



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Item No. 13
Supporting Document No. 20

Office of the General Manager

December 8, 2009

Mr. David W. Gibson, Executive Officer
Mr. John Robertus, Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Dear Mr. Gibson and Mr. Robertus:

Re: Metropolitan Water District of Southern California Comments on Draft Tentative Order - No. R9-2009-0094, NPDES Permit No. CAG679001- "General Waste Discharge Requirements for Dischargers of Hydrostatic Test Water and Potable Water to Surface Waters and Storm Drains or Other Conveyance Systems within the San Diego Region"

We have reviewed the latest version of Draft Tentative Order No. R9-2009-0094 and request that you delay the adoption hearing scheduled for December 16th. It is imperative that the Board staff continue discussions with stakeholders and the Technical Advisory Committee (TAC), and possibly hold a formal workshop early next year to resolve all of the changes being proposed in the Tentative Order. The 2002 General Permit can be continued until the new Tentative Order is adopted. We were surprised at the inclusion of the Tentative Order for public hearing and adoption at the December 16th Board meeting. We did not receive a revised Tentative Order until late Thanksgiving evening, and then a subsequent version last Thursday, December 3rd.

Sufficient time for review of the latest version of the Tentative Order was not provided to the affected water purveyors. A 30 day comment period has not been provided and until these latest versions, we had not received any status update on the permit since September 2009. The Board staff has also not provided an updated response to comments.

Metropolitan sent a comments letter on the first iteration of the permit back in July 2009, and understood that Board staff was meeting with the TAC and would be revising the Tentative Order based on input and comments received. We also understood from Board staff that the Tentative Order was being delayed due to a shifting of Board priorities. Our review of the latest version of the Tentative Order indicates that there are significant changes and new provisions that warrant a dialogue with stakeholders before this goes forward for public hearing and adoption.

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In addition, there are new provisions introduced in the latest version of the Tentative Order that are not in the 2002 permit, nor in the earlier draft revisions of the Tentative Order. Some of these provisions appear to introduce new Board policies with respect to the requirements imposed on potable water and hydrostatic test discharges. These need to be discussed in collaboration with the dischargers before they can be considered for incorporation into the Tentative Order.

Several of the Tentative Order provisions and our concerns are outlined below:

Unreasonable New Requirement for Being Jointly Liable for Other Dischargers Water Quality Excursions

In the revised Tentative Order under Receiving Water Limitations-Surface Water Limitations, a catch-all requirement is included that the discharge shall not by itself or jointly with other discharges, cause an excursion above any applicable water quality standards, including but not limited to all applicable provisions contained in the Basin Plan, SWRCB Plan for water quality control, SWRCB Board policies, and Priority Pollutant criteria – NTR and CTR. Metropolitan (and all dischargers) can only be held responsible for its own discharges, and cannot be held jointly responsible for other discharges (such as natural storm water, residential, and industrial flows) into a flood channel or receiving water that may result in an excursion of water quality standards. This language needs to be removed from the Tentative Order.

Unjustified Reduction in Volume Threshold Exemption Allowed in Existing Permit

The revised Tentative Order reduces the exemption provision from 500,000 gallons/day to 325,800 gallons/day. This will require added reporting, monitoring, and administrative requirements for additional Metropolitan discharges with no commensurate water quality benefits, since the discharges are all low threat discharges. We recommend maintaining the current exemption of 500,000 gallons/day. Board staff has provided no specific justification for reducing the existing threshold exemption or any examples of why the threshold volume needs to be revised.

Unnecessary New Provision for Providing an Effluent Characterization Work Plan Not Previously Required

An updated Reasonable Potential Analysis (RPA) should be performed first instead of imposing this new Effluent Characterization Work Plan requirement. It is not clear why this requirement for additional monitoring and reporting provisions has been incorporated into the revised permit, and what is driving this added provision. This new requirement is unnecessary and overly

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burdensome for both the dischargers and Regional Board staff. The Work Plan requirement should be removed from the Tentative Order.

Duplication of Existing Regulations by Requiring Development of a Conservation/Management Plan

The Tentative Order requires development of a Water Conservation/Management Plan which is not in the existing permit, and does not belong in a SWRCB or Regional Board General Permit. Water conservation is regulated by the Department of Water Resources, so it does not make sense to impose another regulatory layer by including such a requirement in this permit. We are requesting removal of this provision.

EO Summary Report to the Board Does Not Accurately Reflect All the Significant Changes from the Existing Permit

The EO Summary Report to the Board for this agenda item does not list all of the changes made in the Tentative Order, and only lists three areas where the Tentative Order differs from the existing Order; therefore it does not adequately communicate the extent of the changes and the new provisions. There are also several inconsistencies between the Tentative Order and Fact Sheet, and other clarifications that must be corrected before the Tentative Order can be adopted. We believe it is in the best interest of all parties to discuss and resolve these changes now, and delay presentation to the Board until this is accomplished.

We look forward to working with you and your staff to obtain a workable permit for all of the stakeholders. Thank you in advance for your consideration of our request to delay the adoption hearing for the potable water permit.

If you have any questions, please contact Janet Bell, Environmental Health and Safety Program Manager, at (213) 217-5516, or jbelle@mwdh2o.com.

Sincerely,



Bart Koch
Section Manager, Environmental, Health and Safety

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cc: David Barker, SDRWQCB
Brian Kelley, SDRWQCB
Michelle Mata, SDRWQCB
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