

**REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**EXECUTIVE OFFICER SUMMARY REPORT
SEPTEMBER 8, 2021**

ITEM 4

SUBJECT

New Waste Discharge Requirements: Waste Discharge Requirements for the City of San Diego Maple Canyon Project, Phase 1: Storm Drain Improvements, San Diego County (Tentative Order No. R9-2021-0168). (*Jill Harris*)

STAFF RECOMMENDATION

Adoption of Tentative Order No. R9-2021-0168 (Tentative Order) is recommended.

KEY ISSUE

The Tentative Order (**Supporting Document No. 1**) authorizes the discharge of fill material resulting in temporary impacts to 0.036 acre (476 linear feet) of ephemeral streambed waters of the State of California (State) attributed to the Maple Canyon Project, Phase 1 (Project). The Project will reduce the erosion and flooding in Maple Canyon and the surrounding neighborhood.

PRACTICAL VISION

The Tentative Order implements the San Diego Water Board's Practical Vision, entitled *Healthy Waters, Healthy People*,¹ by ensuring the Project avoids permanent impacts and minimizes, to the maximum extent practical, temporary impacts to waters of the State. The waste discharge requirements require the best practicable treatment and control of discharges to ensure and verify that the highest level of water quality is maintained consistent with the maximum benefit to the people of the State. Thus, the Tentative Order supports the goal of the Recovery of Stream, Wetlands and Riparian Systems chapter of the Practical Vision by preventing the degradation, and promoting the restoration, of the stream and riparian system.

DISCUSSION

The goal of the Project is to eliminate severe erosion in Maple Canyon and flooding of the downstream street and neighborhood. To achieve this, the City of San Diego (Discharger) would replace all storm drains in the canyon, add concrete energy dissipators and riprap to reduce the velocity of water entering the canyon, and add a new storm drain at the downstream end of the canyon that will tie in to the existing storm drain system. The Discharger proposes the discharge of fill material resulting in temporary impacts to 0.036 acre (476 linear feet) of Maple Canyon Stream.

The Project is located in Maple Canyon west of Balboa Park, between Redwood Street and West Maple Street in the City of San Diego, San Diego County (**Supporting Document No. 2**). Maple Canyon Stream is a tributary to San Diego Bay and an ephemeral streambed water of the State in the Lindbergh Hydrologic Subarea (HSA

¹ Practical Vision: https://www.waterboards.ca.gov/sandiego/water_issues/programs/practical_vision/

908.21), San Diego Mesa Hydrologic Area, Pueblo San Diego Hydrologic Unit.

These activities comprise Phase 1 of the Project. Phase 2, to be authorized under a separate order establishing waste discharge requirements (Tentative Order No. R9-2021-0169 and Item 5 on today's agenda), would stabilize and revegetate the canyon slopes and install drop structures in the stream to reduce water velocities.

The Discharger applied for waste discharge requirements on January 28, 2021. Additional information was subsequently received, and the application was deemed complete on April 15, 2021.

Compensatory Mitigation

No compensatory mitigation will be required because the Project would create only temporary impacts that would be restored to pre-project conditions when construction is complete, after approximately one year. Thus, the Project would not create impacts of a size, severity, and/or duration that would have significant adverse impacts on beneficial uses of waters of the State.

Tentative Order

Tentative Order No. R9-2021-0168 will, if adopted, serve as waste discharge requirements (WDR)² for the discharge of fill material attributable to the Project to waters of the State. The Tentative Order authorizes unavoidable direct adverse impacts, attributed to the Project, to an ephemeral streambed.

The San Diego Water Board typically relies upon its authority under Clean Water Act (CWA) section 401 to regulate discharges of dredged or fill material to waters of the United States and/or State through the issuance of water quality certifications. The San Diego Water Board has delegated this function to the Executive Officer and the issuance of water quality certifications is not typically scheduled for consideration by the Board unless the project is very large or controversial. However, the United States Army Corps of Engineers has determined that no waters of United States are present within the Project's impact area. Therefore, the Project discharges are to waters of the State outside of CWA jurisdiction and the water quality certification regulatory process does not apply. The San Diego Water Board is relying upon its authority under the Porter-Cologne Water Quality Control Act to regulate Project discharges under WDRs and Board action is required to consider adoption of the Tentative Order.

² Pursuant to Water Code section 13260 et. seq.

PUBLIC NOTICE AND COMMENTS RECEIVED

The Tentative Order was noticed, provided to the Discharger and other interested parties, and released for public review and comment on July 16, 2021, with comments due by August 16, 2021. The Notice of Public Hearing and Opportunity to Comment (Notice) and the Tentative Order were posted on the San Diego Water Board website for the duration of the 30-day comment period. The Notice announced availability of the Tentative Order for review, a public hearing to be held on September 8, 2021, and provided instructions for submittal of written comments (**Supporting Document No. 3**). Notice of the public hearing on the Tentative Order was also provided in the Meeting Notice and Agenda for the September 8, 2021 Board meeting which is posted on the San Diego Water Board website.

The San Diego Water Board received one timely comment letter, dated August 16, 2021, from Mayra Medel of the City of San Diego (Discharger). The letter requested minor changes to the Tentative Order pertaining to: (1) the date of the approved jurisdictional delineation from the U.S. Army Corps of Engineers; (2) the estimated cost of monitoring and reporting; (3) the date the CEQA Notice of Determination (NOD) was filed; and (4) the acreage of temporary impacts presented in Table 5.

The Tentative Order (**Supporting Document No. 1**) was revised to address these comments with the exception of (3), because the date of the NOD was correct in the original Tentative Order. The Tentative Order displays the changes in red underline for added text and ~~red-strikeout~~ for deleted text.

SUPPORTING DOCUMENTS

1. Tentative Order No. R9-2021-0168
2. Tentative Order No. R9-2021-0168 Attachment A: Project Maps and Plans
3. Notice of Public Hearing and Opportunity to Comment issued July 16, 2021