

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
October 8, 2014

- ITEM: 7
- SUBJECT: Public Workshop: The San Diego Water Board will hold a public workshop to receive and discuss information on proposed amendments to the *Regional NPDES Permit for Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Order No. R9-2013-0001 or Regional MS4 Permit), including but not limited to, the incorporation of the County of Orange, several Incorporated Cities of South Orange County, and the Orange County Flood Control District as Copermittees (Tentative Order No. R9-2015-0001). (*Laurie Walsh and Christina Arias*)
- PURPOSE: The San Diego Water Board is now in the process of considering amendments to the Regional MS4 Permit as described in Tentative Order No. R9-2015-0001 to incorporate the Orange County Copermittees and address other issues summarized below. The workshop is intended to provide information to San Diego Water Board members and address questions the Board members, the Copermittees, or the public may have regarding the Tentative Order. The Tentative Order was released for public review and comment on September 18, 2014 (**Supporting Document 1**).
- RECOMMENDATION: There is no recommendation as this is a public workshop and the San Diego Water Board will take no action.
- KEY ISSUES:
1. On May 20, 2014, the County of Orange, Orange County Flood Control District and the cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano (collectively referred to as Orange County Copermittees) jointly submitted a Report of Waste Discharge (RoWD) in application for the reissuance of their MS4 permit. The recommendations set forth in the RoWD for revised permit requirements are largely

consistent with the requirements of the Regional MS4 Permit adopted by the San Diego Water Board on May 8, 2013.

2. The Tentative Order proposes to amend the Regional MS4 Permit to designate the Orange County Copermittees as MS4 dischargers responsible for compliance with the terms and the conditions of the Permit.

PRACTICAL VISION:

The Regional MS4 Permit directly implements several chapters of the San Diego Water Board's Practical Vision entitled *Healthy Waters, Healthy People*. Multiple provisions of the Permit pertain to the development and implementation of strategies to achieve healthy waters and recovery of stream, wetlands, and riparian ecosystems. These strategies implement an outcome-based approach, with a focus on achieving measureable reductions in MS4 pollutant discharges and improvements in receiving water quality. The Regional MS4 Permit also includes requirements for monitoring and assessment in order for the Copermittees to evaluate the success of their jurisdictional storm water management programs in a robust and meaningful way.

DISCUSSION:

From the inception of the storm water permitting program in 1990 until 2013, the San Diego Water Board issued MS4 permits to Copermittees within its jurisdiction based on San Diego County, Orange County, and Riverside County political boundaries. Under this approach, regulation of MS4 discharges in San Diego, Riverside, and Orange Counties by the San Diego Water Board was accomplished under three separate municipal storm water permits which placed a significant permit administration burden on the Board. In an effort to better advance the storm water program and achieve regulatory consistency and economy of resources, the San Diego Water Board adopted the Regional MS4 Permit on May 8, 2013 to jointly cover municipal Copermittees in San Diego, Riverside, and Orange Counties. The Regional MS4 Permit was issued to Copermittees in San Diego County initially, as their Fourth Term MS4 permit expired.

Provision F.5 of the Regional MS4 Permit outlines a public hearing process to incorporate Copermittees in Orange and Riverside Counties following expiration of their current MS4 permits. Under this process the San Diego Water Board

must first review and consider a RoWD to determine whether the Copermittees should be enrolled under the Regional MS4 Permit and what changes to the Permit (as proposed in the RoWD) are appropriate.

The Orange County Copermittees are currently regulated by MS4 Permit Order No. R9-2009-0002, which will expire on December 16, 2014. The Orange County Copermittees jointly submitted a RoWD in application for MS4 permit reissuance on May 20, 2014. The Tentative Order proposes to amend the Regional MS4 Permit and enroll the Orange County Copermittees under the Permit. If the San Diego Water Board adopts the Tentative Order, the Orange County Copermittees will be the second group of Copermittees to obtain coverage under the Regional MS4 Permit. The last remaining group, the Riverside County Copermittees, will be considered for coverage under the Regional MS4 Permit in a future action following the expiration of their current MS4 Permit in November 2015, and after consideration of their RoWD submittal for MS4 Permit reissuance.

The San Diego Water Board has reviewed the Orange County Copermittees' RoWD, including its recommendations, and finds it to be consistent with the framework and intent of the Regional MS4 Permit. For example, the RoWD recommends a watershed approach to focus Copermittees' limited resources to more effectively improve conditions in receiving waters. This is consistent with the Regional MS4 Permit's emphasis on the implementation of Water Quality Improvement Plans, jointly developed by the Copermittees and stakeholders, to achieve watershed-specific priorities that will yield the greatest water quality improvements. Additionally, the Regional MS4 Permit requirements will provide considerably more flexibility for the Orange County Copermittees to manage their storm water programs to achieve watershed-specific priorities than their current MS4 permit. Based on consideration of the RoWD, the Orange County Copermittees should be incorporated in the Regional MS4 Permit as amended by the modifications described below.

In addition to incorporating the Orange County Copermittees, the Tentative Order also proposes to amend the Regional MS4 Permit to address a variety of other issues including: 1) Regional Water Board designation to consolidate regulation of Phase I MS4 discharges for the

Cities of Laguna Hills, Laguna Woods, and Lake Forest pursuant to Water Code section 13228, 2) incorporation of the Los Peñasquitos Lagoon Sediment Total Maximum Daily Load (TMDL) requirements, 3) the extension of a pollutant reduction deadline for MS4 discharges to Areas of Special Biological Significance, 4) incorporation of interim exemptions for hydromodification management, and 5) implementation of a uniform approach for monitoring beach water quality in south Orange County. All of these amendments are described in the Tentative Order and Attachments 1 and 2 thereto. The specific Permit and Fact Sheet language changes are highlighted in blue underline and ~~red-strikeout~~ text. A summary of each of these amendments is provided below:

Designation of a Regional Water Board

The Tentative Order proposes to amend the Regional MS4 Permit in Provision B.1 to consolidate regulation of MS4 discharges in the Cities of Laguna Hills, Laguna Woods, and Lake Forest under a single Regional Water Board. The political boundaries of these cities are split between the jurisdictions of both the Santa Ana Water Board and the San Diego Water Board, and their MS4 discharges have historically been regulated by both Boards. The map in **Supporting Document 4** shows these cities political boundaries in comparison to the Santa Ana Water Board and the San Diego Water Board regional boundaries. These cities have reported that management and implementation of municipal programs to comply with different MS4 permits administered by two Regional Water Boards presents an excessive administrative and financial burden. In an effort to address these concerns the San Diego Water Board and the Santa Ana Water Board are in the process of entering into an agreement whereby the San Diego Water Board is designated to regulate MS4 discharges within the jurisdiction of the Cities of Laguna Woods and Laguna Hills and the Santa Ana Water Board is designated to regulate MS4 discharges within the jurisdiction of the City of Lake Forest. As the basis for this agreement may change under future conditions, the Tentative Order provides that the San Diego Water Board will periodically review the effectiveness of the agreement during each MS4 permit reissuance. Based on this periodic review the San Diego Water Board may terminate the agreement with the Santa Ana Water Board or otherwise modify the agreement subject to the approval of the Santa Ana Water Board.

Los Peñasquitos Sediment TMDL

The Tentative Order proposes to amend the Regional MS4 Permit in Attachment E to add the Los Peñasquitos Sediment TMDL to the Regional MS4 Permit. The Los Peñasquitos Sediment TMDL was adopted by the San Diego Water Board on June 13, 2012, and subsequently approved by the State Water Resources Control Board (State Water Board) on January 21, 2014, and the Office of Administrative Law on July 14, 2014, thereby making it effective. Although the TMDL is now effective, it is not self-implementing and requires incorporation into an NPDES permit in order to be implemented. Therefore the Tentative Order proposes amending the Regional MS4 Permit to include implementation provisions for this TMDL.

Special Conditions for Areas of Special Biological Significance (ASBS)

The Tentative Order also proposes to amend the Regional MS4 Permit in Attachment A.2 to include an extension of a pollutant reduction deadline for MS4 discharges to ASBS from four to six years as provided for by State Water Board Resolution No. 2012-0031. The City of San Diego's municipal storm water discharges to the San Diego Marine Life Refuge in La Jolla, and the City of Laguna Beach's municipal storm water discharges to the Heisler Park ASBS are subject to the terms and conditions of State Water Board Resolution No. 2012-0031.

Hydromodification Control Requirement Modifications

In order to facilitate the Orange County Copermittees' transition to the Regional MS4 Permit, the Tentative Order proposes amending the Regional MS4 Permit in Provision E.3.c.(2) to allow two temporary exemptions from hydromodification management BMP implementation. The first exemption is for Priority Development Projects that discharge storm water runoff directly into an engineered channel conveyance system with a capacity to convey peak flows generated by the 10-year storm event from the point of discharge to a reservoir, lake, embayment, or the Pacific Ocean. The second exemption is for Priority Development Projects that discharge storm water runoff directly to a "large" river reach with a drainage area larger than 100 square miles and a 100-year flow capacity in excess of 20,000 cubic feet per second. The exemptions are short-term and will expire upon San Diego Water Board

acceptance of the San Juan Watershed Management Area Water Quality Improvement Plan (there is a mechanism for extending the exemptions based on rigorous, technical, and site specific analysis). The proposed approach is consistent with the approach to hydromodification management currently utilized by the San Diego County Copermittees.

Unified Approach for Beach Water Quality Monitoring

The Tentative Order incorporates a unified approach for beach water quality monitoring to eliminate duplicative monitoring, enable sharing of technical resources, trained personnel, and associated costs and consolidate beach water quality monitoring for fecal indicator bacteria required by various statutes. In 2012 the San Diego Water Board reviewed the various beach water quality monitoring programs conducted in south Orange County and convened a stakeholder workgroup to develop a unified regional beach water quality monitoring and assessment program. The program is outlined in the San Diego Water Board report entitled "*Workgroup Recommendation for a Unified Beach Water Quality Monitoring and Assessment Program in South Orange County*," dated September 2014. The unified program is intended to be protective of the health of swimmers, surfers, and others who use south Orange County beach waters for water contact recreational activities. The Tentative Order amends the Regional MS4 permit at Provision D.1.e to require the Orange County Copermittees to participate in implementation of a unified regional beach water quality monitoring and assessment program, along with the South Orange County Wastewater Authority and Orange County Health Care Agency.

Activities to Date

On June 24, 2014, the San Diego Water Board staff met with the Orange County Copermittees to discuss the RoWD and the proposal to incorporate the Orange County Copermittees under the Regional MS4 Permit. On July 1, 2014, the San Diego Water Board held a public stakeholder meeting in the City of San Juan Capistrano to further discuss incorporation of the Orange County Copermittees under the Regional MS4 Permit, potential amendments to the Regional MS4 permit based on the RoWD, and the public review process. On September 18, 2014, the San Diego Water Board released the Tentative Order and Attachments thereto, for public review and comment. The transmittal letter is included as **Supporting Document 2**.

LEGAL CONCERNS:

None.

SUPPORTING DOCUMENTS:

1. Tentative Order No. R9-2015-0001 with Attachments:
Attachment 1 -- Revised Order No. R9-2013-0001
Attachment 2 -- Revised Fact Sheet to
Order No. R9-2013-0001
2. Transmittal Letter Announcing Availability of Tentative Order, dated September 18, 2014
3. Notice of Public Workshop
4. Map – San Juan Hydrologic Unit

PUBLIC NOTICE:

Notice of this item was provided to interested persons via e-mail on September 5, 2014 (**Supporting Document 3**). Notice was also provided in the Meeting Notice and Agenda for the October 8, 2014 Board meeting, which is posted on the San Diego Water Board's website.