

California Regional Water Quality Control Board, San Diego Region

REVISED¹ HEARING PROCEDURES AND ORDER OF PROCEEDINGS

**Public Hearing to Consider Adoption of Tentative Order No. R9-2013-0001,
NPDES No. CAS01092662 and Waste Discharge Requirements for
Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the
Watersheds Within the San Diego Region**

**April 10 and 11, 2013
Beginning at 9:00 a.m. Each Day
California Regional Water Quality Control Board, San Diego Region
Regional Water Board Room
San Diego Water Board Office Building
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340**

By prior public notice dated March 5, 2013, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) announced its intent to conduct a public hearing on April 10 and 11, 2013, to receive testimony and comments and consider adoption of Tentative Order No. R9-2013-0001, NPDES No. CAS0109266, *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Tentative Order). After consideration of all requests, taking into account that oral comments are limited to revisions to the Tentative Order, that the revisions were made in response to oral and written comments, the complexity and number of issues under consideration, the extent to which parties have coordinated, the number of parties and members of the public participating, the opportunity to submit written comments that are part of the administrative record, the extent to which the parties have identified unique interests, the time available for the hearing, and to allow the Board ample time to ask questions and deliberate, the following Procedures and Order of Proceedings, including time allocated to each Party or group of Parties and members of the public, will be followed at the April 10 and 11, 2013, public hearing. ~~This Order of Proceedings sets forth additional details on the procedures and order of presentations the San Diego Water Board will follow at the public hearing.~~

¹ [The applicable Hearing Procedures and Order of Proceedings are revised to reflect procedural rulings made on April 3, 2013.](#)

SCOPE OF HEARING

The Tentative Order was released for public review and comment on October 31, 2012. The written comment period ended January 11, 2013. All timely written comments received are posted on the San Diego Water Board website, at http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/stormwater/index.shtml. No subsequently filed written comments have been accepted into the record at this time. Other than speaker cards and copies of electronic presentations or exhibits (see below) no new written materials will be accepted into the record at the April 10-11, 2013 hearing. As indicated in prior notices, the scope of oral testimony at the public hearing will be ~~strictly~~ limited to summarizing the previously submitted written comments, commenting on revisions to the Tentative Order- made since the written comment period closed, and making policy statements. ~~No new issues may be raised at the hearing.~~ As determined by the Board in Rulings issued April 3, 2013, within the above constraints, Parties to the proceeding will also be allowed to use their presentation time to present witnesses, introduce exhibits, conduct cross-examination and offer rebuttal testimony. Parties are reminded that testimony and exhibits may not include the introduction of new evidence.

PARTICIPANTS IN THIS PROCEEDING

Participants in this proceeding are identified as either "Parties" or "interested persons." It is not necessary to be designated as a party in order to participate in the hearing for this proceeding. Both interested persons and Parties will have the opportunity to present oral comments, to make arguments about the appropriateness, wisdom or utility of all or portions of the Tentative Order, and to comment on revisions to the Tentative Order. Both interested persons and Parties may be asked to respond to clarifying questions from the San Diego Water Board, staff, or others, at the discretion of the San Diego Water Board. However, interested persons may not present evidence and are not subject to cross-examination. An interested person may request more time to speak than is typically allotted to interested persons and such requests may be granted at the Chair's discretion.

San Diego County, Riverside County and Orange County Copermittees are designated as parties in this proceeding under the applicable State Water Resources Control Board's regulations set forth in California Code of Regulations, title 23, article 2, section 648, et seq. (See Cal. Code Regs., tit. 23, § 648.1(a).) The San Diego Water Board has discretion to determine who, in addition to the Copermittees, should be designated as a party for purposes of this proceeding. In its Ruling issued April 3, 2013, the Board has determined that the following entities are appropriate additional Parties to this proceeding.²

² The San Diego Water Board staff is not a party to the proceeding. This is a proceeding to consider adoption of a permit, which does not involve investigative, prosecutorial or advocacy functions. Staff's proposals, recommendations and participation in this proceeding are for the purpose of advising and assisting the San Diego Water Board in considering the Tentative Order.

Additional Parties:

1. Natural Resources Defense Council
 2. San Diego Coastkeeper
 3. Orange County Coastkeeper
 4. Inland Empire Waterkeeper
- (Additional Parties 1 through 4 are collectively referred to as the Environmental Group)

5. Building Industry Association of San Diego County (BIASD)
 6. Building Industry Association of Southern California
 7. Associated General Contractors, San Diego
 8. San Diego Regional Chamber of Commerce
 9. Building Owners and Managers Association
 10. San Diego County Apartment Association
 11. San Diego Association of Realtors
 12. Alliance for Habitat Conservation
 13. San Diego Chapter of the American Association of Landscape Architects
 14. Associated Builders and Contractors
 15. Business Leadership Alliance
 16. National Association of Industrial and Office Properties
- (Additional Parties 5 through 16 are collectively referred to as the Building Industry Coalition)

HEARING PROCESS

During the public hearing, San Diego Water Board staff will present an overview of the Tentative Order, written responses to comments received and recommended revisions to the Tentative Order. For this proceeding, San Diego Water Board staff will begin, followed by representatives of the following Parties or interested persons: 1) U.S. Environmental Protection Agency~~the San Diego County, Orange County and Riverside County Copermittees~~; 2)~~U.S. Environmental Protection Agency~~ the San Diego County, Orange County and Riverside County Copermittees; 3) Clean Water Now 4) the Environmental Group consisting of Natural Resources Defense Council, San Diego Coastkeeper, Orange County Coastkeeper and Inland Empire Waterkeeper~~Non-governmental Organizations (NGOs)~~; and 5) a Coalition of Building Industry trade and professional associations (Building Industry Coalition)~~Building Industry Groups~~.³⁴ Participants within these groups are encouraged to consolidate their presentations to save hearing time and/or avoid duplication.

³ The groups within the Building Industry Coalition are: (1) Building Industry Association of San Diego County (BIASD), (2) Building Industry Association of Southern California, (3) Associated General Contractors, San Diego, (4) San Diego Regional Chamber of Commerce, (5) Building Owners and Managers Association, (6) San Diego County Apartment Association, (7) San Diego Association of Realtors, (8) Alliance for Habitat Conservation, (9) San Diego Chapter of the American Association of Landscape Architects, (10) Associated Builders and Contractors, (11) Business Leadership Alliance and (12) National Association of Industrial and Office Properties.

~~⁴ These participants have been identified based upon prior participation through written comments, stakeholder meetings and public workshops held in November and December 2012.~~

For Parties, the allocated times below include time for any opening statement, main presentation, presentation of witnesses, introduction of exhibits, cross-examination, rebuttal and/or closing argument. Direct testimony should be presented in narrative format. To facilitate the orderly conduct of the hearing, to the extent Parties within a consolidated Group wish to cross-examine other Parties' witnesses, they should designate one representative to conduct the cross-examination.

After these presentations, the San Diego Water Board will hear from the public (interested persons) and elected officials, subject to times certain (see below). Interested persons with similar concerns or opinions are encouraged to choose one representative to speak, and are encouraged to coordinate their presentations with each other and to summarize their written comments. Interested persons may not cede their unused time to others, but the Chair will entertain requests for extra time from interested persons speaking on behalf of multiple interested persons.

Speakers will be interrupted not earlier than 4:00 p.m. on April 10 so that the San Diego Water Board can hear from interested persons other than representatives of the groups identified by name in this order of proceedings. At 9:15 a.m. on April 11, ~~or as soon thereafter as practicable,~~ elected officials will be invited to comment.⁵ ~~elected officials will be invited to speak.~~ Interested persons may present comments and arguments about the appropriateness, wisdom or utility of all or portions of the Tentative Order, and may comment on revisions to the Tentative Order. However, interested persons may not present evidence and are not subject to cross-examination.

ORDER OF PROCEEDINGS

Chair's opening remarks, introductory items, administration of the oath to persons who intend to testify	10 minutes
San Diego Water Board Staff Presentation	1.5 Hours
<u>US Environmental Protection Agency</u> San Diego County, Orange County and Riverside County Copermittees	<u>30 Minutes</u> 3 Hours (Total)
US Environmental Protection Agency <u>San Diego County, Orange County and Riverside County</u> <u>Copermittees</u>	<u>43 Hours</u> 0 Minutes (Total)
<u>Clean Water Now</u>	<u>6 minutes (Total)</u>

⁵ If elected officials wishing to speak are unable to attend at this time certain, they may speak with interested persons on April 10 beginning at 4 p.m. and will be provided 5 minutes each. They may ask the chair to accommodate their schedule if they are unable to speak at either of these times certain.

<p>Environmental Group <u>NGOs (Natural Resources Defense Council, San Diego Coastkeeper, Orange County Coastkeeper, Inland Empire Waterkeeper</u> — (The Escondido Creek Conservancy, Coastkeeper, San Diego Canyonlands, Natural Resources Defense Council, Los Penasquitos Lagoon Foundation, Laguna Bluebelt Coalition, Friends of Rose Canyon Creek, Clean Water Now, Coastal Environmental Rights Foundation, Environmental Health Coalition, San Elijo Lagoon Conservancy, South Laguna Civic Association)</p>	<p>1 Hour (Total)</p>
<p><u>Building Industry Coalition: (1) Building Industry Association of San Diego County (BIASD), (2) Building Industry Association of Southern California, (3) Associated General Contractors, San Diego, (4) San Diego Regional Chamber of Commerce, (5) Building Owners and Managers Association, (6) San Diego County Apartment Association, (7) San Diego Association of Realtors, (8) Alliance for Habitat Conservation, (9) San Diego Chapter of the American Association of Landscape Architects, (10) Associated Builders and Contractors, (11) Business Leadership Alliance and (12) National Association of Industrial and Office Properties</u> Building Industry/Industry (Association of General Contractors, Otay Land Company, Otay Ranch New Homes, American Society of Landscape Architects, BIA Regulated Coalition, BIA of Southern California, Industrial Environmental Association, San Diego Gas & Electric, San Diego Green Building Council, Southern California Gas Company)</p>	<p>1.5 Hours (Total)</p>
<p>Interested Persons (Time Certain at 4 p.m. on April 10, 2013)</p>	<p>3 Minutes Each</p>
<p>Elected Officials' comments (Time Certain at 9:15 a.m. on April 11, 2013)</p>	<p>5 Minutes Each</p>

San Diego Water Board Members and Counsel may ask questions of Parties or interested persons at any time. Time for questions and answers will not count against the above time limits.

~~This allocated time includes time for any opening statement, main presentation, rebuttal and/or closing argument. San Diego Water Board Members and Counsel may ask questions at any time. Time for questions and answers will not count against the above time limits.~~

OBJECTIONS TO PROCEDURES

Other than as provided in this document, the San Diego Water Board intends to conduct this public hearing in a generally informal manner. Participants requesting alternative procedures, with procedural requests outside of the scope of this notice, or requesting more time to speak, must submit their requests or objections in writing to the San Diego Water Board staff member identified below no later than 5:00 pm on March 22, 2013. The San Diego Water Board will

endeavor to accommodate reasonable requests and to respond to procedural objections and requests prior to the hearing. Untimely objections will be deemed waived. [The San Diego Water Board retains the discretion to modify the procedures set forth herein for good cause.](#)

EXHIBITS, POWER POINT AND OTHER COMPUTER DISPLAYS

Participants may [introduce Exhibits or](#) use PowerPoint and other computer displays during their presentation to convey information electronically on the San Diego Water Board's computer. These displays will only be accepted if they summarize the information contained in documents that were timely submitted ~~in compliance with deadlines cited above and in prior notices~~. They will not be accepted if they contain any new testimony or evidence. Please note that any person planning to use an electronic presentation at the hearing is required to provide [a](#) sufficient number of printed copies of the presentation for distribution to board members and staff and a reasonable number of copies to be available for the public to access during the hearing. An electronic copy of any [exhibit or](#) presentation used during the hearing must be left with the San Diego Water Board's Executive Assistant for inclusion in the record. Electronic presentations will be posted on the San Diego Water Board's website as soon as practicable.

DOCUMENT AVAILABILITY

The Tentative Order, and attachments thereto, timely received comment letters on the Tentative Order, [the Revised Tentative Order, Response to Comments,](#) and other information and documents relied upon are posted on the San Diego Water Board website at: http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/stormwater/index.shtml. A revised Tentative Order reflecting revisions since the written comment deadline and a responses to comments document will be available shortly. Parties and interested persons will be notified by e-mail when those documents are posted on the Board's website.

These documents are also available for inspection and copying between the hours of 8:00 a.m. and 5:00 p.m. at the following address:

California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100,
San Diego, California 92123-4340

Arrangements for file review and/or obtaining copies of documents in the Administrative Record may be made by contacting the San Diego Water Board at (858) 467-2952. Appointments are encouraged so the documents can be readily available upon arrival. All timely received comment letters on the Tentative Order and responses to comments and other subsequent relevant documents will be available online as they are generated.

Staff Contact for Further Information

For questions or comments concerning this notice, please contact Wayne Chiu by phone at (858) 637-5558, or by email at wchiu@waterboards.ca.gov.



April 3, 2013

cc:

Distribution via email:
(see attached address list)

San Diego County Copermittees
Orange County Copermittees
Riverside County Copermittees
Resource Agencies

Distribution list via email:

San Diego County MS4 Permit Lyris List
Riverside County MS4 Permit Lyris List
Orange County MS4 Permit Lyris List

San Diego Water Board Agenda Lyris List

Tech Staff Info & Use	
Order No.	R9-2013-0001
Party (GT/CIWQS) ID	536787
File No.	n/a
WDID	n/a
NPDES No.	CAS0109266
Reg. Measure ID	387335
Place ID	786088
Person ID	n/a
Inspection ID	n/a

San Diego County Copermittees

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