

State of California
Regional Water Quality Control Board
San Diego Region

SUPPLEMENTAL
EXECUTIVE OFFICER SUMMARY REPORT
May 8, 2013

ITEM: 9

SUBJECT: Public Hearing (continued): Issuance of an NPDES Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Tentative Order No. R9-2013-0001, NPDES No. CAS0109266) (*Wayne Chiu, Laurie Walsh, Christina Arias*).

PURPOSE: To receive public testimony and consider adoption of Tentative Order No. R9-2013-0001 (Tentative Order).

RECOMMENDATION: Adoption of the revised Tentative Order No. R9-2013-0001, with corrected Option 1 Errata or Option 2 Errata, is recommended.

DISCUSSION: This Executive Officer Summary Report (EOSR) supplements the EOSR provided for Item 9 of the May 8, 2013 San Diego Water Board meeting.

Cost Benefit Analysis Report

At the April 10 and 11, 2013 meeting, the San Diego Water Board allowed a cost benefit analysis report prepared by the City of San Diego Transportation and Storm Water Department entitled *Meeting Water Quality Standards for San Diego's Recreational Waters: A Cost Benefit Analysis* dated April 2011 (Cost Benefit Analysis) (**Supporting Document 4**) into the record. The City of San Diego funded this analysis to evaluate the costs of compliance for the City of San Diego with total maximum daily loads (TMDLs) for bacteria, metals, pesticides or other pollutants. The San Diego County Copermittees referenced this Cost Benefit Analysis in their April 2013 public hearing testimony before the San Diego Water Board in support of their request to remove the bacteria TMDL from the Tentative Order. The County of San Diego specifically requested the Cost Benefit Analysis be allowed into the record on the Tentative Order. The request was *not* made on behalf of all Copermittees as was stated in the first EOSR for Item 9.

The San Diego Water Board Chair invited designated parties wishing to submit comments on the Cost Benefit Analysis, to submit them to the San Diego Water Board no later than 5:00 p.m. on Friday, April 26, 2013. Timely submitted comment letters are included in **Supporting Document 5**. Comment letters were received from San Diego and Orange County Copermittees, Natural Resources Defense Council, San Diego and Orange County Coastkeeper, Inland Empire Waterkeeper, Building Industry Coalition, Clean Water Now, San Diego Taxpayers Association, and San Diego Regional Chamber of Commerce. Where comments referred to existing studies for support, only those studies already a part of the record for Tentative Order No. R9-2013-0001 are included in **Supporting Document 5**.

Cost Information

Regional Storm Water Program Expenditures FY 2011/2012 (Supporting Document 6) and the *Comprehensive Load Reduction Plan Estimated Cost (Supporting Document 7)* are included to assist the San Diego Water Board's discussion on costs. This information is already in the record and the cost spreadsheets were previously provided to the San Diego Water Board at the December 2012 workshop. The information used to generate the spreadsheets provided in Supporting Documents 6 and 7 was excerpted from the Copermittees 2012 Storm Water Program Jurisdictional Annual Reports (**Supporting Document 8**).

Congressional and California Legislature Comments

Additionally, at its April 10 and 11, 2013 meeting, the San Diego Water Board Chair, accepted into the record, a letter addressed to USEPA from several Members of the United States Congress dated April 2, 2013. (**Supporting Document 9**) The San Diego Water Board also accepted into the record a letter addressed to the Board Chair from several California State Legislature Senators and Assembly Members dated April 4, 2013 (**Supporting Document 10**). The Congress Members comments included a request that USEPA review the Tentative Order for potential impact on local communities to ensure that costs of compliance and schedules are sustainable and reasonable. The comments from the California State Legislature Senators and Assembly Members included a request to delay adoption of the Tentative Order to allow for the State Water Board review of existing precedential receiving water language and further

Board and stakeholder review of estimated costs of compliance with the bacteria TMDL. The USEPA response to the United States Congress Members letter is included as **Supporting Document 11**.

Corrected Errata

The Errata presented in **Supporting Documents 1 and 2** were corrected to address additional typographical errors in the Tentative Order and Fact Sheet and to add needed revisions to the Fact Sheet (**Supporting Documents 12 and 13**). The corrected sections of the Errata are highlighted in green.

**SUPPORTING
DOCUMENTS:**

Supporting Documents 1-4 Previously Provided

5. Comment Letters on Cost Benefit Analysis
6. Regional Storm Water Program Expenditures
7. Regional Comprehensive Load Reduction Plan for Bacteria TMDL Estimated Cost
8. Storm Water Program Budget FY11/12 for 31 Copermittees
9. Comment Letter from United States Congress dated April 2, 2013
10. Comment Letter from California State Legislature dated April 4, 2013
11. USEPA Response to United States Congress Letter dated April 24, 2013
12. **Corrected** Option 1 Errata (removal of Provision II.B.3.c)
13. **Corrected** Option 2 Errata (retention of Provision II.B.3.c with modifications)

PUBLIC NOTICE:

Notice of continuance of this item was provided to interested persons via email on April 19, 2013. Notice was also provided in the Meeting Notice and Agenda for the May 8, 2013 Board meeting, which is posted on the San Diego Water Board website.