

**California Regional Water Quality Control Board**  
**San Diego Region**  
**David Gibson, Executive Officer**



**Executive Officer's Report**  
**December 12, 2012**

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## **Part A – San Diego Region Staff Activities**

### **1. Personnel Report**

*Staff Contact: Lori Costa*

The Organizational Chart of the San Diego Water Board can be viewed at [http://www.waterboards.ca.gov/sandiego/about\\_us/org\\_charts/orgchart.pdf](http://www.waterboards.ca.gov/sandiego/about_us/org_charts/orgchart.pdf)

#### Recent Hires

Phillip Moskal, Scientific Aid, is working in our Monitoring Assessment and Research Unit. He is assisting with field sampling and report writing for the Surface Water Ambient Monitoring Program. Mr. Moskal earned a Bachelor of Arts degree in Physics & Economics from the University of Redlands and a Juris Doctorate degree from the University of San Diego, School of Law.

#### Recruitment

We are in the process of recruiting for one more Scientific Aid, one Seasonal Clerk, one Information Systems Technician, and one Administrative Officer.

## **Part B – Significant Regional Water Quality Issues**

### **1. Discharger Enrollment and Compliance with the Ag Waiver (Attachments B-1a – B-1c)**

*Staff Contacts: Roger Mitchell and Barry Pulver*

The San Diego Water Board recently heard from representatives at the Santa Margarita Irrigated Lands Group during the Public Forum at the November 13, 2012 San Diego Regional Water Quality Control Board meeting. The representatives included Rancho California Water District Board Member, Mr. Ben Drake, and Mr. Gary Woodworth, who conveyed their frustration and concerns regarding enrollment and compliance with the Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural and Nursery Operations (Ag Waiver). In summary, Mr. Drake and Mr. Woodworth expressed concern over the costs associated with implementing the monitoring requirements specified in the Ag Waiver, and the perceived lack of enforcement action undertaken by San Diego Water Board staff to address the issue of “non-filers”.<sup>1</sup> In response to their statements and concerns regarding non-filers, San Diego Water Board staff has prepared the attached issue paper (Attachment B-1a).

<sup>1</sup> The term “non-filer” refers to owners/operators of agricultural or nursery operations which have not either formed or joined a monitoring group, or submitted a Notice of Intent to the San Diego Water Board for enrollment as an individual agricultural or nursery operation under the Ag Waiver.

Although Mr. Drake and Mr. Woodworth are unhappy with the results, the staff has made a considerable effort to identify non-filers. As detailed in the paper, over 900 staff hours were spent on two efforts that yielded only 23 new enrollees in the Ag Waiver. Next steps include processing new information received from the Rancho California Water District on agricultural water users to identify potential non-filers, and notification to the Monitoring Groups of their obligation under the waiver to report members who have ceased to participate in the groups.

## **2. Las Pulgas Landfill Phase II Expansion Area Update**

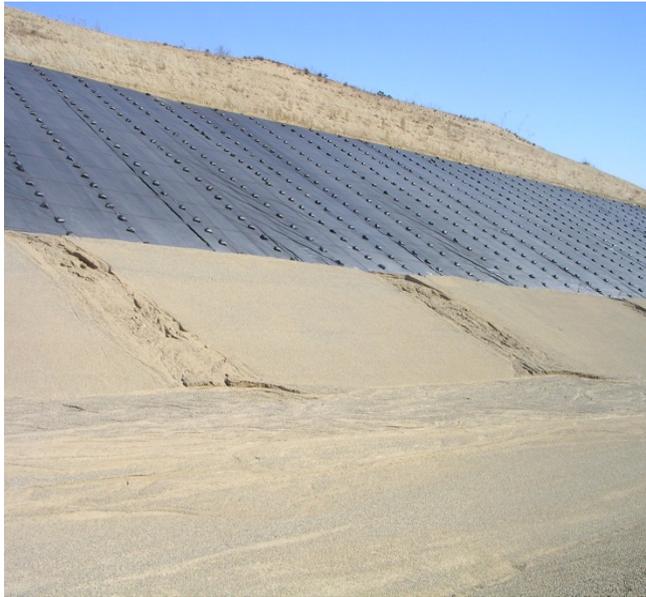
*Staff Contact: Amy Grove*

The United States Marine Corps (USMC) notified the San Diego Water Board of damage to the protective cover soil in the newly constructed Phase II expansion area of the Las Pulgas Landfill, after significant storm events during October 2012. The extent of the damage was limited to erosion rills and slumping of some side slope protective cover soils, and ponding of storm water in the southeastern end of the expansion area (see below). To prevent further damage to the liner system during inclement weather, the USMC will cover the Phase II expansion area with a 20-mil woven-coated poly geomembrane and will seam weld and anchor the geomembrane cover to the newly constructed liner system for the remainder of the rainy season. This action is expected to more effectively protect the liner components to maintain the integrity of the containment system, and allow the USMC to pump storm water run-off into the down-gradient detention basin. The pumping of water from the newly constructed unit will prevent inundation of the leachate collection and recovery system with storm water, and should prevent further erosion and slumping of the protective cover soils. Therefore, the USMC plans to postpone the use of the Phase II expansion area until the spring 2013.

The San Diego Water Board approved Waste Discharge Requirements for the construction of the Phase II expansion area on May 11, 2011.<sup>2</sup> Construction of the Phase II expansion area of the Las Pulgas Landfill<sup>3</sup> was completed in June 2012. The expansion area adds approximately 13 acres of air space and allows for an additional 683,000 cubic yards of waste to be disposed of at the Landfill over the next three and a half years. The USMC plans to repair the protective cover soil after the rainy season, and will provide the San Diego Water Board with supplemental construction information upon completion of repair and testing activities. The San Diego Water Board is in the process of reviewing and commenting on the final construction quality assurance report, and anticipates providing feedback to the USMC in the near future.

<sup>2</sup> [http://www.waterboards.ca.gov/sandiego/board\\_info/agendas/2011/May/item5/EOSR.pdf](http://www.waterboards.ca.gov/sandiego/board_info/agendas/2011/May/item5/EOSR.pdf)

<sup>3</sup> Also see EO Report for December 2011: [http://www.waterboards.ca.gov/sandiego/publications\\_forms/publications/docs/executive\\_officer\\_reports/2011/12-16-11\\_EOR.pdf](http://www.waterboards.ca.gov/sandiego/publications_forms/publications/docs/executive_officer_reports/2011/12-16-11_EOR.pdf)



Damage to protective cover soils and ponding of storm water in Phase II expansion unit, Las Pulgas Landfill

### 3. Enforcement Actions for October 2012

*Staff Contact: Chiara Clemente*

During the month of October 2012, the San Diego Water Board initiated the following enforcement actions:

October 2012 Enforcement Actions	Number
Administrative Civil Liability Complaint	1
Notice of Noncompliance with Storm Water Enforcement Act of 1998	32
Notice of Violation (NOV)	1
Staff Enforcement Letter	1
<i>Total</i>	35

A summary of recent regional enforcement actions is provided below. Additional information on violations, enforcement actions, and mandatory minimum penalties is available to the public from the following on-line sources:

State Water Board Office of Enforcement webpage at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/water_issues/programs/enforcement/)

California Integrated Water Quality System (CIWQS)  
[http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/publicreports.shtml](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml)

State Water Board GeoTracker database:

<https://geotracker.waterboards.ca.gov/>

### **Administrative Civil Liability Complaint (ACLC)**

#### **Ariel Suites L.P., San Diego**

On October 1, 2012, the San Diego Water Board issued Complaint No. R9-2012-0065 for Administrative Civil Liability with Mandatory Minimum Penalties (MMPs) against Ariel Suites, L.P. in the amount of \$138,000 for violations of Order No. R9-2007-0034, NPDES No. CAG91001, *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*.

### **Notices of Noncompliance with Storm Water Enforcement Act of 1998**

A Notice of Noncompliance was sent to Copart, in San Diego, for failure to enroll in the statewide General Industrial Storm Water Permit Order No. 97-03-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001 *Waste Discharge Requirements (WDRs) for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*. This Notice was the first to inform Copart that, pursuant to Water Code section 13399.30(a)(2), failure to enroll will subject them to mandatory penalties. A second Notice will be sent after 30 days if Copart fails to enroll. If a Notice of Intent to enroll is not submitted within 30 days of the second Notice, the violation will be subject to a mandatory penalty of not less than \$5,000 per year of noncompliance plus staff costs pursuant to Water Code section 13399.33.

Notices of Noncompliance were also sent to 31 facilities (listed below) for failure to submit annual reports, in accordance with statewide General Industrial Storm Water Permit Order No. 97-03-DWQ, NPDES General Permit No. CAS000001, *WDRs for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*. The Notices are the first to inform the dischargers that, pursuant to Water Code section 13399.31(b), failure to submit these reports will subject them to mandatory penalties. Likewise, a second Notice will be sent after 30 days to any of the dischargers that fails to submit the required reports, and if the reports are not received within 30 days of the second Notice, the violation will be subject to a mandatory penalty pursuant to Water Code section 13399.33.

[Express Truck and Auto Recycling, San Diego](#); October 9, 2012

[Fabrication Technologies Industries Inc., National City](#); October 9, 2012

[Harcon Precision Metals, San Diego](#); October 9, 2012

[Harrison Trucking, Santee](#); October 9, 2012

[High Tech Auto Dismantling, San Diego](#); October 9, 2012

[Imperial Auto Wrecking, San Diego;](#) October 9, 2012

[Ktech Machine Inc, San Marcos;](#) October 9, 2012

[E&E Transportation Inc., Ramona;](#) October 11, 2012

[Tijuana River NERRR, Imperial Beach;](#) October 11, 2012

[Aurogun Inc, Chula Vista;](#) October 12, 2012

[Custom Powder Finishing Inc., Jamul;](#) October 12, 2012

[AB Recycling, San Diego;](#) October 16, 2012

[American Recycling, San Diego;](#) October 16, 2012

[Coast Citrus Distributors, San Diego;](#) October 16, 2012

[Gate Gourmet, San Diego;](#) October 16, 2012

[Greenyard Auto Recycling, Lakeside;](#) October 16, 2012

[Imperio 2, San Diego;](#) October 16, 2012

[Mac Cabinetry, Vista;](#) October 16, 2012

[Multimodal Esquer Inc., San Diego;](#) October 16, 2012

[San Diego Truck Body & Equipment, Lemon Grove;](#) October 16, 2012

[Atlas Wood Products, San Diego;](#) October 18, 2012

[Bimbo, San Diego;](#) October 18, 2012

[California Precision Products Inc., San Diego;](#) October 18, 2012

[Damaged Goods Motorcycle Dismantler, Escondido;](#) October 18, 2012

[El Vaquero Auto Wrecking, San Diego;](#) October 18, 2012

[Frontier Towing and Storage, San Diego;](#) October 18, 2012

[Greenfield Recycling Center, El Cajon;](#) October 18, 2012

[OC Trucking, San Diego;](#) October 18, 2012

[Our Planet Recycling, Escondido](#); October 18, 2012

[Titan, San Diego](#); October 18, 2012

[Planet Parts Auto Wrecking, San Diego](#); October 23, 2012

#### **Notice of Violation (NOV)**

[Modern Stairways, Spring Valley](#)

On October 16, 2012, NOV No. R9-2012-0067 was issued to Modern Stairways for failure to implement structural BMPs and failure to submit annual reports, both in accordance with requirements in Order No. 97-03-DWQ, *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*.

#### **Staff Enforcement Letters (SEL)**

[Scripps Institute of Oceanography, UC San Diego](#)

An SEL was issued to Scripps Institute of Oceanography on October 29, 2012 for an exceedance of the monthly average limitations for PAHs and TCDD, and multiple exceedances of the daily maximum limitation for Chronic Toxicity, for discharges to the Pacific Ocean from January 2007 to April 2012, as contained in NPDES Order No. R9-2005-0008. Some of these violations are subject to mandatory minimum penalties, in accordance with Water Code section 13385 (h).

### **4. Sanitary Sewer Overflows (SSOs) September – October 2012 (Attachment B-4a – B-4c)**

*Staff Contact: Christopher Means*

The following is a summary of the sewage spills that occurred during September and October 2012 that have been reported and certified by October 31, 2012. Sewage Collection Agencies report Sanitary Sewer Overflows (SSOs) on-line using the State Water Board's CIWQS database pursuant to the requirements of State Water Board Order No. 2006-0003-DWQ (*General Statewide Waste Discharge Requirements for Sewage Collection Agencies*). Reports on sewage spills are available on a real-time basis to the public from the State Water Board's webpage.<sup>4</sup>

Because of the characteristics of untreated wastewater, sewer overflows pose a significant threat to several different types of beneficial uses of waters of the State, including habitat and ecosystem beneficial uses. Untreated wastewater typically contains high levels of ammonia. In waters affected by sewer overflows, the levels of ammonia can be toxic to aquatic organisms. Untreated wastewater also typically contains high levels of organic material. In waters affected

<sup>4</sup> The public SSO report is available on the web at:  
[https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso\\_main](https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso_main)

by sewer overflows, decomposition of this organic material can cause dissolved oxygen levels to drop below levels needed for aquatic organisms to survive.

Untreated wastewater also typically contains high levels of nutrients. In waters affected by sewer overflows, these nutrients, along with nutrients released from the decomposition of organic material in untreated wastewater, can result in increased growth of algae. Though it may not occur until conditions are conducive to algae growth, which may be months after occurrence of a sewer overflow. Decomposition of dead algae can cause oxygen levels to decrease below levels needed for aquatic organisms to survive. This cycle of increased levels of nutrients, algal blooms, algal decomposition, and decreased levels of dissolved oxygen, which is known as eutrophication, is of particular concern in water bodies where dilution is limited and where the hydraulic residence times are long. Eutrophic conditions can persist in such waters for many years. To the extent that aquatic organisms in a water body are unable to survive because of high levels of ammonia and/or low levels of dissolved oxygen, the habitat and ecosystem related functions and beneficial uses of that water body are diminished. For example, reduced abundance of benthic invertebrates in a coastal lagoon resulting from a sewer overflow can reduce the availability of food for shore birds that feed on such organisms.

**Public Spills:** During September 2012, there were 9 SSOs from public systems in the San Diego Region reported in the on-line State Water Board CIWQS database. These SSOs included 2 spills of 1,000 gallons or more and 3 spills reaching surface waters, including storm drains. The combined total volume of reported sewage spilled from all publicly-owned collection systems for the month of September 2012 was 14,886 gallons.

During October 2012, there were 15 SSOs from public systems in the San Diego Region reported in the State Water Board's CIWQS database. These SSOs included 3 spills of 1,000 gallons or more and 8 spills that reached surface waters, including storm drains. The combined total volume of sewage spills reported from all publicly-owned collection systems for the month of October 2012 was 42,275 gallons.

**Reported Private Spills:** Thirty-six discharges of untreated sewage from private laterals were reported during September and October 2012 by the collection agencies pursuant to San Diego Water Board Order No. R9-2007-0005 (*Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*). These private lateral spills included one spill of 1,000 gallons or more and 14 spills that reached surface waters, including storm drains. The combined total volume of reported sewage discharges from private lateral systems for the months of September and October 2012 was 5,931 gallons.

September - October 2011 and 2012 Comparison:

Month	Rainfall Total (In.)	Public SSOs	Private SSOs
September 2011	0.13	15	15
September 2012	Trace	9	21
October 2011	0.46	15	29
October 2012	0.70	15	15

Attached are three tables titled:

1. "September 2012 Summary of Public Sanitary Sewer Overflows in Region 9" (Attachment B-4a)
2. "October 2012 Summary of Public Sanitary Sewer Overflows in Region 9" (Attachment B-4b)
3. "Sep and Oct 2012 Summary of Private Lateral Sewage Discharges in Region 9" (Attachment B-4c)

Additional information about the San Diego Water Board SSO regulatory program is available at: <http://www.waterboards.ca.gov/sandiego/programs/sso.html>.

## **5. Fiscal Year 12/13 Annual Fee Invoices**

*Staff Contact: Jeremy Haas*

The State Water Board mailed Fiscal Year (FY) 2012-13 annual fee invoices in late October 2012. Approximately 426 invoices were mailed to dischargers in the San Diego Region for total fees of \$6,429,086. Certain programs will be invoiced later, including construction and industrial storm water, agricultural and irrigated lands, and land disposal-tipping. The State Water Board did not adopt a revised fee schedule, so no changes were made to the prior year's fee schedule. Annual fees are deposited in the Waste Discharge Permit Fund.

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the State to file a report of waste discharge with the appropriate regional water board and to pay an annual fee set by the State Water Board. Water Code Section 13260 also requires the State Water Board to adopt, by emergency regulations, an annual schedule of fees for persons discharging waste to the waters of the State. Water Code Section 13260 further requires the State Water Board to adjust the annual fees each fiscal year to conform to the revenue levels set forth in the Budget Act.

Dischargers send annual fee payments directly to the State Water Board Division of Administrative Services. The invoices are generated based on information entered by San Diego Water Board staff into the California Integrated Water Quality System (CIWQS) database. Typically about five to ten percent of invoiced parties contact the San Diego Water Board with questions about the invoices. Most inquiries are handled by the San Diego Water Board fee coordinator. Some, such as requests to terminate permit coverage, involve follow-up actions by the program staff.

The State Water Board anticipates total revenue from FY 2012-13 annual fees will be approximately \$98 million. Total expenditures from the Waste Discharge Permit Fund, including approximately \$2.3 million from projected salary savings, will be \$101 million. Fund reserves will provide an ending balance of \$8.3 million.

Information on State Water Board fees is available at <http://www.waterboards.ca.gov/resources/fees/>.

The FY 2012-13 fees schedule is available at: [http://www.waterboards.ca.gov/resources/fees/docs/fy12\\_13\\_fee\\_schedule.pdf](http://www.waterboards.ca.gov/resources/fees/docs/fy12_13_fee_schedule.pdf).

## **Part C – Statewide Issues of Importance to the San Diego Region**

### **1. Dairy Environmental Certification and Permit Fee Reduction**

*Staff Contact: Roger Mitchell*

Dairy facilities that become certified through a quality assurance program, approved by the State Water Board or under a county regulatory program approved by a Regional Water Quality Control Board (Water Board) may receive a 50 percent fee reduction.<sup>5</sup> On July 21, 2005, the State Water Board adopted a resolution approving the California Dairy Quality Assurance Program (CDQAP) as a program through which certified dairies qualify for a reduction in annual permit fees.

The CDQAP is a Statewide voluntary partnership between California dairy producers (dairies), State and federal regulatory agencies, and the University of California, aimed at promoting the health of consumers, the environment, and the health and welfare of dairy animals. Through the CDQAP, dairies can voluntarily participate in an environmental stewardship education and certification program (ES Certification), whereby dairies, as described below, are required to: attend education classes, develop environmental stewardship farm management plans, and complete an on-site evaluation.

Education: Led by the University of California Cooperative Extension, individuals involved with the day-to-day management of the dairy are required to attend educational classes related to water quality (six hours) and air quality (two hours). Through these classes individuals are exposed to various environmental issues consisting of: regulatory requirements, facility evaluation, best management practices, and development of environmental stewardship farm management plans.

Environmental Stewardship Farm Management Plans: Each dairy participating in the ES Certification program engages in a process to evaluate the existing conditions at the dairy and prepare site-specific management plans for the dairy. In some instances, a dairy may use existing plans required by regulatory agencies in place of preparing site-specific management plans. Implementation of the management plans are then evaluated during the on-site evaluation.

<sup>5</sup> Pursuant to California Code of Regulations Title 23, section 2200(c)(1),

On-site Evaluation: Dairies with personnel having completed eight hours of educational training and developed site-specific management plans, are eligible to request an independent, third-party evaluation. Using a unified checklist, dairies are evaluated to determine compliance with all local, State, and federal environmental regulations, and implementation of the dairy's environmental stewardship farm management plans. Currently, on-site evaluations are being performed by an individual contractor, recently retired from the California Department of Food and Agriculture after spending several decades as a milk inspector.

The process by which dairies meeting the requirements for ES Certification<sup>6</sup> under the CDAQP achieve a reduced fee invoice is as follows:

- 1) Representatives of the CDAQP provide the Water Boards with a list of ES Certified dairies within the region;
- 2) Water Boards review the list of ES Certified dairies and verifies compliance with their respective waste discharge requirements. Dairies which are ES Certified and have no permit violations are eligible for the 50 percent reduction of their annual fee. If a dairy meets these two requirements, the Water Board updates the dairy's profile in the California Integrated Water Quality System (CIWQS) with a quality assurance program flag.
- 3) The State Water Board, in preparing invoices, will extract the billing information from CIWQS. The quality assurance program flag in a dairy's CIWQS profile will trigger a 50 percent reduction in the annual fee invoiced to the dairy.

Members of the San Diego Water Board's Land Discharger Unit are working to develop routine communication procedures with the CDAQP to receive regular lists of ES Certified dairies within the region. The San Diego Water Board regulates a total of five dairies, none of which are certified to receive the reduction in fees.

## **2. Financial Assistance Grant and Loans Programs**

*Staff Contact: Laurie Walsh*

### **Clean Water Act (CWA) 319(h) Nonpoint Source (NPS) 2012 Grant Program**

The CWA 319(h) NPS Grant Program (Grant Program) funds \$4.5 million in planning and implementation projects each year. The Grant Program supports planning, assessment, and implementation activities to improve water quality and restore beneficial uses in watersheds identified by the NPS Program that are subject to TMDL mandated pollutant load reductions. Funds for the Grant Program are appropriated by Congress under Section 319(h) of the CWA to restore waters impaired by NPS pollution. Grant funding is available on a per project basis in

<sup>6</sup> Environmental Stewardship Certifications are valid for five years.

amounts between \$75,000 to \$125,000 for TMDL planning and assessment projects and \$250,000 to \$750,000 for TMDL implementation projects. A minimum match of 25 percent of the total project cost is required, but may be waived or reduced for projects that directly benefit a disadvantaged community. Eligible applicants include public agencies, non-profit organizations, and Indian Tribes.

For detailed information on the NPS Grant Program eligibility requirements, visit the State Water Board's CWA 319(h) NPS Program Solicitation webpage at:

[http://www.swrcb.ca.gov/water\\_issues/programs/nps/solicitation\\_notice.shtml](http://www.swrcb.ca.gov/water_issues/programs/nps/solicitation_notice.shtml).

### **Integrated Regional Water Management (IRWM) Planning**

#### ***Proposition 84 - IRWM***

Proposition 84, *the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006* (Proposition 84), was approved by California voters in the general election on November 7, 2006. The Proposition 84 IRWM grant program is aimed at encouraging water management agencies to work cooperatively towards improving the quality, quantity, and reliability of local and imported supplies through integrated water resources planning and implementation projects. Proposition 84 provides grant funding for projects that support integrated water resources management planning and implementation consistent with an IRWM Plan. There are currently three designated IRWM planning areas in the San Diego Region:

- San Diego IRWM Region: [www.sdirwmp.org](http://www.sdirwmp.org)
- South Orange County IRWM Group: [www.ocwatershed.com/wma\\_SouthOC.aspx](http://www.ocwatershed.com/wma_SouthOC.aspx)
- Upper Santa Margarita IRWM Group: [www.ranchowater.com/irwmp.aspx](http://www.ranchowater.com/irwmp.aspx)

Eligible applicants are limited to local water management agencies that submit an application on behalf of a designated IRWM planning region and certain non-profit organizations.

The Department of Water Resources (DWR) released the Round 2 Planning Grant Draft Funding Recommendations in July 2012. DWR draft funding recommendations include a \$777,050 planning grant for the Upper Santa Margarita IRWM Group. The DWR anticipates releasing the final planning grant awards in December 2012. The Proposition 84 IRWM Implementation Proposal Solicitation Package (PSP) was released in July 2012. This PSP provides instructions on applying for grant funding under Round 2 of the IRWM Proposition 84 solicitations. DWR anticipates releasing the Final 2012 Implementation PSP in November 2012 with grant applications due to DWR in March 2013.

For more detailed information go to the DWR website at:

[www.water.ca.gov/irwm/grants/index.cfm](http://www.water.ca.gov/irwm/grants/index.cfm).

***Proposition 1E - Storm Water Flood Management***

DWR released its Draft 2012 Stormwater Flood Management Proposal Solicitation Package (PSP) in July 2012. This PSP provides instructions on applying for Proposition 1E grant funding. Approximately \$92 million dollars are available during the current round of funding. This PSP works in conjunction with DWR IRWM Grant Program Guidelines to disburse Stormwater Flood Management grant funding. This part of the IRWM Grant Program is aimed at funding projects that manage storm water runoff to reduce flooding and that are consistent with IRWM Plans. Eligible applicants include local water and flood management agencies engaged in the IRWM process. Applicants are required to demonstrate a 50 percent funding match.

DWR anticipates releasing the Final 2012 Storm Water Flood Management PSP in November 2012 with grant applications due to DWR in March 2013.

For detailed information go to the DWR website at:  
[www.water.ca.gov/irwm/grants/stormwaterflood.cfm](http://www.water.ca.gov/irwm/grants/stormwaterflood.cfm).

**Proposition 84 - Storm Water Grants Program**

The Proposition 84 Storm Water Grant Program makes grant funds totaling \$90 million available to projects that support planning, monitoring, and implementation activities for the reduction and prevention of storm water contamination of rivers, lakes, and streams. Approximately \$8 million is available to finance storm water planning and monitoring projects. Approximately \$42 million is available in the first round of funding for storm water projects implementing 1) Low Impact Development (LID) and other practices to infiltrate, filter, store, evaporate, or retain runoff in close proximity to its source, and 2) TMDL related projects in water bodies subject to TMDL mandated pollutant load reductions. Grant funding is available on a per project basis in amounts between \$100,000 to \$1 million for planning and monitoring projects and \$250,000 to \$3 million for implementation projects.

The State Water Board awarded over \$10 million in Proposition 84 funding to planning and monitoring projects on July 17, 2012. Two planning projects received funding in the San Diego Region; the City of San Diego LID Project for Urban Streets (\$7.6 million) and the City of Encinitas Cottonwood Creek LID Retrofit Project (\$2.7 million). The State Water Board adopted the funding list for Proposition 84 Implementation Projects on October 3, 2012. The City of Laguna Niguel received \$1,436,512 in Implementation Grant funds to implement LID features and other storm water pollutant reduction structural BMPs as part of the Oso Creek Multi-Use Trail Project. The City of Vista made the Pending Funding List for Implementation Projects for its Paseo Santa Fe Green Street Project. Projects on the Pending Funding List must make certain specific changes to the project or provide information that answers State Water Board questions as a condition of receiving funding. If the City of Vista successfully answers these questions they could receive \$1,569,000 in Proposition 84 grant funds.

For detailed information go to the State Water Board's Proposition 84 Storm Water Grant Program webpage at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/prop84/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/prop84/index.shtml).

### **Clean Water State Revolving Fund Program (CWSRF)**

The State Water Board Division of Financial Assistance (DFA) accepts applications for CWSRF financing of eligible water quality projects on a continuous basis. The CWSRF program, established under the CWA, offers low interest financing agreements for eligible projects. Annually, the program disburses between \$200 million and \$300 million to eligible projects including, but not limited to, construction of publicly-owned facilities for wastewater treatment, water reclamation, and storm water treatment. Eligible projects also include expanded water body use projects including implementation of NPS projects or programs, and development and implementation of estuary conservation and management plans.

An eligible applicant can include any city, town, district, or other public body created under State law. Other eligible applicants can include Native American tribal governments or an authorized Native American tribal organization having jurisdiction over disposal of sewage, industrial wastes or other waste; and any designated and approved management agency under Section 208 of the CWA. Financing terms include, interest rates equal to ½ of the most recent General Obligation Bond Rate at the time of preliminary funding commitment, financing terms of 20 years and up to 30 years for small disadvantaged communities, financing amounts of up to a maximum \$50 million per agency/per year (may be waived under certain circumstances), and a repayment schedule which begins 1 year after completion of construction.

For detailed information on eligibility requirements visit the State Water Board's CWSRF webpage at: [http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/index.shtml).

### **Clean Beaches Initiative (CBI)**

The State Water Board DFA recently revised the Clean Beaches Program Guidelines (Guidelines) reopening the grant solicitation process to make available \$49.5 million in grant funds. This funding became available as the result of previously executed grants in Proposition 84, Proposition 50 and Proposition 40 that either withdrew or came in under budget.

The Guidelines contain an overview of the grant process, eligibility requirements, program priorities, proposal solicitation, review and selection process, and general requirements. CBI eligible projects include implementation projects and research projects to address CBI priorities as described in the Guidelines. Historically, funded projects include the construction of disinfecting facilities, diversions that prevent polluted storm water from reaching the beach, and scientific research that enables early notification of unhealthy swimming conditions.

For detailed information about the CBI Grant Program contact Patricia Leary, Division of Financial Assistance, [PLeary@waterboards.ca.gov](mailto:PLeary@waterboards.ca.gov) or visit [http://www.swrcb.ca.gov/water\\_issues/programs/beaches/cbi\\_projects/index.shtml#announce](http://www.swrcb.ca.gov/water_issues/programs/beaches/cbi_projects/index.shtml#announce).

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

Significant NPDES Permits,  
WDRs, and Actions of the  
San Diego Water Board

December 12, 2012

APPENDED TO EXECUTIVE OFFICER'S REPORT

TENTATIVE SCHEDULE  
SIGNIFICANT NPDES PERMITS, WDRS, AND ACTIONS  
OF THE SAN DIEGO WATER BOARD

Action Agenda Item	Action Type	Draft Complete	Written Comments Due	Consent Item
<b>January, 2013</b> <i>No Meeting Scheduled</i>				
<b>February 13, 2013</b> <i>San Diego Water Board Office</i>				
Briefing on the Enforcement Policy's Penalty Method <i>(Clemente)</i>	Information Item	NA	NA	NA
Resolution Endorsing the Strategy for Healthy Waters in San Diego Bay <i>(Carlisle)</i>	Tentative Resolution	15%		NA
Order Issuing Conditional Waiver of Waste Discharge Requirements and Rescinding the NPDES Permit for SDSU's Confined Aquatic Animal Production Facility <i>(Mata)</i>	Tentative Order	90%	28-Jan-13	Yes
City of San Diego South Bay Ocean Outfall Permit Reissuance <i>(Lim)</i>	NPDES Permit Reissuance	0%	3-Jan-13	No
<b>March 13, 2013</b> <i>San Diego Water Board Office</i>				
NPDES Permit Modification for Sea World San Diego <i>(Mata)</i>	NPDES Permit Update	50%	1-Feb-13	Yes
NPDES Phase I Municipal Separate Storm Sewer System Permit for the Entire San Diego Region <i>(Chiu)</i>	NPDES Permit Reissuance	100%	TBD	No
Total Maximum Daily Load for the Mouths of Chollas, Paleta and Switzer Creeks <i>(Honma)</i>	Hearing: Basin Plan Amendment	75%	TBD	No

**San Diego Regional Water Quality Control Board  
Conditional Waiver of Waste Discharge Requirements for  
Discharges from Agricultural and Nursery Operations: Enrollment Update**

**Introduction**

The Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural and Nursery Operations (Ag Waiver) addresses discharges resulting from commercial agricultural and nursery operations<sup>1</sup> (commercial operations). These discharges may be from irrigation return flows, storm water runoff, or other sources, and can contain pollutants that have the potential to percolate to groundwater, or run off to surface waters. The Ag Waiver is the primary tool that the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) uses to implement the State Water Resources Control Board's Irrigated Lands Regulatory Program.<sup>2</sup>

The Ag Waiver cannot be effective in protecting water quality unless the qualifying commercial operations are enrolled in and complying with the waiver. Since the Ag Waiver became effective in 2009, the San Diego Water Board staff (Staff) have made two attempts (late 2011 and early 2012) to identify owners/operators of commercial operations who had not complied with the enrollment requirements of the Ag Waiver. Commercial operations have the option to enroll as an individual agricultural operation, or as a member of a monitoring group. The purpose of Staff's attempts to identify "non-filers"<sup>3</sup> was to increase compliance with the enrollment requirements of the waiver, and to ensure fair treatment toward those commercial operators already enrolled. Enrollees insisted that without these actions, there would be no incentives for non-filers to enroll or for filers to remain enrolled.

**San Diego Water Board Efforts to Identify Non-Filers**

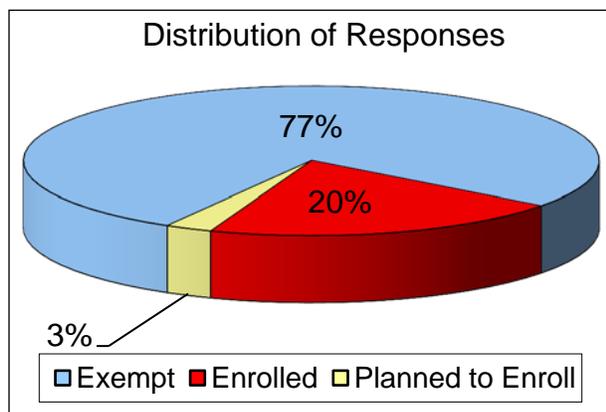
Phase 1. On August 5, 2011, Staff mailed approximately 1,800 letters to owners of properties identified as agricultural land by the Assessors of San Diego and Riverside Counties, who had yet to enroll under the Ag Waiver. Each letter included: a brochure (Attachment 1) and frequently asked questions sheet (Attachment 2) for the Ag Waiver; a request for information regarding the recipient's status as a commercial operation; and a request that each commercial operation enroll under the Ag Waiver either individually or as part of a monitoring group.

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<sup>1</sup> Commercial agricultural and nursery operations are currently defined in the Ag Waiver as those operations which generate gross sales of at least \$1,000 per average year. An average year is defined as the average gross sales for the prior three calendar years. Any agricultural and nursery operation generating gross sales less than \$1,000 per average year are conditionally exempt from the requirements of the Ag Waiver.

<sup>2</sup> See additional program information on-line at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/agriculture/](http://www.waterboards.ca.gov/water_issues/programs/agriculture/)

<sup>3</sup> The term "non-filer" refers to owners/operators of commercial operations which have not either formed or joined a Monitoring Group, or submitted a Notice of Intent to the San Diego Water Board for enrollment as an individual commercial operation under the Ag Waiver.



By late October 2011, 604 response forms (approximately 34 percent) were received by the San Diego Water Board. As illustrated in the adjacent graph, 465 of the respondents (approximately 77 percent) did not qualify as commercial operations. Sixteen of the respondents, or approximately 3 percent, indicated they were a commercial operation and ultimately enrolled under the Ag Waiver, while the remaining 123 respondents (approximately 20 percent) identified themselves as a commercial operation which had already enrolled in the Ag Waiver.

At this time, Staff respects the assertion of the 465 respondents who indicated they did not qualify as a commercial operation, and did not follow up with this group to verify their responses. Staff did follow up with the approximately 1,200 persons who failed to respond at all to the letter as described below in Phase II.

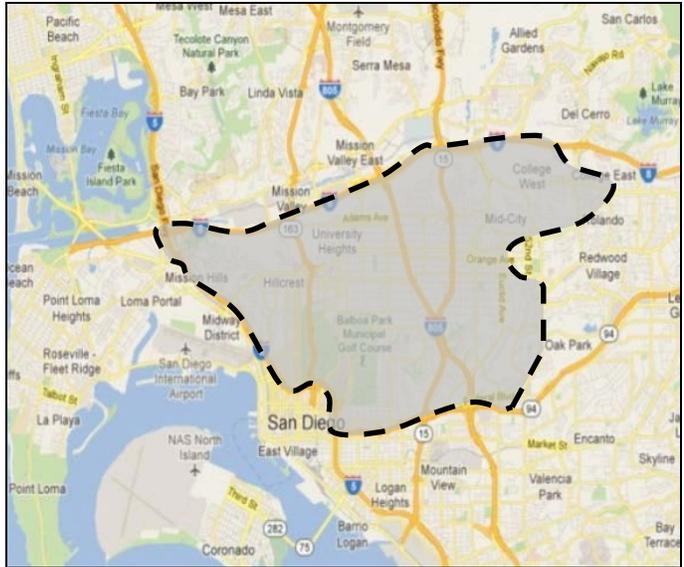
Evaluation of Mass Mailing Effort. This effort required approximately 870 hours of staff work, cost \$782 dollars in postage, and yielded 16 new enrollees. The limited results of the labor intensive mass mailing effort can likely be attributed to inaccurate data, obtained from the San Diego and Riverside Counties Assessors, and the reliance on voluntary compliance with the Ag Waiver. A response of only 34 percent means close to 1,200 suspected non-filers did not respond.

Data Quality. The effectiveness of the mass mailing approach to identifying “non-filers” within the region was limited as demonstrated by the low response rate, most likely caused by the inaccurate data obtained from both the San Diego and Riverside Counties Assessors. Aside from the difficulties in converting the original data formats into a single effective data format, the two major problems with evaluating the collective dataset were identifying: 1) those “agricultural land use” listed properties which were not, in fact, used for agriculture; and 2) those agricultural properties not located within the boundaries of the San Diego Region.

- Non-Agricultural, Agricultural Land Use Listed Properties. Initial review of the San Diego County Assessor’s land use data identified several hundred properties located within the San Diego County urbanized area as having agricultural land use. Many of these properties were located within the City of Coronado, or an area within the City of San Diego bounded by Interstate 8, Highway 94, and Interstate 5 (as illustrated on the top of the following page).

## Attachment B-1a: Ag Waiver Enrollment Update

In addition, many properties listed as having agricultural land use included lands used for grazing (which is not a component of the Ag Waiver). In an attempt to correct the data an inquiry was made to the San Diego County Assessor, however, an explanation for these apparent errors in the database could not be provided.



Approximately 77 percent of the respondents indicated that

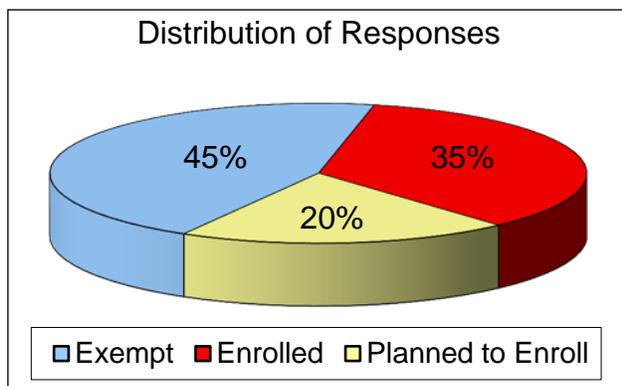
their property was not used for agricultural purposes. Most of the individuals who called the San Diego Water Board verbally expressed that agricultural activities have never been conducted on the property. Likely, these properties were once used for commercial agricultural purposes, but became residential properties prior to the current owner's purchase of the property.

- Properties Located Outside the San Diego Region. While the request to the Riverside County Assessor was limited to those properties listed for agricultural uses within the jurisdictional boundaries of the San Diego Region, Staff identified numerous agricultural properties located outside the jurisdictional boundaries. As the data provided by the Riverside County Assessor did not have either a zip code or city location for these properties, Staff was unable to efficiently locate these properties with precision.

Phase 2. In January 2012 Staff compared the list of properties which did not respond during Phase 1, to a list of properties obtained from the San Diego County Department of Agriculture, Weights, and Measures Pesticide Regulation Program. From this comparison the Staff identified 20 properties listed as having agricultural land uses with owners holding permits to purchase large quantities of pesticides.

In January 2012, Staff sent letters, via certified mail, to the owners of these 20 properties. Staff received responses from each property owner.

## Attachment B-1a: Ag Waiver Enrollment Update



As illustrated in the adjacent graph, 9 of the respondents (45 percent) indicated that they did not meet the definition of a commercial operation. As before, the validity of these claims was not verified by Staff. Seven respondents (35 percent) indicated they were commercial growers and subsequently enrolled under the Ag Waiver, while the remaining 4 respondents (20 percent) indicated they had already enrolled. Because commercial operations may be doing

business under a different name than the property owner, or pesticide registration holder, finding that respondents were already enrolled is not unusual. Staff determined that while the names supplied for the pesticide registration program and the Notice of Intent (NOI) for enrollment differed, they in fact were connected to the same commercial operation. In total, about 40 hours of staff time was expended on this effort.

### Outcome of Follow-up Meeting with Stakeholders

On July 30, 2012, the Staff held an informal meeting with representatives from the Monitoring Groups, the Riverside County Farm Bureau, the County of San Diego, PW Environmental, the Fallbrook Public Utilities District, and the United States Department of Agriculture – Natural Resources Conservation Service to discuss the San Diego Water Board's efforts to renew the Ag Waiver and identify commercial operations not yet enrolled in the Ag Waiver as an individual or as a member of a monitoring group. During the meeting representatives from two major monitoring groups in the Region (the Upper Santa Margarita Irrigated Lands Group [USMILG] and the San Diego Regional Irrigated Lands Group) expressed serious concern that only a small percentage of the commercial growers had enrolled in the Ag Waiver, and as a result several hundred commercial growers had left the monitoring groups. Staff had not received individual NOIs from these growers nor information that they enrolled in other monitoring groups. Failure to enroll either as an individual or as part of a monitoring group is a violation of the Ag Waiver. The representatives also reminded Staff that for the past two years, the monitoring groups have requested that the San Diego Water Board issue notices of violation to non-filers.

Staff requested the monitoring groups' provide the names and contact information of the commercial growers who have not enrolled in the Ag Waiver as well as those who have left the monitoring groups. Representatives of the monitoring groups asserted that it was inappropriate for them to identify the non-filers to the San Diego Water Board, or those who have left the monitoring groups as it "was not their job."

To the contrary, section 4.I.B(8) of the Ag Waiver specifically states that, "the monitoring group must inform the San Diego Water Board when any member ceases to participate

## Attachment B-1a: Ag Waiver Enrollment Update

in the monitoring group within 30 days of the cessation of participation.” Furthermore, the Ag Waiver specifies that any member who ceases to participate in a monitoring group must file a NOI as an individual commercial operation within 30 days of ceasing to participate in the monitoring group.

Failure to provide the appropriate notification to the San Diego Water Board will result in a progressive enforcement approach from informal to formal enforcement options. Oral enforcement, a staff enforcement letter, and a notice of violation issued to a Discharger for non-compliance, are the progressive, least labor intensive and informal steps in the typical enforcement process. The choice of follow-up action(s), in this situation, should be based upon decisions about how best to achieve compliance with the applicable requirements. Ultimately, the San Diego Water Board can issue an Administrative Civil Liability complaint and impose monetary penalties on the discharger. In accordance with California Water Code section 13350, any person who, in violation of waiver conditions, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State, is liable civilly, and the San Diego Water Board may impose fines. For instances when an order is violated, but no discharge has occurred, civil liability shall not be less than one-hundred dollars for each day in which the violation occurs.

Hearing the concerns expressed by stakeholders at the July 30 meeting, Staff suggested representatives of the monitoring groups speak during the Public Forum item at a future Board Meeting to present this issue to the San Diego Water Board. Consequently, Mr. Ben Brake and Mr. Gary Woodworth (of the USMILG) did speak during the public forum at the November meeting, and conveyed their frustration and concerns regarding their perceived lack of enforcement against non-filers. This paper, in part, is a response to Mr. Brake’s and Mr. Woodworth’s comments at the public forum.

One USMILG representative suggested another approach to identify non-filers using the list of customers with “agricultural meters” from the Rancho California Water District (RCWD). This list contains the names and addresses of individuals who have qualified for agricultural water rates and are conducting irrigated agriculture on the listed properties. Staff initially contacted RCWD for this information in November 2011. After receiving no response, the representative provided Staff with the name and direct phone number of the General Manager of the RCWD. Staff then contacted the General Manager and requested the information which was subsequently received on August 24, 2012. Staff is in the process of evaluating the list of agricultural water users against the list of enrollees to identify potential non-filers.

Another Stakeholder suggestion to identify non-filers was to overlay the GIS layers of the individuals enrolled in the groups with areas of agricultural land uses. Although this method might be useful, the San Diego Water Board does not have the in-house GIS capability to do this analysis. In addition, ground-truthing the results of this analysis will be very resource intensive in terms of staff time.

## Summary

Staff expended over 900 hours on efforts to identify non-filers resulting in 23 new commercial operators enrolling in the Ag Waiver. With all of the demands on the Waste Discharge Requirements Program (Task Code 126), Staff cannot continue to expend this level of effort for these meager results, especially because the Monitoring Groups claim to have direct knowledge of non-filers and could provide that information directly to Staff. Staff intends to follow up on the information received from the RCWD to identify non-filers. Other approaches to finding non-filers are too labor intensive to pursue in light of the program resources available.

As specified in the Ag Waiver, Monitoring Groups must inform the San Diego Water Board when any member ceases to participate in the monitoring group within 30 days of cessation of participation. Furthermore, any member who ceases to participate in a monitoring group must file a NOI as an individual commercial operation within 30 days of ceasing to participate in the monitoring group. Staff intends to follow up with the Monitoring Groups to enforce this provision of the Ag Waiver.

## **Potential Enforcement Actions**

As described above, the State Water Board's Enforcement Policy endorses a progressive approach to compliance from informal to formal enforcement options. The choice of follow-up formal action(s) should be based upon decisions about how best to achieve compliance with the applicable requirements. Ultimately, the San Diego Water Board can issue either a Cease and Desist Order, or a Administrative Civil Liability complaint and impose monetary penalties for violations of the Ag Waiver.

Pursuant to section 4.I.E.4 of the Ag Waiver, each monitoring group and each individual operation not in a monitoring group must submit one Monitoring and Reporting Program Plan (MRPP) and a Quality Assurance Project Plan (QAPP) to the San Diego Water Board by January 1, 2012. Monitoring groups and/or each individual operation not in a monitoring group, not having submitted a MRPP/QAPP by January 1, 2012 may be in violation of the Ag Waiver, and therefore may be subject to an approximate fine of \$34,000.<sup>4</sup>

The Ag Waiver required commercial operators to file a NOI with the San Diego Water Board no later than January 1, 2011, enrolling the operator in the waiver either individually or as part of a monitoring group. Commercial operators who have failed to do so are in violation of the waiver and could be subject to an approximate fine of \$67,000.

## **Next Steps**

Staff is in the process of coordinating and conducting site visits to enrolled commercial operations for the purpose of assessing compliance with the BMP and other conditions

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<sup>4</sup> Civil liability calculated to the date of this white paper

## Attachment B-1a: Ag Waiver Enrollment Update

in the waiver. The documentation from this effort should provide significant additional information upon which to evaluate compliance with and effectiveness of the conditions in the waiver. In addition, Staff will begin working with the Monitoring Groups to identify those members who have ceased to participate in the Monitoring Groups, and follow-up with those individual commercial operations, reminding them to submit a NOI. Finally, Staff is in the process of reviewing and correlating the data submitted by the RCWD to identify potential non-filers.

## For More Information

For Additional Information You Can:

Call Barry Pulver at (858) 476-2733

E-mail your questions to [AqWaiverHotline@waterboards.ca.gov](mailto:AqWaiverHotline@waterboards.ca.gov)

Visit our website at [www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego) and click on the Irrigated Lands link.

Contact any of the monitoring groups:

Rainbow Municipal Water District  
(760) 728-1178

San Diego Regional Irrigated Lands  
Monitoring Group (760) 745-3023

San Mateo Irrigated Lands Group  
(619) 851-4795

Upper Santa Margarita Irrigated Lands  
Group (951) 595-2692

The California Regional Water

Quality Control Board, San Diego

Region (San Diego Water Board)

is the state regulatory agency

responsible for protecting surface

and groundwater quality within

the San Diego Region. The San

Diego Region includes nearly all

of San Diego County as well as

portions of Riverside County and

Orange County. The mission

statement of the San Diego Water

Board is: "to preserve, enhance

and restore the quality of

California's water resources, and

ensure their proper allocation and

efficient use for the benefit of

present and future generations."



### San Diego Water Board

9174 Sky Park Court, Suite 100

San Diego, California 92123

## The San Diego Water Board's Agriculture

### Waiver

for Landowners and/or Operators  
of Agricultural and Nursery  
Operations



Water Boards

San Diego Water Board

9174 Sky Park Court, Suite 100  
San Diego, California 92123

Phone: (858) 467-2952

## What Is A Conditional Agriculture Waiver?

On October 10, 2007, the San Diego Water Board adopted Conditional Waiver No. 4 – Discharges from Agricultural and Nursery Operations (Ag Waiver). The Ag Waiver protects water quality from pollution discharges of waste and storm water runoff associated with agricultural and nursery operations.

### Why Is The Waiver Needed?

Discharges from agricultural and nursery operations are known to contain suspended sediments, salts, nutrients and pesticides. These pollutants can impair water quality and make the water unfit for many uses. The Ag Waiver is intended to protect water quality and assist agricultural and nursery operations in complying with existing laws and regulations.

### Does The Ag Waiver Apply to me?

The Ag Waiver only applies to farmers and nursery operators (including green houses) that gross at least \$1,000 per year.

## What Do I Have to Do?

1. Submit a Notice of Intent to enroll under the Ag Waiver. You may enroll as an individual or join one of the existing monitoring groups. Contact information for the monitoring groups is presented on the back of this brochure.
2. Submit a plan to the San Diego Water Board to test water quality related to your agricultural activity.
3. Conduct water testing and submit the results to the San Diego Water Board.
4. Use measures, known as Best Management Practices (BMPs) to reduce or eliminate the discharges of wastes from your property.
5. Inspect your property and maintain records that the BMPs are working.
6. Attend a training class, once a year, on BMPs.

## Where Can I Get Help?

Several monitoring groups have been created to assist commercial growers. These monitoring groups can assist with developing and conducting monitoring programs, training, and record keeping. These monitoring groups are not associated with the San Diego Water Board. See back of flyer for names of monitoring groups and contact information.

## How Much Will This Cost?

The San Diego Water Board does not charge any fees to enroll in the Ag Waiver. The costs to prepare the monitoring plans and conduct the monitoring are outside the control of the San Diego Water Board so we can not provide an accurate estimate of the cost. Also, there may be a fee to join a monitoring group.

## What If I Don't Enroll?

Because the Ag Waiver is intended to protect and improve water quality failure to enroll in the Ag Waiver is a serious matter. Enforcement actions, including monetary penalties will occur if you fail to enroll in the Ag Waiver. Failure to respond to this order can result in monetary penalties of up to \$1,000/day.

## What Geographical Area Is Required to Enroll?

All growers within the San Diego Region are required to enroll in the Ag Waiver. The San Diego Region extends northward from the California-Mexico border to southern Orange County and eastward from the Pacific Ocean to the eastern portion of San Diego County and portions of Riverside County.

## **Frequently Asked Questions - Conditional Waiver No. 4 Discharges from Agricultural and Nursery Operation The “Ag Waiver”**

### **What is the San Diego Regional Water Quality Control Board?**

The California Regional Water Quality Control Board - San Diego Region (San Diego Water Board) is the state regulatory agency responsible for protecting surface and groundwater quality within the San Diego region. The San Diego region covers 3,900 square mile and includes most of San Diego County as well as portions of Riverside County and Orange County. The mission statement of the San Diego Water Board is: “to preserve, enhance and restore the quality of California’s water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.”

There are five members who serve on the San Diego Regional Water Board.

### **What is Conditional Waiver No. 4 – Discharges from Agricultural and Nursery Operations?**

Conditional Waiver No. 4 – Discharges from Agricultural and Nursery Operations (Ag Waiver) regulates discharges of waste and storm water runoff associated with irrigated agricultural and nursery operations. It was adopted by the San Diego Water Board on October 10, 2007. The Ag Waiver was drafted in response to Federal and State legislation, which requires sources of (nonpoint sources of pollution, which have not been regulated under established permitting programs, to either obtain permits for discharging waste or to be regulated under permit waivers. The Ag Waiver provides growers with a streamlined process to comply with Federal and State regulations.

### **Is this a new requirement?**

No. The Ag Waiver was adopted in October 2007. Prior to adopting the Ag Waiver, the San Diego Water Board conducted several public workshops to allow the regulated community and interested parties to participate in its preparation.

### **Why is it necessary to control waste discharges related to irrigated agriculture?**

The Ag Waiver is needed to protect water quality. The Federal Clean Water Act (CWA) was enacted in 1972 years ago to eliminate releases of toxic chemicals into water. During the three decades since adoption of the CWA pollution from many of the point sources of pollution (such as sewage treatment plants and manufacturing facilities) have been addressed which have resulted in improvements to water quality. However, nonpoint sources (such as runoff from agricultural operations) still degrade water quality. The Ag Waiver addresses the pollution from agricultural operations which will protect water quality.

Historic and current agricultural activities have adversely impacted surface water and groundwater. The 2000 National Water Quality Inventory, states reported that agricultural nonpoint source pollution was the leading source of water quality impacts on surveyed rivers and lakes, the second largest source of impairments to wetlands, and a major contributor to contamination of surveyed estuaries and ground water. Pollutants from agricultural activities include phosphorus, nitrogen, salts, and pesticides. These pollutants have prevented the use of water and/or increased costs to treat Att

## **Frequently Asked Questions - Conditional Waiver No. 4 Discharges from Agricultural and Nursery Operation The “Ag Waiver”**

water/stormwater discharges/municipal sewage for downstream users. Because water is a limited, a precious resource that is protected by law, the San Diego Water Board must protect water quality.

### **How do we know that historic and current agricultural activities have impacted water?**

It has been determined that At least 200 miles of rivers/streams and 3,500 acres of lakes/reservoirs in the San Diego Region have been impacted by irrigated agriculture. The Federal Clean Water Act, section 303(d), requires states to identify and make a list of water bodies that are polluted. These water bodies, referred to in law as, “water quality limited segments”, do not meet water quality standards. Statewide, approximately 9,493 miles of rivers/streams and 513,130 acres of lakes/reservoirs are listed as being impaired by irrigated agriculture. At least 200 miles of rivers/streams and 3,500 acres of lakes/reservoirs in the San Diego Region have been impacted by irrigated agriculture.

### **Does everyone who grows plants have to enroll?**

Only commercial growers are required to enroll. A commercial grower is someone who grosses at least \$1,000 per year (as an average) from the sale of their crop.

### **How much does it cost to enroll in the Ag Waiver?**

There is no fee to enroll in the Ag Waiver.

### **Why must small farmers be included? Isn't the “lion's share” of water pollution caused by the large growing operations?**

According to the County of San Diego 2009 Crop Statistics & Annual Report, 68 percent of the farms in San Diego County are less than 10 acres in size. The cumulative effect of the contributions of pollutants to surface water and groundwater may be significant.

### **What are the conditions of the Ag Waiver?**

The major requirements are:

- a. **Submit a Notice of Intent (NOI) to enroll in the Ag Waiver by December 30, 2010.** Growers may enroll either individually or as a member of a monitoring group. By enrolling in the conditional waiver, growers agree to the conditions of the waiver.
- b. **Submit a Monitoring and Reporting Program Plan (MRPP) and Quality Assurance Project Plan (QAPP) for testing of site-related discharges by December 30, 2011.** These plans describe the procedures that will be used to obtain and test water samples. The monitoring groups will submit these plans on the behalf of enrolled growers.

## **Frequently Asked Questions - Conditional Waiver No. 4 Discharges from Agricultural and Nursery Operation The “Ag Waiver”**

- c. Conduct water quality monitoring (sampling runoff or surface water samples and testing the samples for pollutants). For those growers enrolled in a monitoring group, the water testing and runoff sample will be done by the monitoring group.
- d. **Submit a monitoring report which describes how the monitoring was conducted and the results of the monitoring by December 31, 2012.** The monitoring groups can submit the reports on behalf of enrolled growers.
- e. Implement measures to minimize or eliminate the discharge of waste associated with the agricultural activity. Measures that are implemented to reduce or eliminate discharges of waste are generally referred to as Best Management Practices (BMPs). Each individual grower is responsible for BMP implementation. However, monitoring groups, along with support agencies such as Resource Conservation Districts, Natural Resources Conservation Service and UC Davis Extension and the Regional Board can provide assistance in assessing the need for and implementing BMP improvements.

### **How often will I be required to perform monitoring?**

The Ag Waiver requires one year of monitoring (to be performed in 2012). The waiver that applies to the years 2014 through 2019 will specify requirements for continued monitoring.

### **What is the difference between enrolling individually and enrolling as a member of monitoring group?**

If you enroll as an individual, you are solely responsible for submitting the MRPP and QAPP plans, performing water quality monitoring, and reporting the results of monitoring. Group leaders carry out or oversee the implementation of monitoring and reporting which is done on behalf of the members of the monitoring group. Therefore, the costs of performing monitoring and reporting are spread among the members of the group. It is estimated that an individual grower would have to spend about \$14,000 during the first year of the waiver to develop and Monitoring and Reporting Plan and Quality Assurance Plan. Annual costs after the first year related to conducting water quality testing and preparation of monitoring reports will also be significant.

### **Is there a fee for joining a monitoring group?**

Yes. Monitoring groups will charge fees in order to cover the costs of submitting the MRPP and QAPP and the implementation of water quality testing, and reporting. The monitoring group will also prepare and submit the Notice of Intent for enrollment for the members of the monitoring group. The monitoring group may provide other forms of assistance as well.

### **Does the San Diego Water Board dictate what Best Management Practices must be used?**

No. Under State law the San Diego Water Board is prohibited from dictating which BMPs must be used. BMPs should be developed by those with extensive knowledge of

## **Frequently Asked Questions - Conditional Waiver No. 4 Discharges from Agricultural and Nursery Operation The “Ag Waiver”**

crop production, resource management, and local conditions such as the growers themselves, as well as Resource Conservation Districts, the Natural Resources Conservation Service, County Agricultural Departments, UC Cooperative farm advisors, and farm bureaus.

### **What if I do not enroll in the Ag Waiver or submit a Report of Waste Discharge?**

Not enrolling is a violation of the State Water Code. Pursuant to the State Water Code, all dischargers of waste must either be covered under Waste Discharge Requirements or Conditional Waivers. The San Diego Water Board will take enforcement action when a discharger of agricultural waste fails to obtain necessary coverage. Enforcement actions include issuance of Notices of Violation to notify dischargers that they are in violation of the Water Code and the issuance of monetary penalties.

### **Will the waiver requirements remain the same or can they be amended?**

As required under the State law, waivers must be reviewed every five years. The San Diego Water Board has begun the five-year review. The San Diego Water Board will soon begin public workshops as part of the review to determine if the Ag Waiver will be renewed as is or revised and renewed. Please contact the San Diego Water Board if you wish to participate in the review of the Ag Waiver.

### **How can I stay informed?**

Owners and operators of irrigated lands are strongly encouraged to contact local agricultural resource agencies or the San Diego Water Board to learn more about the program and receive updates as the program develops. Sign up on our electronic mailing list at the following website.

[http://www.waterboards.ca.gov/resources/email\\_subscriptions/reg9\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/reg9_subscribe.shtml)

Questions regarding the technical aspects of the program should be directed to:

Barry Pulver, Monitoring Assessment and Research Unit, (858) 467-2733 or  
[bpulver@waterboards.ca.gov](mailto:bpulver@waterboards.ca.gov)

The Ag Waiver Hotline at [AgWaiver.waterboards.ca.gov](http://AgWaiver.waterboards.ca.gov)

## Attachment B-4a

September 2012 - Summary of Public Sanitary Sewer Overflows in Region 9										
Responsible Agency	Collection System	Total Number of SSO locations	Total Vol of SSOs (gal)	Total Vol Recovered (gal)	Total Vol Reaching Surface Water	Percent Recovered	Percent Reaching Surface Water	Miles of Pressure Sewer	Miles of Gravity Sewer	Miles of Laterals
<b>Category 1 SSO</b>										
Eastern Municipal Water District	Temecula Valley RCS	1	9,500	9,500	6,750	100	71	22	457	0
La Mesa City	City Of La Mesa CS	1	280	140	0	50	0	0	155	0
San Clemente City	City Of San Clemente CS	1	4,400	0	4,000	0	90	4	180	0
<b>Category 2 SSO</b>										
La Mesa City	City Of La Mesa CS	2	375	375	0	100	0	0	155	0
San Diego City	San Diego City CS	2	266	266	0	100	0	145	3,002	2,000
UC San Diego	University Of California, San Diego CS	1	35	35	0	100	0	2	25	3
Vallecitos Water District	Meadowlark CS	1	30	30	0	100	0	7.6	247.8	0
<b>TOTALS</b>		<b>9</b>	<b>14886</b>	<b>10346</b>	<b>10750</b>			<b>180.6</b>	<b>4221.8</b>	<b>2003</b>

CS = Collection System

Category 1 SSO = All discharges of sewage from a sanitary sewer system that exceed 1000 gallons, or result in a discharge to a surface water, or discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system.

Category 2 SSO = All other discharges of sewage resulting from a failure in the sanitary sewer system

## Attachment B-4b

October 2012 - Summary of Public Sanitary Sewer Overflows in Region 9										
Responsible Agency	Collection System	Total Number of SSO locations	Total Vol of SSOs (gal)	Total Vol Recovered (gal)	Total Vol Reaching Surface Water	Percent Recovered	Percent Reaching Surface Water	Miles of Pressure Sewer	Miles of Gravity Sewer	Miles of Laterals
<b>Category 1 SSO</b>										
Carlsbad MWD	Carlsbad MWD CS	1	34,040	0	32,040	0	94	4.8	282	0
Chula Vista City	City Of Chula Vista CS	1	80	55	25	68	31	2.6	501	0
Del Mar City	City Of Del Mar CS	1	300	0	300	0	100	1.8	29	0
Laguna Beach City	City Of Laguna Beach CS	2	18	16	2	88	11	4.5	95	0
San Diego City	San Diego City CS	2	4,062	37	4,025	0	99	145	3002	2,000
South Coast Water District	South Coast Water District CS	1	1,600	200	1,400	12	87	3	138	0
<b>Category 2 SSO</b>										
Escondido City	Harrf Disch To San Elijo Oo CS	1	90	0	0	0	0	10.7	370	0
Fallbrook Public Utility Dist	Fallbrook Plant 1 CS	1	15	15	0	100	0	0.6	76.8	0
La Mesa City	City Of La Mesa CS	1	400	0	0	0	0	0	155	0
Marine Corps Base, Camp Pendleton	Usmc Base, Camp Pendleton CS	2	850	50	0	5	0	48.4	104	80
Oceanside PWD	La Salina WWTP CS	1	720	0	0	0	0	35.6	439.7	0
Vista City	City Of Vista CS	1	100	95	0	95	0	0.2	215.1	0
<b>TOTALS</b>		<b>15</b>	<b>42275</b>	<b>468</b>	<b>37792</b>			<b>257.2</b>	<b>5407.6</b>	<b>2080</b>

CS = Collection System

Category 1 SSO = All discharges of sewage from a sanitary sewer system that exceed 1000 gallons, or result in a discharge to a surface water, or discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system.

Category 2 SSO = All other discharges of sewage resulting from a failure in the sanitary sewer system

## Attachment B-4c

September and October 2012 - Summary of Private Lateral Sewage Discharges in Region 9								
Reporting Agency	Collection System	Total Number of PLSD locations	Total Vol of PLSDs (gal)	Total Vol Recovered (gal)	Total Vol Reaching Surface Water	Percent Recovered	Percent Reaching Surface Water	Miles of Private Lateral
<b>Category 1 PLSD</b>								
Chula Vista City	City Of Chula Vista CS	1	75	45	30	60	40	0
El Cajon City	City Of El Cajon CS	2	55	10	55	18	100	189
Escondido City	Harr Disch to San Elijo CS	1	809	500	309	61	38	83.2
Laguna Beach City	City Of Laguna Beach CS	1	15	13	2	86	13	102
Leucadia Wastewater District	Leucadia Wastewater District CS	1	15	10	5	66	33	300
San Diego City	San Diego City CS	7	3,283	2,340	943	71	28	4,049
Vallecitos Water District	Meadowlark CS	1	4	0	4	0	100	312
<b>Category 2 PLSD</b>								
Carlsbad MWD	Carlsbad MWD CS	1	440	440	0	100	0	0
Chula Vista City	City Of Chula Vista CS	5	190	42	0	22	0	0
Eastern Municipal Water District	Temecula Valley RCS	1	100	0	0	0	0	0
El Cajon City	City Of El Cajon CS	2	340	40	0	11	0	189
Encinitas City	City Of Encinitas CS	1	5	5	0	100	0	0
Laguna Beach City	City Of Laguna Beach CS	1	3	3	0	100	0	102
National City	City Of National City CS	1	30	10	0	33	0	48
Padre Dam Municipal Water District	Padre Dam CS	1	49	38	11	77	22	0
Poway City	City Of Poway CS	1	10	0	0	0	0	127
San Diego City	San Diego City CS	6	475	475	0	100	0	4,049
Vallecitos Water District	Meadowlark CS	1	15	15	0	100	0	312
Vista City	City Of Vista CS	1	18	18	0	100	0	15
	<b>TOTAL</b>	<b>36</b>	<b>5931</b>	<b>4004</b>	<b>1359</b>			<b>9877.2</b>

PLSD = Private Lateral Sewage Discharge

Category 1 PLSD = All discharges of sewage from a private sewer lateral that exceed 1000 gallons, or result in a discharge to a surface water, or discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system.

Category 2 PLSD= All other discharges of sewage resulting from a failure of a private sewer lateral