

Fact Sheet

CONTRA COSTA CLEAN WATER PROGRAM
ORDER NO. R2-2004-0059
AMENDMENT OF NPDES PERMIT NO. CAS0029912

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION
1515 CLAY STREET, 14TH FLOOR
OAKLAND, CA 94612

I. Permit History

- A. Contra Costa County, Contra Costa County Flood Control and Water Conservation District, City of Clayton, City of Concord, Town of Danville, City of El Cerrito, City of Hercules, City of Lafayette, City of Martinez, Town of Moraga, City of Orinda, City of Pinole, City of Pittsburg, City of Pleasant Hill, City of Richmond, City of San Pablo, City of San Ramon, and City of Walnut Creek (hereinafter Dischargers), have joined together to form the Contra Costa Clean Water Program (hereinafter Program). On July 21, 1999, the California Regional Water Quality Control Board for the San Francisco Bay Region (hereinafter referred to as the Regional Board) re-issued waste discharge requirements (NPDES Permit No. CAS0029912, Order No. 99-058, hereinafter Permit) under the National Pollutant Discharge Elimination System (NPDES) to the Program to discharge stormwater runoff from storm drains and watercourses within the Dischargers' jurisdictions by complying with the Permit and implementing the Permit's associated Stormwater Management Plan (hereinafter Plan).
- B. On February 19, 2003, the Regional Board adopted Order No. R2-2003-0022, amending Provision C.3 (New and Redevelopment Component) of the Permit.
- C. Order Nos. 99-058 and R2-2003-0022 recognize the Program's Plan as the Dischargers' comprehensive control program and requires implementation of the Plan. The Plan describes a framework for management of stormwater discharges. Pursuant to Provisions in Order No. 99-058, the 1999 Plan has been administratively modified since then and describes the Program's goals and objectives and contains Performance Standards, which represent the baseline level of effort required of each of the Dischargers. The Plan contains Performance Standards for five different stormwater management components, including watershed assessment and monitoring.
- D. In August 1999, the San Francisco BayKeeper and Just Economics for Environmental Health filed petitions for review of Order No. 99-058 by the State Water Resources Control Board (the State Board). After careful consideration, the State Board dismissed the petitions on April 4, 2001.

II. Discharge Description and Location:

The Dischargers each have jurisdiction over and/or maintenance responsibility for their respective municipal separate storm drain systems and/or watercourses in the Contra Costa County basin. The basin can be divided into several sub-basins or watersheds including: Wildcat, San Pablo, Pinole, Rodeo, Alhambra, Walnut, Pine, Alameda, San Lorenzo, and San Leandro Creek. Discharge consists of the surface runoff generated from various land uses in all the hydrologic sub basins in the basin which discharge into watercourses, which in turn flow into San Francisco Bay. The quality of the discharge varies considerably and is affected by hydrologic, geologic, land use, season, and sequence and duration of hydrologic events.

III. Rationale for Amendment of NPDES Permit No. CAS0029912

A. In 2001, San Francisco BayKeeper filed a lawsuit in San Francisco County Superior Court challenging the Regional Board's adoption of the Permit. On November 14, 2003, the Court upheld the permit on most counts; however, it issued a Writ of Mandate requiring the Regional Board to amend the Permit in compliance with the Court's Statement of Decision, which held:

1. The Permit fails to include a monitoring program and must therefore specify required monitoring including type, interval, and frequency sufficient to yield data which are representative of the monitored activity;
2. Because the Stormwater Management Plan (Plan) is incorporated and is deemed an integral part of the Permit, modifications to the Plan are modifications to the Permit and have to go through a public notice; and
3. The Regional Board, not the Executive Officer, must approve substantive modifications to the Plan.

This Order is therefore necessary to amend the Permit and to comply with the Court's Writ of Mandate.

B. In response to the November 14, 2003, Court Decision, this Order therefore amends existing Order No. 99-058, as amended in 2003, NPDES Permit No. CAS0029912 (the Permit) to:

1. Specify the monitoring requirements, including type, interval, and frequency sufficient to yield data which are representative of the monitored activity;
2. Add language that requires all modifications to the Permit, including the Plan, undergo a public notice and comment process in accordance with applicable law; and
3. Remove language that delegates authority to the Executive Officer to approve substantive modifications to the Plan, and specify instead that the Regional Board approve all such modifications.

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Additionally, the Order rescinds and vacates any and all past administrative changes to the Plan that have been made under the terms of the Permit that were not subject to a public process or Regional Board action, as the Court held that changes to the Plan must be subjected to the public notice and comment and that the Executive Officer may not approve amendments to the Permit, which would include the Plan.

- C. Pursuant to 40 CFR sections 124.5.c.2 and 122.62 only those conditions to be modified by this amendment shall be reopened with this amendment. All other aspects of the existing permit shall remain in effect and are not subject to modification by this amendment.

IV. Written Comments

The formal written comment period for this Tentative Order to amend an existing Permit will **open on May 17 and close at 5 PM on June 18, 2004**. Comments on the Tentative Order shall be addressed to:

Regional Water Quality Control Board
1515 Clay Street, 14th Floor
Oakland, California 94612
Attn.: Christine Boschen

Or

FAX: (510) 622-2460
e-mail: ceb@rb2.swrcb.ca.gov

A preliminary draft of the Tentative Order was circulated for comment on February 19, 2004. That draft and the one comment received by WaterKeeper is part of the administrative record for this matter and the Regional Board will consider and respond to the comment received when it prepares a Response to Comments for comments received for this Tentative Order.

V. Public Hearing

The Board will consider the Tentative Order, and any proposed changes thereto based on public comments, at its July 21, 2004, meeting. The meeting will be held at::

**July 21, 2004
9:00 A.M.**

Elihu M. Harris Building

**First Floor Auditorium
1515 Clay Street
Oakland, CA 94612**

VI. Additional Opportunities to Comment on NPDES Permit No. CAS0029912

The purpose of this permit amendment is to comply with a court order. At this time, it is not the Regional Board's intention to open discussion on the adequacy of the current permit requirements. However, this permit is up for reissuance in 2004. There will be opportunities in the following months (dates and times to be announced) for the public to comment on the substance of the permit, in preparation for the permit reissuance. For more information, and to be placed on a notification list for this process, please contact Christine Boschen at (510) 622-2346, e-mail: ceb@rb2.swrcb.ca.gov.