-1 p.m. and 4-6 p.m.

- |   |   |
|---|---|
| <input type="checkbox"/> 2/23/10 11 a.m. Board Basics: Wastewater Basic Operations<br><input type="checkbox"/> 3/8/10 11 a.m. Wastewater Math Refresher<br><input type="checkbox"/> 3/16/10 11 a.m. Board Basics: Roles & Responsibilities<br><input type="checkbox"/> 4/13/10 11 a.m. Board Basics: Budgeting<br><input type="checkbox"/> 5/18/10 11 a.m. Board Basics: Financial Management<br><input type="checkbox"/> 6/1/10 11 a.m. Board Basics: Rate Setting | <input type="checkbox"/> 2/23/10 4 p.m. Board Basics: Wastewater Basic Operations<br><input type="checkbox"/> 3/8/10 4 p.m. Wastewater Math Refresher<br><input type="checkbox"/> 3/16/10 4 p.m. Board Basics: Roles & Responsibilities<br><input type="checkbox"/> 4/13/10 4 p.m. Board Basics: Budgeting<br><input type="checkbox"/> 5/18/10 4 p.m. Board Basics: Financial Management<br><input type="checkbox"/> 6/1/10 4 p.m. Board Basics: Rate Setting |
|---|---|

**Classroom Workshops:** check in begins at 8 a.m.; workshops start at 8:30 a.m.

- |   |  |
|---|--|
| <input type="checkbox"/> 2/17/2010 Board Governance: Roles & Responsibilities: Napa<br><input type="checkbox"/> 2/18/2010 Board Governance: Brown Act & Ethics: Visalia<br><input type="checkbox"/> 3/30/2010 Wastewater Operator Certification Test Preparation: Ukiah<br><input type="checkbox"/> 3/31/2010 Wastewater Math: Ukiah<br><input type="checkbox"/> 4/28/2010 Infiltration & Inflows, & SSMPs: Fortuna<br><input type="checkbox"/> 4/29/2010 Capital Improvement Planning, Asset Management & Funding Options: McKinleyville | <input type="checkbox"/> 5/11/2010 Operation and Maintenance Practices for Small Wastewater Utilities: El Centro<br><input type="checkbox"/> 5/12/2010 Wastewater Regulations, Laws & The Clean Water Act: El Centro<br><input type="checkbox"/> 6/2/2010 Rate Setting, Prop 218 & Community Outreach: West Sacramento |
|---|--|



Please mail or fax your registration to:  
RCAC Attn: Greta Quirk

3120 Freeboard Drive, Suite 201 • West Sacramento, CA 95691  
phone: 916/447-9832 ext. 1016 • fax: 916/372-5636 • [gquirk@rcac.org](mailto:gquirk@rcac.org)

You can also register online and check for the latest workshop information at [www.rcac.org](http://www.rcac.org), under Trainings and Events





Rural Community Assistance Corporation  
 3120 Freeboard Drive, Suite 201  
 West Sacramento, CA 95691  
 RCAP RCAC is the Western RCAP

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Return Service Requested

## FREE California Wastewater Workshops February-June 2010 Schedule at a Glance



2/17/2010	Board Governance: Roles and Responsibilities	Napa
2/18/2010	Board Governance: Brown Act and Ethics	Visalia
3/30/2010	Wastewater Operator Certification Test Preparation	Ukiah
3/31/2010	Wastewater Math	Ukiah
4/28/2010	Infiltration and Inflows, and SSMPs	Fortuna
4/29/2010	Capital Improvement Planning, Asset Management and Funding Options	McKinleyville
5/11/2010	Operation and Maintenance for Small Wastewater Utilities	El Centro
5/12/2010	Wastewater Regulations and The Clean Water Act	El Centro
6/2/2010	Rate Setting, Prop 218 and Community Outreach	West Sacramento

**Online Workshops** are internet-based, two-hour workshops offered two times per day: 11 a.m.-1 p.m. and 4-6 p.m.

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3/16/10	Board Basics: Roles and Responsibilities
4/13/10	Board Basics: Budgeting
5/18/10	Board Basics: Financial Management
6/1/10	Board Basics: Rate Setting

For more information or to register for any of these workshops, please contact Greta Quirk, RCAC, by email at: [gquirk@rcac.org](mailto:gquirk@rcac.org). You can also register online at [www.rcac.org](http://www.rcac.org), under Training and Events.