

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

TENTATIVE ~~INVESTIGATIVE~~ ORDER NO. R9-2016-0205

AN ORDER DIRECTING THE OWNERS AND OPERATORS OF
PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
DRAINING THE WATERSHEDS WITHIN THE SAN DIEGO REGION

TO SUBMIT ~~TECHNICAL AND MONITORING~~ REPORTS PERTAINING TO
THE CONTROL OF TRASH IN DISCHARGES FROM PHASE I MS4s
TO OCEAN WATERS, INLAND SURFACE WATERS,
ENCLOSED BAYS, AND ESTUARIES
IN THE SAN DIEGO REGION

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board) finds:

~~1. **Legal and Regulatory Authority.** This Order conforms to and implements policies and requirements of the Porter-Cologne Water Quality Control Act (division 7 of the Water Code, commencing with Section 13000) including (1) sections 13267 and 13383; (2) applicable state and federal regulations; (3) all applicable provisions of statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Water Board) and the *Water Quality Control Plans for the San Diego Basin* (Basin Plan) adopted by the San Diego Water Board including beneficial uses, water quality objectives, and implementation plans; (4) State Water Board policies and regulations, including Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California); and (5) relevant standards, criteria, and advisories adopted by other state and federal agencies.~~

1. **Trash Amendments.** On April 7, 2015, the State Water Board adopted Resolution No. 2015-0019, amending the *Water Quality Control Plan for Ocean Waters of California* (Ocean Plan) and the *Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (ISWEBE Plan) to address the impacts of trash to the surface waters of California (referred to hereafter as the Trash Amendments). The effective date of the Trash Amendments is December 2, 2015.

2. **Regional MS4 Permit.** Throughout the State, trash is typically generated on land and transported to surface water, predominantly through storm water discharges from MS4s. These storm water discharges occur in part from Phase I MS4s in the San Diego Region regulated through a regional general permit adopted by the San Diego Water Board (Regional MS4 Permit) pursuant to section 402(p) of the Clean Water Act. The term Regional MS4 Permit refers to the San Diego Water Board's Order No. R9-2013-0001, as amended by Order Nos. R9-2015-0001 and R9-2015-0100, 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.*

3. **Trash Amendments Implementation.** The Trash Amendments establish a statewide narrative water quality objective and implementation requirements to control trash, including a prohibition against the discharge of trash to ocean waters, inland surface waters, enclosed bays, and estuaries in California. ~~Within eighteen (18) months of the effective date (i.e. by June 2, 2017), for each MS4 that has been issued a National Pollutant Discharge Elimination System (NPDES) permit by the San Diego Water Board For Phase I MS4 permittees with regulatory authority over priority land uses in the San Diego Region, the Trash Amendments require the San Diego Water Board to take certain steps towards implementation of the narrative water quality objective and prohibition by June 2, 2017 through requirements incorporated into the Regional MS4 Permit is required to modify, re-issue, or adopt an applicable MS4 permit, or through a monitoring and reporting issue an order issued pursuant to Water Code section 13267 or 13383 to implement the Trash Amendments. The San Diego Water Board will not be amending the Regional MS4 Permit within the time frame specified by the Trash Amendments; therefore, the initial steps in planning for the implementation of the Trash Amendments are being required through this Order in accordance with Water Code section 13383. The San Diego Water Board intends to incorporate the requirements of the Trash Amendments into the Regional MS4 Permit during its next reissuance in Fiscal Year 2018-19.~~

4. **Persons Responsible for the Discharges of Trash.** The owners and operators of Phase I MS4s are responsible for discharges of waste, including trash, from land uses and locations within their jurisdictions through their MS4s to ocean waters, inland surface waters, enclosed bays, and estuaries in the San Diego Region. In the San Diego Region, owners and operators of Phase I MS4s subject to the requirements of this Order (herein referred to as MS4 permittees) include the following entities:

- County of Orange
- City of Aliso Viejo
- City of Dana Point
- City of Laguna Beach
- City of Laguna Hills
- City of Laguna Niguel
- City of Laguna Woods
- City of Lake Forest¹
- City of Mission Viejo
- City of Rancho Santa Margarita
- City of San Clemente
- City of San Juan Capistrano
- Orange County Flood Control District

¹~~On February 10, 2015, the San Diego Water Board and the Santa Ana Water Board entered into an agreement, pursuant to Water Code section 13228, regarding MS4 discharges within the City of Lake Forest geographically located in the San Diego Region. According to the agreement, the City of Lake Forest must participate in preparation and implementation of the Water Quality Improvement Plan for the Aliso Creek Watershed Management Area. The requirements of the Trash Amendments will be incorporated into the Regional MS4 Permit during reissuance which may require an update to the Water Quality Improvement Plan.~~

- County of Riverside
 - ~~City of Menifee²~~
 - City of Murrieta
 - City of Temecula
 - City of Wildomar
- County of San Diego
 - City of Carlsbad
 - City of Chula Vista
 - City of Coronado
 - City of Del Mar
 - City of El Cajon
 - City of Encinitas
 - City of Escondido
 - City of Imperial Beach
 - City of La Mesa
 - City of Lemon Grove
- Riverside County Flood Control and Water Conservation District³
- City of National City
- City of Oceanside
- City of Poway
- City of San Diego
- City of San Marcos
- City of Santee
- City of Solana Beach
- City of Vista
- San Diego County Regional Airport Authority
- San Diego Unified Port District

5. **Water Quality Standards Objectives.** The Trash Amendments established the following statewide narrative water quality objectives for trash in ocean waters, inland surface waters, enclosed bays, and estuaries in California.

a. The Trash Amendments established the following narrative water quality objective for trash in Chapter II.C.5 of Appendix D of the Ocean Plan:

“Trash shall not be present in ocean waters, along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance.”

b. The Trash Amendments established the following narrative water quality objective or trash in Chapter III.A of Appendix E of the ISWEBE Plan:

“Trash shall not be present in inland surface waters, enclosed bays, estuaries, and along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance.”

~~² On October 26, 2015, the San Diego Water Board and the Santa Ana Water Board entered into an agreement, pursuant to Water Code section 13228, regarding MS4 discharges within the City of Menifee geographically located in the San Diego Region. According to the agreement, the City of Menifee must participate in preparation and implementation of the Water Quality Improvement Plan for the Santa Margarita River Watershed Management Area. The requirements of the Trash Amendments will be incorporated into the Regional MS4 Permit during reissuance which may require an update to the Water Quality Improvement Plan.~~

³ Riverside County Flood Control and Water Conservation District (District) lacks regulatory authority over Priority Land Uses. As noted in Finding 9.d of this Order, the Trash Amendments (Appendix D to the Ocean Plan Chapter III.L.2.d and Appendix E of the ISWEBE Plan Chapter IV.A.3.d) provide the San Diego Water Board with the authority to investigate whether specific land uses or locations within the District’s jurisdiction generate substantial amounts of trash and determine that compliance with Track 1 or Track 2 trash control measures for those land uses or locations is necessary.

Meeting these narrative water quality objectives for trash will be protective and supportive of numerous beneficial uses for the ocean waters, inland surface waters, enclosed bays, and estuaries in the San Diego Region, including but not limited to, wildlife habitat (WILD), marine habitat (MAR), preservation of rare and endangered species (RARE), fish migration (MIGR), navigation (NAV), and water contact and non-contact recreation (REC1 and REC2).

6. **Trash Discharge Prohibition.** The Trash Amendments established the following discharge prohibition in Chapter III.I.6 of Appendix D of the Ocean Plan and Chapter IV.A.2 of Appendix E of the ISWEBE Plan:

“The discharge of trash to surface waters of the State or the deposition of trash where it may be discharged into surface waters of the State is prohibited.”

7. **Regional MS4 Permit Implementation of the Trash Amendments.** The Trash Amendments ~~are required to be implemented through~~ require the incorporation of the trash narrative water quality objectives and discharge prohibition into ~~NPDES the Regional MS4 permits~~ Permit. The ~~NPDES-Regional MS4 permit~~ Permit then will require the MS4 permittees to comply with the trash narrative water quality objectives and discharge prohibition through the implementation of one of two measures to be selected by the MS4 permittees.

To comply with the trash narrative water quality objectives and discharge prohibition, the MS4 permittees are required to implement either of the following measures:

Track 1: Install, operate, and maintain full capture systems for all storm drains that capture runoff from the priority land uses in their jurisdictions; or

Track 2: Install, operate, and maintain any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls within either the jurisdiction of the MS4 permittee or within the jurisdiction of the MS4 permittee and contiguous MS4 permittees. The MS4 permittee may determine the locations or land uses within its jurisdiction to implement any combination of controls. The MS4 permittee shall demonstrate that such combination achieves full capture system equivalency. The MS4 permittee may determine which controls to implement to achieve compliance with full capture system equivalency. It is, however, the State Water Board’s expectation that the MS4 permittee will elect to install full capture systems where such installation is not cost-prohibitive.

The Trash Amendments require that ~~Within~~ within three (3) months of the effective date of ~~the first implementing permit, or the receipt of an order issued by the San Diego Water Board pursuant to Water Code section 13267 or 13383~~ this Order, each MS4 permittee is required to provide written notice to the San Diego Water Board stating whether the MS4 permittee elects to comply with the trash discharge prohibition by implementing Track 1 or Track 2. MS4 permittees that elect to implement Track 2 are also required to submit an implementation plan to the San Diego Water Board within eighteen (18) months of ~~the effective date of the first implementing permit, or the receipt of the order issued pursuant to Water Code section 13267 or 13383~~ receipt of

this Order. The implementation plan is required to describe: (i) the combination of controls selected by the MS4 permittee and the rationale for the selection, (ii) how the combination of controls is designed to achieve full capture system equivalency, and (iii) how full capture equivalency will be demonstrated. The implementation plan is subject to approval by the San Diego Water Board. Track 2 implementation plans will be deemed accepted by the San Diego Water Board ninety (90) days after submission unless otherwise directed in writing by the San Diego Water Board Executive Officer. MS4 permittees may elect to change Tracks through their adaptive management process during the compliance time schedule described in Finding 10, provided they submit supporting justification to the San Diego Water Board.

8. **Full Capture System Equivalency.** The Trash Amendments define full capture system equivalency as follows:

“Full capture system equivalency is the trash load that would be reduced if full capture systems were installed, operated, and maintained for all storm drains that capture runoff from the relevant areas of land (priority land uses, significant trash generating areas, facilities or sites regulated by NPDES permits for discharges of storm water associated with industrial activity, or specific land uses or areas that generate substantial amounts of trash, as applicable). The full capture system equivalency is a trash load reduction target that the permittee quantifies by using an approach, and technically acceptable and defensible assumptions and methods for applying the approach, subject to the approval of permitting authority. Examples of such approaches include, but are not limited to, the following:

(1) *Trash Capture Rate Approach. Directly measure or otherwise determine the amount of trash captured by full capture systems for representative samples of all similar types of land uses, facilities, or areas within the relevant areas of land over time to identify specific trash capture rates. Apply each specific trash capture rate across all similar types of land uses, facilities, or areas to determine full capture system equivalency. Trash capture rates may be determined either through a pilot study or literature review. Full capture systems selected to evaluate trash capture rates may cover entire types of land uses, facilities, or areas, or a representative subset of types of land uses, facilities, or areas. With this approach, full capture system equivalency is the sum of the products of each type of land use, facility, or area multiplied by trash capture rates for that type of land use, facility, or area.*

(2) *Reference Approach. Determine the amount of trash in a reference receiving water in a reference watershed where full capture systems have been installed for all storm drains that capture runoff from all relevant areas of land. The reference watershed must be comprised of similar types and extent of sources of trash and land uses (including priority land uses and all other land uses), facilities, or areas as the permittee’s watershed. With this approach, full capture system equivalency would be demonstrated when the amount of trash in the receiving water is equivalent to the amount of trash in the reference receiving water.”*

9. **Land Uses and Locations Requiring Trash Controls.** The Trash Amendments define land uses and locations that are to be controlled for trash discharges by MS4 permittees:

- a. *Priority Land Uses:* Those developed sites, facilities, or land uses (i.e. not simply zoned land uses) within a MS4 permittee's jurisdiction from which discharges of trash are regulated by the Ocean Plan or ISWEBE Plan as follows:
- High-density residential: all land uses with at least ten (10) developed dwelling units/acre.
 - Industrial: land uses where the primary activities on the developed parcels involve product manufacture, storage, or distribution (e.g., manufacturing businesses, warehouses, equipment storage lots, junkyards, wholesale businesses, distribution centers, or building material sales yards).
 - Commercial: land uses where the primary activities on the developed parcels involve the sale or transfer of goods or services to consumers (e.g., business or professional buildings, shops, restaurants, theaters, vehicle repair shops, etc.).
 - Mixed urban: land uses where high-density residential, industrial, and/or commercial land uses predominate collectively (i.e., are intermixed).
 - Public transportation stations: facilities or sites where public transit agencies' vehicles load or unload passengers or goods (e.g., bus stations and stops).
- b. *Equivalent Alternative Land Uses:* An MS4 permittee with regulatory authority over priority land uses may issue a request to the San Diego Water Board that the MS4 permittee be allowed to substitute one or more a land uses identified above with an alternate land use within the MS4 permittee's jurisdiction that generates rates of trash that is equivalent to or greater than the priority land use(s) being substituted. The land use area requested to substitute for a priority land use need not be an acre-for-acre substitution but may involve one or more priority land uses, or a fraction of a priority land use, or both, provided the total trash generated in the equivalent alternative land use is equivalent to or greater than the total trash generated from the priority land use(s) for which substitution is requested. Comparative trash generation rates shall be established through the reporting of quantification measures such as street sweeping and catch basin cleanup records; mapping; visual trash presence surveys, such as the "Keeping America Beautiful Visible Litter Survey"; or other information as required by the San Diego Water Board.
- c. *Coordination with California Department of Transportation (Caltrans).* The Trash Amendments (Appendix D of the Ocean Plan Chapter III.L.2.b and Appendix E of the ISWEBE Plan Chapter IV.A.3.b) require that Caltrans and MS4 permittees coordinate their efforts to install, operate, and maintain full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls in significant

trash generating areas and/or priority land uses.

- d. *Specific Land Uses or Locations Determined by the San Diego Water Board:* The Trash Amendments (Appendix D of the Ocean Plan Chapter III.L.2.d and Appendix E of the ISWEBE Plan Chapter IV.A.3.d) provide the San Diego Water Board with the authority to determine that specific land uses or locations (e.g., parks, stadia, schools, campuses, or roads leading to landfills) generate substantial amounts of trash ~~in addition to the priority land uses defined above~~. In the event the San Diego Water Board makes that determination, the ~~San Diego Water~~ Board may require the MS4 permittees to comply with the requirements of the Trash Amendments with respect to such land uses or locations.

~~The San Diego Water Board has evaluated the San Diego River Park Foundation's 2013, 2014, and 2015 State of the River reports, and information received in regard to Item 5 on the May 14, 2014 Board meeting agenda pertaining to trash generated by transient encampments in the San Diego River watershed and related water quality issues. Based on this information the San Diego Water Board has determined that transient encampments in the San Diego River watershed are generating substantial trash in amounts that adversely affect beneficial uses or cause nuisance in the San Diego River. This Order requires MS4 permittees in the San Diego River Watershed Management Area to develop plans to address trash runoff from the relevant areas of land affected by transient encampments through Track 1 or Track 2 controls as stipulated in the Trash Amendments (Ocean Plan Chapter III.L.2.d and ISWEBE Plan Chapter IV.A.3.d).~~

10. **Compliance Time Schedule.** The Trash Amendments require the implementing permit (i.e. the Regional MS4 Permit) to state that full compliance with the trash discharge prohibition shall occur within ten (10) years of the effective date of the first implementing permit. In addition, the ~~implementing permit~~Regional MS4 Permit must require the MS4 permittees to demonstrate achievements of interim milestones such as average load reductions of ten percent (10%) per year or other progress to full implementation. In no case may the final compliance date, which will be included in the Regional MS4 Permit, be later than fifteen (15) years from the effective date of the Trash Amendments (i.e. December 2, 2030).

11. **Monitoring and Reporting.** The Trash Amendments require the implementing ~~permit~~ Regional MS4 Permit to include monitoring and reporting requirements to ensure adequate trash control. The MS4 permittees will be required to provide reports to the San Diego Water Board on an annual basis to ~~monitor~~ describe progress toward achieving full compliance with the trash discharge prohibition. The monitoring and reporting requirements are dependent on the measures elected to be implemented by a MS4 permittee⁴.

⁴ The minimum monitoring and reporting requirements that will be considered for inclusion in the Regional MS4 Permit reissuance are described in the Trash Amendments at Appendix D: Chapter III, section L.5 of the Ocean Plan and Appendix E: Chapter IV, section A.6 of the ISWEBE Plan.

~~12. **Regional MS4 Permit.** On May 8, 2013, the San Diego Water Board adopted 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 (Regional MS4 Permit). The Regional MS4 Permit initially only incorporated the owners and operators of Phase I MS4s in San Diego County (San Diego County MS4 permittees). The Regional MS4 Permit was subsequently amended in 2015 to incorporate the owners and operators of the Phase I MS4s in south Orange County (Orange County MS4 permittees) and in southwest Riverside County (Riverside County permittees). The San Diego Water Board intends to incorporate the requirements of the Trash Amendments into the Regional MS4 Permit after it expires (June 27, 2018). The renewed Regional MS4 Permit will be the first implementing permit of the Trash Amendments for the MS4 permittees.~~

13.12. Water Quality Improvement Plans and Jurisdictional Runoff Management Plans. The Regional MS4 Permit requires the MS4 permittees to develop and implement Water Quality Improvement Plans for ten (10) Watershed Management Areas, designated in the Regional MS4 Permit as shown in Table 1 below:

Table 1. San Diego Region Watershed Management Areas

Hydrologic Unit(s)	Watershed Management Area	Major Surface Water Bodies	Responsible MS4 permittees
San Juan (901.00)	South Orange County	<ul style="list-style-type: none"> - Aliso Creek - San Juan Creek - San Mateo Creek - Pacific Ocean - Heisler Park ASBS 	<ul style="list-style-type: none"> - City of Aliso Viejo - City of Dana Point - City of Laguna Beach - City of Laguna Hills¹ - City of Laguna Niguel - City of Laguna Woods¹ - City of Lake Forest² - City of Mission Viejo - City of Rancho Santa Margarita - City of San Clemente - City of San Juan Capistrano - County of Orange - Orange County Flood Control District
Santa Margarita (902.00)	Santa Margarita River	<ul style="list-style-type: none"> - Murrieta Creek - Temecula Creek - Santa Margarita River - Santa Margarita Lagoon - Pacific Ocean 	<ul style="list-style-type: none"> - City of Menifee³ - City of Murrieta⁴ - City of Temecula - City of Wildomar⁴ - County of Riverside - County of San Diego - Riverside County Flood Control and Water Conservation District
San Luis Rey (903.00)	San Luis Rey River	<ul style="list-style-type: none"> - San Luis Rey River - San Luis Rey Estuary - Pacific Ocean 	<ul style="list-style-type: none"> - City of Oceanside - City of Vista - County of San Diego

Table 1. San Diego Region Watershed Management Areas

Hydrologic Unit(s)	Watershed Management Area	Major Surface Water Bodies	Responsible MS4 permittees
Carlsbad (904.00)	Carlsbad	- Loma Alta Slough - Buena Vista Lagoon - Agua Hedionda Lagoon - Batiquitos Lagoon - San Elijo Lagoon - Pacific Ocean	- City of Carlsbad - City of Encinitas - City of Escondido - City of Oceanside - City of San Marcos - City of Solana Beach - City of Vista - County of San Diego
San Dieguito (905.00)	San Dieguito River	- San Dieguito River - San Dieguito Lagoon - Pacific Ocean	- City of Del Mar - City of Escondido - City of Poway - City of San Diego - City of Solana Beach - County of San Diego
Penasquitos (906.00)	Penasquitos	- Los Penasquitos Lagoon - Pacific Ocean	- City of Del Mar - City of Poway - City of San Diego - County of San Diego
	Mission Bay	- Mission Bay - Pacific Ocean - San Diego Marine Life Refuge ASBS	- City of San Diego
San Diego (907.00)	San Diego River	- San Diego River - Pacific Ocean	- City of El Cajon - City of La Mesa - City of San Diego - City of Santee - County of San Diego
Pueblo San Diego (908.00) Sweetwater (909.00) Otay (910.00)	San Diego Bay	- Sweetwater River - Otay River - San Diego Bay - Pacific Ocean	- City of Chula Vista - City of Coronado - City of Imperial Beach - City of La Mesa - City of Lemon Grove - City of National City - City of San Diego - County of San Diego - San Diego County Regional Airport Authority - San Diego Unified Port District
Tijuana (911.00)	Tijuana River	- Tijuana River - Tijuana Estuary - Pacific Ocean	- City of Imperial Beach - City of San Diego - County of San Diego

Notes:

- By agreement dated February 10, 2015, pursuant to Water Code section 13228, the Phase I MS4 discharges within the jurisdiction of the City of Laguna Hills and the City of Laguna Woods located in the Santa Ana Region are regulated by San Diego Water Board Order No. R9-2013-0001 as amended by Order No. R9-2015-0001, upon the later effective date of Order No. R9-2015-0001 or Santa Ana Water Board Tentative Order No. R8-2015-0001. The City of Laguna Hills and Laguna Woods must also comply with the requirements of the San Diego Creek/Newport Bay TMDL in section XVIII of Santa Ana Water Board Order No. R8-2015-0001.
- By agreement dated February 10, 2015, pursuant to Water Code section 13228, Phase I MS4 discharges within the City of Lake Forest located within the San Diego Water Board Region are regulated by the Santa Ana Water Board Order No. R8-2015-0001 (NPDES No. CAS618030) upon the later effective date of this Order or Santa Ana Water Board Tentative Order No. R8-2015-0001. In accordance with the terms of the agreement between the San Diego Water Board and the Santa Ana Water Board, the City of Lake Forest must implement the requirements of the Bacteria TMDL in Attachment E of this Order, participate in preparation and implementation of the Water Quality Improvement Plan for the Aliso Creek Watershed Management Area as described in Provision B of this Order and continue implementation of its over-irrigation discharge prohibition in its City Ordinance, Title 15, Chapter 15, section 14.030, List (b).
- By agreement dated October 26, 2015, pursuant to Water Code section 13228, Phase I MS4 discharges within the City of Menifee located within the San Diego Water Board Region are regulated by the Santa Ana Water Board Order No. R8-2010-0033 as it may be amended or reissued (NPDES No. CAS618033) upon the later effective date of this Order. In accordance with the terms of the agreement between the San Diego Water Board and the Santa Ana Water Board, the City of Menifee must participate in preparation and implementation of the Water Quality Improvement Plan for the Santa Margarita River Watershed Management Area as described in Provision B of this Order.
- By agreement dated October 26, 2015, pursuant to Water Code section 13228, the Phase I MS4 discharges within the jurisdiction of the City of Murrieta and the City of Wildomar located in the Santa Ana Region are regulated by San Diego Water Board Order No. R9-2013-0001 as amended by Orders No. R9-2015-0001 and R9-2015-0100. The City of Murrieta and City of Wildomar must also comply with the requirements of the Lake Elsinore/Canyon Lake Nutrient TMDLs in section VI.D.2 of Santa Ana Water Board Order No. R8-2010-0033, or corresponding section as it may be amended or reissued.

The Water Quality Improvement Plans include the following: (a) identification of priority water quality conditions that need to be addressed to improve the water quality in each

Watershed Management Area; (2) numeric goals for the highest priority water quality conditions to be achieved that will demonstrate discharges from the MS4s are not causing or contributing to exceedances of applicable water quality objectives, or water quality objectives are being attained in receiving waters; (3) a description of the water quality improvement strategies that will be and may be implemented to achieve the numeric goals; and (4) schedules for implementing the water quality improvement strategies and achieving the numeric goals.

The Regional MS4 Permit also requires incorporation of implementation plans for applicable Total Maximum Daily Loads (TMDLs) and Areas of Special Biological Significance (ASBS), which include interim and final water quality-based effluent limitations, compliance strategies, and compliance schedules, into the Water Quality Improvement Plans.

In addition to Water Quality Improvement Plan development, each MS4 permittee is also required to develop and implement a jurisdictional runoff management plan (JRMP) that describes how specific strategies in the Water Quality Improvement Plans will be implemented by each MS4 permittee. While the JRMPs are not explicitly part of the Water Quality Improvement Plan, reporting relating to JRMP programs is accomplished through the Water Quality Improvement Plan annual reporting process.

The implementation measures, interim milestones, and compliance schedules for Track 1 or Track 2 of the Trash Amendments shall also be incorporated into either the Water Quality Improvement Plans, the JRMPs, or a combination of the two, to be implemented by the MS4 permittees as part of the adaptive management process.

Compliance with the Trash Amendments is based on implementation of specific measures to control trash within a MS4 permittee's jurisdiction; however, inclusion of trash control strategies may be beneficial on a watershed scale. Through the issuance of this Order pursuant to Water Code section ~~13267~~13383, the San Diego Water Board intends the MS4 permittees to incorporate the requirements of the Trash Amendments into either the Water Quality Improvement Plans, the JRMPs, or a combination of the two, after ~~renewal~~reissuance of the Regional MS4 Permit. Reporting on implementation measures to comply with the Trash Amendments will be required through jurisdictional runoff management program annual report forms, which are submitted as part of the Water Quality Improvement Plan Annual Reports.

14.13. Basis for Requiring Submittals from MS4 Permittees Technical and Monitoring Reports. This Order is issued under federal authority. The water quality objective established by the Trash Amendments described in Finding 5 serves as a water quality standard federally mandated under Clean Water Act section 303(c) and the federal regulations (33 U.S.C. § 1312, 40 C.F.R. § 131). This water quality standard was specifically approved by the United States Environmental Protection Agency (USEPA) following adoption by the State Water Board and approval by the Office of Administrative Law. This Order requests information necessary for MS4 permittees to plan for implementation of actions to achieve the water quality standard for trash. Further, the water quality standard expected to be achieved pursuant to the Trash Amendments may allow each water body impaired by trash and already on the

~~Clean Water Act section 303(d) list to be removed from the list, or each water body subsequently determined to be impaired by trash to not be placed on the list, obviating the need for the development of a total maximum daily load (TMDL) for trash for each of those water bodies (33 U.S.C. § 1313(d); 40 C.F.R. § 130.7). In those cases, the specific actions that will be proposed by the MS4 permittees in response to this Order substitute for some or all the actions that would otherwise be required consistent with any waste load allocations in a trash TMDL (40 C.F.R. § 122.44, subd. (d)(1)(vii)(B)). Accordingly, this Order is issued pursuant to federal law. Consistent with the Trash Amendments, this Order nevertheless allows MS4 permittees flexibility in the specific actions they propose to meet the federal requirements. Water Code section 13267 provides that the San Diego Water Board may require dischargers, past dischargers, or suspected dischargers to furnish those technical or monitoring reports as the San Diego Water Board may specify, provided that the burden, including costs, of these reports, must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The technical and monitoring reports required under this Investigative Order are needed to provide information to the San Diego Water Board regarding (a) the measures each MS4 permittee is electing to implement (i.e. Track 1 or Track 2) within its jurisdiction to comply with the trash discharge prohibition, (b) the plan that will be implemented by each MS4 permittee to comply with the trash discharge prohibition, (c) the interim milestones that each MS4 permittee will achieve within its jurisdiction, (d) the schedules to achieving the interim milestones, and full compliance with the trash discharge prohibition, and (e) the monitoring and reporting that will be implemented to demonstrate progress toward achieving full compliance with the trash discharge prohibition.~~

~~15.14. California Environmental Quality Act. Adoption of this Order is for the protection of the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with section 15308, Chapter 3, Title 14 of the California Code of Regulations (CCR). Issuance of this Order is not subject to CEQA. This action is also exempt from the provisions of CEQA in accordance with section 15061(b)(3) of Chapter 3, Title 14 of the CCR because it can be seen with certainty that there is no possibility that the required activity activities in question may have a significant effect on the environment.~~

IT IS HEREBY ORDERED, pursuant to California Water Code section ~~13267~~13383, that the MS4 permittees must comply with the following directives:

A. ~~TECHNICAL AND MONITORING REPORTS REQUIRED SUBMITTALS~~⁵

1. **Written Notices.** Each MS4 permittee identified in Finding 4 must submit to the San Diego Water Board, **no later than three (3) months from the date of this Order (September 5, 2017)**, a written notice stating whether the MS4 permittee will implement Track 1 or Track 2 to comply with the trash discharge prohibition in the Ocean Plan and ISWEBE Plan.

⁵ Directives A.1, A.2, A.3, and A.5 do not apply to the Riverside County Flood Control and Water Conservation District because it does not have land use authority over Priority Land Uses.

2. Track 1 Jurisdictional Maps and Time Schedule. Each MS4 permittee identified in Finding 4 electing to comply with Track 1 must submit the following information **no later than eighteen (18) months from the date of this Order (December 3, 2018):**

- a. A jurisdictional map identifying Priority Land Uses, the corresponding storm drain network including all storm drain inlets and drainage, proposed full capture system installation locations and associated drainage areas; and**
- b. A time schedule to achieve full compliance with the trash discharge prohibition, including interim milestones (such as average load reductions of ten percent per year or other progress) to full implementation. The final compliance date must not be later than fifteen (15) years from the effective date of the Trash Amendments (i.e. December 2, 2030).**

2.3. Track 2 Implementation Plans. Each MS4 permittee identified in Finding 4 electing to comply with Track 2 must submit, **no later than eighteen (18) months from the date of this Order (December 3, 2018)**, an implementation plan ~~for each Watershed Management Area described in Table 1 in Finding 13 above~~ that describes:

- a.** The combination of controls⁶ selected by the MS4 permittee and the rationale for each selection;
- b.** How the combination of controls is designed to achieve full capture system equivalency;
- c.** How full capture system equivalency will be demonstrated;
- d.** How the implemented controls identified in the trash implementation plans will be monitored and assessed in jurisdictional runoff management program or Water Quality Improvement Plan Annual Reports;
- e.** ~~Requests-Proposals~~ by MS4 permittees, if any, ~~for authorization~~ to substitute a Priority Land Use described in Finding 9 above with ~~an Equivalent Alternate Land Use~~ other locations or land uses, that generates rates of trash provided that the total trash generated in other locations or land uses is equivalent to, or greater than, the total trash generated in the Priority Land Use being substituted. ~~The MS4 permittees must provide data or information which establishes that trash-generation rates from the Alternate Land Use(s) are greater than the Priority Land Use(s) being substituted; and~~
- f.** A ~~compliance~~-time schedule ~~based on the shortest practicable time~~ to achieve full compliance with the trash discharge prohibition, including interim milestones

⁶ Controls include, ~~but are not limited to,~~ full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls, as defined in ~~the~~ Appendix D ~~to of~~ the ~~California~~ Ocean Plan and Appendix E of the ~~Inland Surface Waters, Enclosed Bays, and Estuaries of California~~ ISWEBE Plan.

(such as average load reductions of ten percent per year or other progress) to full implementation and a final compliance date. The proposed final compliance date must not be later than fifteen (15) years from the effective date of the Trash Amendments (i.e. December 2, 2030).

4. Identification of Substantial Trash Generating Land Uses or Locations Within Riverside County Flood Control and Water Conservation District's Jurisdiction. The Riverside County Flood Control and Water Conservation District (District) must submit, **no later than eighteen (18) months from the date of this Order (December 3, 2018), a report identifying land uses or locations within its jurisdiction including but not limited to, facilities, drainage structures, and easements that generate a substantial amount of trash.**

3.5. Coordination with Caltrans. Each MS4 permittee ~~subject to this Order identified in Finding 4~~ must submit, **no later than eighteen (18) months from the date of this Order (December 3, 2018)**, a description of how MS4 permittees will coordinate their efforts to install, operate, and maintain full capture systems, multi-benefit projects, and other controls with Caltrans in significant trash generating areas and/or priority land uses, as applicable

~~**4. Transient Encampments in the San Diego River.** MS4 permittees discharging to the San Diego River watershed (Cities of San Diego, Santee, El Cajon, La Mesa, and County of San Diego), must submit, **no later than eighteen (18) months from the date of this Order [INSERT DATE]**, a description of how trash generated from transient encampments in the San Diego River Watershed Management Area will be addressed.~~

B. PROVISIONS

1. Signatory Requirements. All documents submitted to the San Diego Water Board must be signed and certified.

a. All reports required by this Order must be signed as follows:

- (1) For a corporation, by a principal executive officer of at least the level of vice-president;
- (2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
- (3) For a municipality, state, federal or other public agency, by either a principal executive or ranking elected official.
- (4) By a duly authorized representative of the person designated above (B.61.a.(1), B.61.a.(ii), or B.61.(a)(iii)). A person is a duly authorized representative only if:

- (a) The authorization is made in writing by a person described in paragraph B.6.a above;
 - (b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated facility or activity; and
 - (c) The written authorization is submitted to the San Diego Water Board.
- b. Any person signing a document required by this Order must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. **Submittal of Documents.** All documents submitted to the San Diego Water Board in compliance with this Order must be submitted in electronic format (compact disk (CD-ROM or CD) in a Portable Document Format (PDF), unless otherwise directed. All electronic format documents required under this Order must be submitted to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108
Attn: Laurie Walsh, PE, Storm Water Management Unit

3. **Changes to Order.** This Order may be amended, rescinded, or updated by the Executive Officer. The MS4 permittees may propose changes or alternatives to the requirements in this Order if a valid rationale for the changes is shown. The filing of a request by a MS4 permittees for amending, rescinding, or updating this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

C. NOTIFICATIONS

1. **Enforcement Discretion.** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order.

- 2. Requesting Administrative Review by the State Water Board.** Any aggrieved person may petition the State Water Board regarding this Order in accordance with Water Code section 13320 and the California Code of Regulations title 23 sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days following the date of this Order. Copies of the laws and regulations applicable to filing petitions may be found on the State Water Board website at http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

For instructions on how to file a petition for review, see the State Water Board website at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml

Ordered By: _____
David W. Gibson
EXECUTIVE OFFICER
June 2, 2017