

EXECUTIVE OFFICER SUMMARY REPORT  
June 24, 2015

- ITEM: 14
- SUBJECT: Public Hearing: NPDES Permit Issuance: Groundwater Extraction Discharges to Surface Waters within the San Diego Region (Tentative Order No. R9-2015-0013, NPDES No. CAG919003). (*Ben Neill*)
- PURPOSE: To receive public testimony and consider adoption of Tentative Order No. R9-2015-0013 (Tentative Order).
- RECOMMENDATION: Adoption of the Tentative Order (**Supporting Document No. 1**) is recommended.
- KEY ISSUES:
1. If adopted, the Tentative Order will replace two prior Orders: 1) Order No. R9-2007-0034, *General Waste Discharge Requirements for Discharges from Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay, Tributaries Thereto under Tidal Influence, and Storm Drains or Other Conveyance Systems Tributary Thereto* (NPDES No. CAG919001), and 2) Order No. R9-2008-0002, *General Waste Discharge Requirements and NPDES Permit for Discharges from Groundwater Extraction Waste to Surface Waters Within the San Diego Region except for San Diego Bay* (NPDES No. CAG919002). This consolidation reduces the San Diego Water Board National Pollutant Discharge Elimination System (NPDES) permit reissuance burden and offers maximum efficiency and economy of resources in protecting and improving water quality.
  2. The Tentative Order requires the applicant to evaluate water quality data prior to submitting an application for coverage under the Tentative Order, allowing the applicant to more fully consider effluent limitation compliance and monitoring costs associated with a proposed groundwater extraction project.

3. The Tentative Order specifically exempts discharges of extracted groundwater from single-family residences unless the discharges are shown to cause or contribute to nuisance and pollution conditions in surface waters.
4. The Tentative Order requires use of the Test of Significant Toxicity (TST) approach to determine whether or not a discharge is toxic.

**PRACTICAL VISION:** Consistent with the mission of the *Strategy for Healthy Waters* chapter of the Practical Vision, the Tentative Order integrates all applicable technology-based requirements, water quality-based effluent limitations, and receiving water quality standards in order to optimize protection of water quality and beneficial uses of surface waters throughout the San Diego Region. Additionally, the Tentative Order includes provisions allowing future modification of monitoring requirements to allow a Discharger covered under the Order to participate in regional monitoring and assessment programs in keeping with San Diego Water Board Resolution No. R9-2012-0069, *Resolution in Support of a Regional Monitoring Framework*.

**DISCUSSION:** Underground excavation, drainage collection systems, and other site dewatering projects often require extraction of groundwater to maintain dry conditions at the site and to reduce structure uplift pressures. Groundwater remediation systems may also involve the extraction of contaminated groundwater to reduce contaminant levels and to restore beneficial uses of the groundwater. Depending on soil types and site history, extracted groundwater may contain pollutants, that without adequate treatment, may cause or contribute to adverse effects on the beneficial uses of surface waters.

The Tentative Order is a General NPDES Permit that proposes to consolidate regulation of specified types of groundwater extraction discharges to surface waters in the San Diego Region. If adopted, the Tentative Order will establish prohibitions, effluent limitations, receiving water limitations, and monitoring requirements to ensure compliance with applicable water quality standards and protection of beneficial uses in surface waters.

The Tentative Order was noticed and released for formal public comment on April 20, 2015. Comments were due by May 20, 2015. Comments were received from six entities:

- County of San Diego (**Supporting Document No. 2**)
- County of Orange (**Supporting Document No. 3**)
- City of Oceanside (**Supporting Document No. 4**)
- City of San Diego (**Supporting Document No. 5**)
- Kinder Morgan Energy Partners, L.P. (**Supporting Document No. 6**)
- Pure Effect, Inc. (**Supporting Document No. 7**)

A Response to Comments document containing the San Diego Water Board's responses to these comments is provided as **Supporting Document No. 8**.

Below is a summary of the most significant comments and the responses to these comments:

1. *The County of San Diego commented that while they support the single family residence exclusion, they request that the exception be broadened to include multi-family residences, such as duplexes and homeowners associations, and their affiliated common areas.*

Multi-family residences vary widely in size and have an increased potential for groundwater extraction discharges to adversely impact receiving water quality. Based on this consideration, the Tentative Order has not been modified to reflect the change requested.

2. *The City of San Diego commented that the Tentative Order should require that a Discharger obtain municipal storm sewer system (MS4) operator approval before allowing discharges to the MS4 (as currently required in Order No. R9-2008-0002), and not just proof of notification to the MS4 operator (as proposed in the Tentative Order).*

The intent of the requirements pertaining to groundwater extraction discharges to an MS4 in both the prior Orders and the Tentative Order is to

encourage communication between Dischargers enrolled under the Tentative Order and operators of MS4s at the point of the proposed discharge. The Fact Sheet in Attachment F of the Tentative Order on Page F-10 provides that consistent with California Water Code section 13002 and 40 CFR section 122.5(c), the Tentative Order is not intended to affect any separate legal authority an MS4 operator may have to prohibit a discharge or to require the Discharger to obtain any permits or approvals from the MS4 operator before initiating discharges into the MS4.

3. *Kinder Morgan Energy Partners, L.P. (KMEP) questioned the validity of requiring the test of significant toxicity (TST) method for analyzing toxicity data and determining compliance with whole effluent toxicity (WET) requirements.*

The WET requirements in the Tentative Order, including the use of the TST method, are consistent with applicable regulations for the NPDES permit program, including 40 CFR section 136.3 as well as the test methods described in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (October 2002) (EPA-821-R-02-013).

4. *Pure Effect, Inc. commented that the monitoring requirements appear to have increased and requested a reduction in monitoring based on the compliance record of a Discharger.*

For most constituents, the extracted groundwater monitoring frequency has increased to monthly from the quarterly frequency required under the prior Orders. However, unlike the prior Orders, the Tentative Order requires monitoring only for those constituents that have reasonable potential to cause or contribute to an excursion above any applicable water quality standard in the receiving waters, in accordance with applicable federal regulations. The prior Orders required monitoring for all constituents with effluent limitations regardless of reasonable potential. The Tentative Order does provide for a reduction in the monitoring frequency of a

groundwater extraction discharge to once per quarter for pollutants not detected in the discharge for six consecutive months.

Modifications to the Tentative Order have been made to address the comments as noted in the Response to Comments document and to correct a few other minor errors. The modifications are shown in Supporting Document No. 1 in underline/strikeout format.

LEGAL CONCERNS: None

SUPPORTING DOCUMENTS:

1. Tentative Order No. R9-2015-0013 (as revised in responses to comments)
2. Comment letter from the County of San Diego
3. Comment letter from the County of Orange
4. Comment letter from the City of Oceanside
5. Comment letter from the City of San Diego
6. Comment letter from Kinder Morgan Energy Partners
7. Comment letter from Pure Effect, LLC
8. San Diego Water Board Response to Comments Report

PUBLIC NOTICE:

The Tentative Order was noticed and released for formal public review and comment on April 20, 2015. A public notice was also published in the San Diego Union Tribune. Notice was also provided in the meeting notice and agenda for the June 24, 2015 Board meeting, which is posted on the San Diego Water Board's website.