



California Regional Water Quality Control Board



San Diego Region

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Linda S. Adams
Secretary for
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Memo

Item No. 10
Doc. No. 4

To: Mark Alpert
From: Vicente Rodriguez
Date: June 5, 2007

Subject Response to Comments on "Reissue of Discharge of Groundwater
Extraction Water To San Diego Bay" Order No. R9-2007-0034

The following are responses to comments received during the public comment period on the Regional Boards notice of intent to reissue the extraction dewatering NPDES permit:

Comment dated May 17, 2007: Chris Zirkle, City of San Diego

Even though typical conditions imposed by the Regional Board are adequate to ensure that pollutants are reduced to appropriate levels prior to discharge to the MS4, the proposed regulations do not address the downstream bacteria breeding issue. Therefore, the City recommends that the Regional Board add conditions to the proposed treatment and monitoring requirements that would require the Groundwater Extraction Permittees to monitor for bacteria growth in the MS4 at an appropriate location downstream of their discharges ... to comply with the bacteria TMDL (Total Maximum Daily Load).

Response:

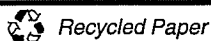
At this time, the tentative Order does not recommend additional bacteria monitoring due to bacteria growth. This is based on the following:

1. The status of the current bacteria TMDL is still in draft.
2. Responsible parties listed in the draft TMDL cite the municipalities as the responsible parties not the individual enrollees in the extraction permit that will be discharging to the Municipal Separate Storm Sewer Systems (MS4s).
3. The municipalities have the ultimate authority to control the non-storm water waste discharged into the MS4.

Discussion:

The latest draft TMDL, dated March 9, 2007 and titled "Revised Draft Technical Report for the Total Maximum Daily Loads for Indicator Bacteria Project Beaches and Creeks in

California Environmental Protection Agency



the San Diego Region" is still in draft copy and has not been adopted by the Regional Board. Until that time the draft TMDL does not apply to current permits.

The current draft TMDL in Section 10.3 describes the municipalities as entities responsible for point source dischargers of urban runoff. Individual dischargers, such as dischargers enrolled in the General Permit for the discharge of extracted groundwater waste will not be identified as responsible parties in regard to compliance with the bacteria TMDLs.

In any case, the Regional Board's authorization to enroll a discharger in the General Permit, does not usurp the municipalities ultimate authority or control of the MS4 within its jurisdiction. A municipality has the authority to regulate any non-storm water discharge into its MS4, independently of the Regional Board. The Regional Board's Municipal Storm Water permit (Order No. R9-2007-0001) emphasizes that as operator of the MS4s, municipalities cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control.

In conclusion, any issue that may arise from the discharge of waste into the MS4 is the responsibility of the municipality. The municipality has and would continue to have the authority to direct a discharger to terminate any non-storm water discharge into the MS4.

List of ACLs issues against dischargers enrolled in the Groundwater Extraction Permit
(R9-2000-0090) since 2000

FACILITY NAME	ADDRESS	CITY	ACTION	ACTION DATE	REG MEAS ID
Body Beautiful Carwash Pacific Hwy San Diego	2045 Pacific	San Diego	MMPC	01/25/2007	322090
Fifth Ave Condos-Trellis Proj	5th Ave & K St.	San Diego	MMPO	02/11/2004	249568
Gaslamp Square Project	402 Fifth	San Diego	MMPC	11/18/2004	253408
Glorietta Bay Pump Station Dw	1980 Strand	Coronado	MMPO	06/11/2003	244408
Glorietta Bay Pump Station Dw	1980 Strand	Coronado	MMPO	10/09/2002	246644
Hyatt Hotel Expansion Dewater	1 Market Place	San Diego	MMPO	10/09/2002	246647
Hyatt Hotel Expansion Dewater	1 Market Place	San Diego	MMPO	06/12/2002	247750
Mission Valley Terminal	9950 San Diego Mission Rd	San Diego	MMPO	05/12/2004	251931
Mission Valley Terminal	9950 San Diego Mission Rd	San Diego	MMPO	12/11/2002	246651
One America Plaza Dewater	1202 Kettner Blvd	San Diego	MMPO	02/05/2003	256929
San Diego Convention Ctr Dewat	Harbor Dr & 8th Ave	San Diego	MMPO	08/13/2003	242148
San Diego Convention Ctr Dewat	Harbor Dr & 8th Ave	San Diego	MMPO	05/12/2004	251837
Sea World, San Diego	500 Seaworld Drive	San Diego	MMPO	08/10/2005	255858
Sea World, San Diego	500 Seaworld Drive	San Diego	MMPO	06/10/2004	252223
Continental Maritime Shipyard	1995 Bayfront St	San Diego	ACLO	07/18/2001	237835
NASSCO	2798 Harbor	San Diego	ACLO	03/14/2001	235770
Southwest Marine Shipyard	Foot Of Sampson St	San Diego	ACLO	06/12/2001	257004
San Diego Convention Ctr Dewat	Harbor Dr & 8th Ave	San Diego	ACLC	01/06/2003	246801
San Diego Convention Ctr Dewat	Harbor Dr & 8th Ave	San Diego	ACLC	04/26/2002	242543

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