

**California Regional Water Quality Control Board  
San Diego Region**

**David Gibson, Executive Officer**



**Supplemental Executive Officer's Report  
May 11, 2022**

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**Attachments are provided as individual PDF files.**

## Part B – Significant Regional Water Quality Issues

### 1. Public Breaching of Sand Berm at the Mouth of Aliso Creek *Staff Contact: Laurie Walsh*

The San Diego Water Board continues to receive complaints regarding the breaching of the natural sand berm at the mouth of Aliso Creek. The complaints focus on the potential impacts to human health and marine habitat from the public's random, but frequent, breaching of the natural sand bar berm. Below is a chronology of events on the matter.

December 31, 2020	San Diego Water Board Executive Officer issued Investigative Order R9-2020-0275 (Investigative Order) to Orange County. <b>See Attachment 1</b>
November 8, 2021	Executive Officer's Report. <b>See Attachment 2</b>
March 1, 2021	Orange County Technical Report Response to Investigative Order. <b>See Attachment 3</b>
September 24, 2021	San Diego Water Board Executive Officer's Letter Response to Michael Beanan regarding the County of Orange's Technical Report response to the Investigative Order. <b>See Attachment 4</b>
Undated	Surfrider Foundation Enforcement Letter Request to Orange County Parks and Orange County Public Works. <b>See Attachment 5</b>
March 9, 2022	California Coastal Commission Letter to Orange County Parks Offering Assistance and Encouraging Orange County Enforcement along with Education. <b>See Attachment 6</b>
March 29, 2022	Orange County Register News Article Titled: California Coastal Commission Calls on County to Step Up Enforcement at Aliso Creek Berm. <b>See Attachment 7</b>
April 29, 2022	Michael Beanan Requests San Diego Water Board Reissue Investigative Order. <b>See Attachment 8</b>

The County of Orange complied with the San Diego Water Board Investigative Order. Staff's review of the County of Orange's March 2021 Technical Report concluded there is inadequate evidence to support the conclusion that water flows from Aliso Creek mouth to the Pacific Ocean, resulting from the public's berm breaching, cause a condition of pollution that unreasonably affects the water quality beyond a degree that is protective of water contact recreation (REC-1) and marine habitat (MAR) beneficial uses at the mouth of Aliso Creek. Further, the factual circumstances surrounding the public's berm breaching activities do not lend themselves to being addressed as a violation of Regional Municipal Separate Storm Sewer Systems Permit provisions or through other Water Code enforcement tools available to the San Diego Water Board because recent historical beach water quality data was supportive of REC-1 beneficial use and there is inadequate evidence to conclude marine habitat at the mouth of Aliso Creek has been adversely impacted.

The digging and berm breaching on Aliso Beach by members of the public that results in water flows used for skimboarding primarily implicates public safety, land use, and political

considerations. Under these circumstances, evaluating whether and how to exercise enforcement authority is the proper function of county, rather than state government.