

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

EXECUTIVE OFFICER SUMMARY REPORT

December 18, 2023

ITEM 1

SUBJECT

Time Schedule Order: Consideration of a Revised Time Schedule Order to be issued to the United States Section of the International Boundary and Water Commission for Discharges to the Pacific Ocean through the South Bay Ocean Outfall from the South Bay International Wastewater Treatment Plant. (Revised Tentative TSO) (*Vicente Rodriguez*)

STAFF RECOMMENDATION

Adoption of the Revised Tentative TSO is recommended (**Supporting Document No. 1**).

KEY ISSUES

The United States Section of the International Boundary and Water Commission (USIBWC) is not in compliance with its National Pollutant Discharge Elimination System (NPDES) permit and cease and desist orders for the South Bay International Wastewater Treatment Plant (SBIWTP or Facility), adopted by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), in 2021. USIBWC has self-reported hundreds of exceedances of effluent limitations and untimely complied with other permit requirements. The Revised Tentative TSO is an enforcement action to ensure USIBWC achieves compliance with the secondary treatment standards for effluent discharged to the Pacific Ocean via the South Bay Ocean Outfall and complies with its NPDES permit.

PRACTICAL VISION

Consistent with the mission of the Strategy for Healthy Waters chapter of the Practical Vision, the Revised Tentative TSO requires compliance with all applicable technology-based requirements, water quality-based effluent limitations, and receiving water quality standards to optimize protection of water quality and beneficial uses in the Pacific Ocean.

DISCUSSION

USIBWC owns and operates the SBIWTP and associated infrastructure in the United States. The SBIWTP discharges secondary-treated wastewater to the Pacific Ocean through the South Bay Ocean Outfall. **Supporting Document No. 2** contains location maps of the SBIWTP. On May 12, 2021, the San Diego Water Board adopted Order No. R9-2021-0001 (2021 NPDES Permit) to regulate discharges to the Pacific Ocean from the SBIWTP. Also on May 12, 2021, the San Diego Water Board issued a corresponding Cease and Desist Order No. R9-2021-0107 to require USIBWC to address shortcomings, inadequacies, and maintenance issues at the SBIWTP to ensure consistent compliance with the 2021 NPDES Permit. On December 21, 2021, the San Diego Water Board adopted Order No. R9 2021-0220, amending the Cease and Desist Order to revise certain time schedules and require USIBWC to submit quarterly compliance assurance reports. On March 8, 2023, the San Diego Water Board adopted amendments to the 2021 NPDES Permit.

The USIBWC has self-reported approximately 245 exceedances of effluent limitations and untimely complied with other permit requirements. Most of these self-reported effluent limitation exceedances are the result of excess inflow of sewage from Tijuana, Mexico, that surpass the design flow capacity of the SBIWTP.

In response to the effluent limitation exceedances and untimely compliance with other permit requirements, the San Diego Water Board issued Notice of Violation No. R9-2023-0162 to USIBWC on September 5, 2023. The notice of violation noted that USIBWC self-reported 208 effluent limitation exceedances between September 20, 2021, and June 20, 2023, and submitted several other reports untimely. The San Diego Water Board issued another notice of violation to USIBWC on October 27, 2023, which noted 27 effluent limitation exceedances between July 1, 2023, and August 31, 2023, and another notice of violation on November 16, 2023, which noted 10 effluent limitations exceedances between September 1, 2023, and September 30, 2023.

In August 2023, Tropical Storm Hilary brought record rainfall to San Diego County and Baja California. The storm exacerbated infrastructure and system vulnerabilities of the SBIWTP, resulting in damage throughout the Facility and its associated infrastructure. On September 13, 2023, USIBWC Commissioner Dr. Maria Elena Giner appeared before the San Diego Water Board to provide an update on pre- and post-Hilary storm conditions at the Facility, including planned maintenance and repair of the SBIWTP. The Commissioner informed the board that USIBWC has dedicated millions of dollars to repairs and capital improvement projects at the SBIWTP. However, USIBWC requires additional funding and time to complete the repairs and capital improvement projects.

The Revised Tentative TSO directs USIBWC to take certain actions to correct and prevent further violations of the 2021 NPDES Permit and includes the following directives:

1. Directive No. 1 requires USIBWC to comply with the secondary effluent limitations in the 2021 NPDES Permit by August 15, 2024.
2. Directive No. 2 requires USIBWC to comply with a time schedule to complete certain actions, which is copied below:

Task	Interim Goals
A) Installation of third pump at Hollister Avenue Pump Station	December 1, 2023 ¹
B) Replacement of influent pumps #1 and #5	February 28, 2024

¹ The third pump at Hollister Avenue Pump Stations was physically replaced with a new pump on November 28, 2023. The installation still requires electrical wiring. The USIBWC expects this pump to be operational by December 13, 2023.

Task	Interim Goals
C) Primary sedimentation tanks: i. Rehabilitation of all mechanical parts for primary sedimentation tanks ii. Clean out of primary sedimentation tanks	September 30, 2024
D) Influent meter repairs i. Replace the temporarily repaired influent pipe ii. Replace the two valves on the replaced influent pipes	September 30, 2024
E) Replacing Junction Box 1	February 10, 2025

3. Directive No. 3 requires USIBWC to present an oral report to the San Diego Water Board that summarizes USIBWC’s efforts to achieve compliance with the directives in the Revised Tentative TSO.
4. Directive No. 4 requires USIBWC to continue to submit quarterly compliance assurance reports and include information regarding progress in meeting time schedule tasks, achievement of interim goals, interim goal delays, and changes to scheduling, projected timelines, and project costs.
5. Directive No. 5 requires USIBWC to provide a visual depiction (e.g., Gantt chart) of its progress towards achieving time schedule tasks, interim goals, and secondary effluent limitation compliance.
6. Directive No. 6 requires USIBWC to submit requests to amend the time schedule in the Revised Tentative TSO at least 45 days prior to the compliance deadline.

The San Diego Water Board provided notice of an opportunity to comment on the tentative time schedule order on October 30, 2023. The San Diego Water Board received two comment letters on the tentative time schedule order by the close of the public comment period at 5:00 PM on November 30, 2023:

1. The Port of San Diego submitted a comment letter in support of the tentative time schedule order (**Supporting Document No. 3**).
2. Coastal Environmental Rights Foundation (CERF) and San Diego Coastkeeper (Coastkeeper) submitted a joint comment letter requesting the San Diego Water Board pursue other enforcement mechanisms (**Supporting Document No. 4**). Their comments also noted exceedances of the 2021 NPDES Permit effluent limitations for Polychlorinated Biphenyls (PCBs) and Benzidine.

USIBWC and San Diego Water Board staff reviewed the PCB and Benzidine exceedances. The PCB and Benzidine exceedances were incorrectly self-reported by USIBWC. USIBWC confirmed that PCBs and Benzidine were not detected in the effluent. Instead, USIBWC reported the laboratory detection levels due to staff turnover and complications with their reporting software.

CERF and Coastkeeper also submitted a late comment after the close of the public comment period. The San Diego Water Board Chair did not admit the late comment into the record for this matter.

The Revised Tentative TSO (**Supporting Document No. 1**) reorders the tasks in Table 2 of Directive No. 2 to be in chronological order and includes conforming modifications to reflect that the Revised Tentative TSO would be adopted by the San Diego Water Board.

PUBLIC NOTICE

On October 30, 2023, the San Diego Water Board provided notice of an opportunity to comment on the tentative time schedule order for a 30-day public review and comment period (Notice of Opportunity to Comment). The Notice of Opportunity to Comment and the tentative time schedule order were posted on the San Diego Water Board website for the duration of the 30-day comment period and sent to all interested parties. A copy of the Notice of Opportunity to Comment is provided as **Supporting Document No. 5**.

On December 8, 2023, the San Diego Water Board provided notice of today's public hearing through the Notice of Special Meeting and Agenda (Agenda). The Agenda was posted on the San Diego Water Board website and sent to all interested parties.

SUPPORTING DOCUMENTS

1. Revised Tentative Time Schedule Order No. R9-2023-0189
2. Location Map
3. Comment letter from the Port of San Diego, November 30, 2023
4. Comment letter from CERF and Coastkeeper, November 30, 2023
5. Notice of Opportunity to Comment, October 30, 2023