

State of California  
Regional Water Quality Control Board  
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT  
August 8, 2007

- ITEM: 6
- SUBJECT: **PUBLIC HEARING:** Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region. (*Wayne Chiu*)
- PURPOSE: To hear testimony and comments on the proposal to amend the Basin Plan to renew and revise the conditional waivers for specific types of discharge as proposed in Tentative Resolution No. R9-2007-0104 (Supporting Document 1).
- PUBLIC NOTICE: The State Water Board's California Environmental Quality Act implementation regulations [23 CCR 3777] require the San Diego Water Board to provide to the public a Notice of Filing of a written report on any standard, rule, regulation, or plan proposed for board approval or adoption at least 45 days prior to board action. Federal Clean Water Act regulations [40 CFR 25.5] require the San Diego Water Board to provide notice of a proposed Basin Plan amendment to interested parties at least 45 days in advance of the public hearing. The Notice of Filing of the written technical report and Notice of Public Hearing for this Basin Plan amendment (Supporting Document 2) were provided by newspaper publication in the San Diego Union-Tribune, Orange County Register, and Riverside Press-Enterprise on June 25, 2007, 45 days in advance of the public hearing scheduled for August 8, 2007. The notices were also distributed to interested parties by email distribution. The draft Technical Report was available to the public on our website on July 6, 2007 (Supporting Document 3), 34 days in advance of the public hearing.
- The notice of the hearing was also included in the Agenda for the August 8, 2007 meeting of the San Diego Water Board.
- DISCUSSION: Conditional waivers may be utilized to regulate specific discharges or specific types of discharge for which the San Diego Water Board would otherwise adopt and issue waste discharge requirements. Conditional waivers include

requirements that a discharger must comply with in order to be eligible for regulation by a conditional waiver.

Conditional waivers currently exist for 26 specific types of discharge that were adopted and issued by the San Diego Water Board in September 2002, and became effective January 2003. The existing conditional waivers must be renewed or allowed to expire by December 31, 2007.

Since the existing conditional waivers were adopted in 2002, several types of discharge regulated by the existing conditional waivers have been identified as potentially significant sources of pollutants to waters of the state. Evidence and data collected within the Region since 2002 indicate that the types of discharge currently regulated by existing conditional waivers may not be in compliance with waiver conditions, or that existing waiver conditions are not effective in minimizing or eliminating the discharge of pollutants for the protection of water quality.

In addition to the 26 types of discharge regulated by the existing conditional waivers, 9 new types of discharge were identified that are not currently regulated in the San Diego Region, but could be regulated by conditional waivers. These new types of discharge include the following:

1. "Low threat" discharges to land.
2. Discharges from on-site graywater systems.
3. Discharges from grazing lands.
4. Fire suppression and fuels management activities.
5. Discharge/reuse of soils characterized as inert from known contaminated sites.
6. Concrete grinding residues.
7. Temporary waste piles and surface impoundments for disaster-related wastes.
8. Temporary waste piles and emergency landfills for mass mortality wastes.
9. Discharges of wastes related to fireworks displays.

The purpose of this Basin Plan amendment is to revise the conditional waivers in the Basin Plan to include waiver conditions that will minimize or eliminate the discharge or potential discharge of pollutants to waters of the state, as well as include additional types of discharge that can be regulated by conditional waivers.

There is a total of 35 (26 existing and 9 new) specific types of discharge that the San Diego Water Board has proposed for regulation by conditional waivers. Instead of developing conditional waivers for 35 specific types of discharge, an integrated approach was developed to simplify the proposed conditional waivers. Types of discharge that are similar in nature or originate from a common setting or operation have been grouped together into 11 “discharge classifications.” Conditional waivers were developed for each discharge classification. The proposed conditional waivers include the following:

1. Discharges from on-site disposal systems
2. “Low threat” discharges to land
3. Discharges from animal operations
4. Discharges from agricultural and nursery operations
5. Discharges from silvicultural operations
6. Discharges of dredged or fill materials nearby or within surface waters
7. Discharges of recycled water to land
8. Discharges/disposal of solid wastes to land
9. Discharges/disposal of slurries to land
10. Discharges of emergency/disaster related wastes
11. Aerially discharged wastes

Significant revisions to the conditional waivers proposed for adoption include the following:

1. Waiver conditions were developed specifically for discharges from on-site graywater systems, instead of treating such systems like conventional septic tank/subsurface disposal systems.
2. Waiver conditions for discharges from agricultural and nursery operations include a requirement that growers enroll for regulation under the conditional waiver by the end of 2012. Enrollment as part of a monitoring group or coalition is encouraged. We plan to require monitoring, reporting, and payment of fees as future waiver conditions when these waivers are revised in 2012 to go into effect in 2013.
3. Waiver conditions were developed for the reuse of waste soils characterized as inert from known contaminated sites. Depending on the results of characterization, waste soils from contaminated sites may be reused without restriction, or reused for development of sites designated for industrial or commercial land use.

4. Conditional waivers were developed that would allow the immediate handling and discharge of wastes generated during disasters or emergencies.
5. Waiver conditions were developed for discharges of wastes related to fireworks displays conducted over land.

A draft technical report with appendices (Supporting Document 3) describing the development of the proposed conditional waivers was released July 6, 2007 for formal public review. Written responses to comments received before the close of the public comment period will be provided to the public. At a subsequent meeting, the San Diego Water Board will deliberate and consider amending the Basin Plan to incorporate the revised conditional waivers by adopting Tentative Resolution No. R9-2007-0104 (Supporting Document 1).

KEY ISSUES:

1. The existing conditional waivers are set to expire December 31, 2007.
2. The existing conditional waivers for the 26 types of discharge should be renewed. If they are not renewed, discharges currently regulated by conditional waivers must file reports of waste discharge and be issued waste discharge requirements.
3. Conditional waivers should be developed to regulate the 9 new specific types of discharge identified during the development of this Basin Plan amendment.
4. The 35 (26 existing and 9 new) specific types of discharge proposed for regulation by conditional waivers should be grouped into 11 discharge classifications for simplicity and ease of understanding.
5. Waiver conditions for specific types of discharge regulated by conditional waivers should be revised to be more protective of water quality.

LEGAL CONCERNS:

None.

SUPPORTING DOCUMENTS:

1. Tentative Resolution No. R9-2007-0104.
2. Notice of Filing and Notice of Public Hearing on an Amendment to the *Water Quality Control Plan for the San Diego Region (9)* to Incorporate the Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region.
3. Draft Technical Report and Appendices A through D - *Basin Plan Amendment to Renew and Issue Revised Conditional Waivers of Waste Discharge Requirements*

*for Specific Types of Discharge within the San Diego Region.*

4. Comments from Mr. Steve Bilson of Rewater Systems, Inc., via email dated July 14, 2007.
5. Comments from Mr. George Navadel, via email dated July 23, 2007.

RECOMMENDATION(S): Direct staff to prepare responses to comments on the Basin Plan Amendment to Renew and Issue Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region, and to bring the amendment back to a subsequent Board meeting for deliberation and consideration of adoption.