

December 14, 2016

VIA EMAIL TO: [sandiego@waterboards.ca.gov](mailto:sandiego@waterboards.ca.gov)

Ms. Christina Arias, PE  
Water Resource Control Engineer  
California Regional Water Quality Control Board  
San Diego Region  
2375 Northside Drive, Suite 100  
San Diego, CA 92108

Subject: City of San Diego Comments to Tentative Investigative Order No. R9-2016-0205; Reference 786088: Carias

Dear Ms. Arias:

The City of San Diego (City) appreciates the opportunity to provide comments on 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 FROM PHASE I MS4s TO OCEAN WATERS, INLAND SURFACE WATERS, ENCLOSED BAYS AND ESTUARIES IN THE SAN DIEGO REGION released for public review on November 10, 2016 (referred to hereinafter as the "Tentative Investigative Order"). The City of San Diego is committed to reducing trash in our beaches, bays and creeks and offer three key suggestions to improve the efficiency of the City's implementation of the requirements in the Tentative Investigative Order.

The San Diego Water Board released the Tentative Investigative Order to meet the requirements of the Statewide Trash Amendments to the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan) and the Water Quality Control Plan for Ocean Waters of California (Ocean Plan). Namely, the Tentative Investigative Order is intended to meet the requirements of Chapter IV.A.5.a.(1).B of the ISWEBE Plan and Chapter III.L.4.a.(1).B of the Ocean Plan, which require the San Diego Water Board to issue an order pursuant to Water Code section 13267 or 13383 requiring the MS4 Permittees to submit, within three (3) months from receipt of the order, written notice stating the compliance option (Track 1 or Track 2) to be used to comply with the Statewide Trash Amendments. Per the Statewide Trash Amendments, MS4 Permittees selecting Track 2 must submit an Implementation Plan within 18 months of receiving the Tentative Investigative Order.

The Tentative Investigative Order appears to meet these requirements; however, the City requests that the San Diego Water Board address three key concerns that appear counter to the intent of the Statewide Trash Amendments:

1. *Several findings and provisions within the Tentative Investigative Order need to be clarified to ensure the requirements are directly related to the provisions in the Statewide Trash Amendments.* This typically involves better articulation with respect to Track 1 versus Track 2 requirements and clear differentiation between the two tracks. In some places, additional omitted language from the Statewide Trash Amendments should be included to ensure the findings and directives of the Tentative Investigative Order are consistent with the provisions in the Statewide Trash Amendments (see comments 2, 3, 4, 6, 8, and 9 in the attached table for specific examples). These clarifications will allow for implementation of the requirements of Tentative Investigative Order as envisioned in the State Trash Amendments, which will result in more streamlined, targeted and effective trash management programs.
2. *The approach to addressing transient encampments within the San Diego River Watershed is inappropriate for inclusion in a Tentative Investigative Order issued solely to MS4 Permittees, and should be removed from this Tentative Investigative Order.* While trash from transient encampments is an issue impacting the San Diego River, this specific source of trash is nonpoint source in nature, as has been recognized by the State and other Regional Water Boards across California. Historically, nonpoint sources have been better addressed through mechanisms other than an MS4 permit requirement, and transient encampments in particular require holistic programs that involve multiple responsible parties. A more effective regulatory approach would include a separate Investigative Order, specific Waste Discharge Requirements or a conditional waiver that includes all responsible parties that own property where encampments are an issue. This approach has been successful in other regions (e.g., Ventura River Estuary). Furthermore, as there are often no MS4s within the areas of the river where transient encampments exist, the MS4 Permittees would not be able to utilize the TRACK 1 compliance option to address these sources. The City will continue to support the San Diego Water Board in developing appropriate solutions to address nonpoint sources of trash related to transient encampments. However, the City believes the implementation actions that address trash already included in the San Diego River Water Quality Improvement Plan (WQIP) are a more appropriate and effective response from the MS4 Permittees that can be built upon to address this specific source.
3. *The City's recommendation is to include its implementation approach to the Statewide Trash Amendments within the City's Jurisdictional Runoff Management Plan (JRMP), rather than Water Quality Improvement Plans (WQIPs).* The Tentative Investigative Order requires the City to incorporate the requirements of the Statewide Trash Amendments into the WQIPs. While this seems practical given the emphasis placed on the WQIPs in the MS4 Permit, the Statewide Trash Amendments were written specific to individual jurisdictions. As such, incorporation of the City's compliance approach, whether Track 1 or Track 2, would be challenging to include within the WQIPs because the City is involved in six plans across the region. This presents particular problems with a Track 2 approach, as the Full Capture System Equivalency value, and approach to meeting this value, is developed on a jurisdictional basis. Dividing the requirements across the six watersheds is not practical and is counter to the intent of the Statewide Trash Amendments, which direct MS4 Permittees to focus on trash generating priority land uses within their jurisdiction, independent of watershed boundaries. The MS4 Permittees raised this concern at the public meeting with San Diego Water Board staff on December 1, 2016. San Diego Water Board staff acknowledged that cities in multiple watersheds will need to focus efforts more in some watersheds than others and were open to the possibility of including the

implementation plan as an appendix to the WQIP or the JRMP. Upon doing so, the Tentative Investigative Order, and ultimately the re-issued MS4 Permit, should clearly state that MS4 Permittees are in compliance with the trash discharge prohibition and any receiving water limitations resulting from the narrative trash water quality objectives, provided the MS4 Permittees fully implement either the Track 1 or Track 2 compliance option under their JRMP.

To further expand these key points, specific suggestions to address these and other concerns are included in the attached comment table as Attachment 1. Overall, the City supports the approach the San Diego Water Board has proposed, but requests several important revisions to the Tentative Investigative Order as described herein.

If you have questions, please contact Clement Brown at (858) 541-4336 or at [CMBrown@sandiego.gov](mailto:CMBrown@sandiego.gov).

Sincerely,



Drew Kleis  
Deputy Director

DK/cb

Enclosure: Comment Table: Tentative Investigative Order No. R9-2016-0205

cc: Paz Gomez, Deputy Chief Operating Officer, Infrastructure/Public Works  
Alejandra Gavaldon, Director of Federal Government Affairs and Water Policy  
Kris McFadden, Director, Transportation & Storm Water Department  
Mario X. Sierra, Director, Environmental Services Department  
Davin Widgerow, Deputy City Attorney, City Attorney's Office  
Gene Matter, Assistant Deputy Director, Transportation & Storm Water Department  
Roger Wammack, Program Manager, Transportation & Storm Water Department  
Clement Brown, Program Manager, Transportation & Storm Water Department

CITY OF SAN DIEGO COMMENTS - TENTATIVE INVESTIGATIVE ORDER R9-2016-0205, REGIONAL BOARD 9 - SAN DIEGO REGION			
Comment #	Tentative Order Location	Reason for Proposed Changes/Comments	Comments/Proposed Changes
1	General Comment	<ul style="list-style-type: none"> <li>The Tentative Order provides narrative water quality objectives (WQOs) and a trash discharge prohibition in Finding 5 and Finding 6, respectively. To comply with the WQOs and the trash discharge prohibition, the MS4 Permittees are required to implement either the Track 1 or Track 2 compliance option. However, the Tentative Order does not indicate that meeting the trash discharge prohibition requirements (via implementing Track 1 or Track 2) would also mean the MS4 Permittees are in compliance with receiving water limitations (i.e., meeting the WQOs).</li> </ul>	<ul style="list-style-type: none"> <li>Add language to the Tentative Order indicating the MS4 Permittees are in compliance with the receiving water limitations (i.e., meeting the WQOs), so long as they are fully implementing Track 1 or Track 2.</li> </ul>
2	Finding 7, Page 3	<ul style="list-style-type: none"> <li>Finding 7 of the Tentative Order presents the Track 1 and Track 2 compliance options detailed in the Statewide Trash Amendments. However, the Track 2 language in the Tentative Order omits some of the Track 2 language in the Statewide Trash Amendments: <i>“The MS4 permittee may determine the locations or land uses within its jurisdiction to implement any combination of controls.”</i></li> <li>Finding 7 also presents the requirement for the MS4 Permittees, which choose Track 2 as their compliance option, to submit an Implementation Plan. However, there is no language in the Tentative Order that provides information regarding the Regional Board’s review and approval of the Track 2 Implementation Plans. Having an understanding of the review and approval process would provide the MS4 Permittees a clearer picture of implementation expectations, which would allow for better water quality protection/watershed planning.</li> </ul>	<ul style="list-style-type: none"> <li>Add the omitted language from the Statewide Trash Amendments to the Tentative Order <i>“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.”</i></li> <li>Clarify the review and approval process for the Track 2 Implementation Plans.</li> </ul>
3	Finding 9.a, Page 5	<ul style="list-style-type: none"> <li>Finding 9.a of the Tentative Order details the Priority Land Uses defined by the Statewide Trash Amendments that are to be addressed for controlling trash discharges. However, Finding 9.a does not state that the Priority Land Uses are the land use types to be addressed via the Track 1 compliance option. Per the Statewide Trash Amendments, the Track 2 compliance option is valid for all land uses within each MS4 Permittees jurisdiction they have “Regulatory Control” over. That is, under the Track 2 compliance option, the MS4 Permittees can implement a suite of best management practices (BMPs) throughout their jurisdictions to control trash discharges, not just in the Priority Land Uses.</li> </ul>	<ul style="list-style-type: none"> <li>Clarify the Priority Land Uses are for the Track 1 compliance option <i>“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 using the Track 1 compliance option.”</i></li> </ul>

<p>4</p>	<p>Finding 9.b, Page 5</p>	<ul style="list-style-type: none"> <li>• Finding 9.b does not contain the full language from the Equivalent Land Use Provisions in the Statewide Trash Amendments. Finding 9.b omits <i>“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 or greater than the total trash generated from the priority land uses for which substitution is requested.”</i> The Statewide Trash Amendments included this language because the identification of the Priority Land Uses was done on a state level and the State Board recognized there is variability in trash generation between the same land use types based on local conditions. Omitting this language reduces the flexibility the MS4 Permittees have to define the priority land uses within their jurisdictions using local trash-generation information.</li> <li>• Finding 9.b is really a subset of Finding 9.a, which could be confusing since it is listed as an individual Finding.</li> </ul>	<ul style="list-style-type: none"> <li>• Add the omitted language from the Statewide Trash Amendments to Finding 9.b <i>“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 a land use 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 being substituted. <u>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 or greater than the total trash generated from the priority land uses for which substitution is requested.</u> 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.</i></li> <li>• Change Finding 9.b to Finding 9.a.i to clarify that the Equivalent Alternative Land Uses Finding is really a subset of the Priority Land Uses Finding.</li> </ul>
----------	--------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Comment #	Tentative Order Location	Reason for Proposed Changes/Comments	Comments/Proposed Changes
5	Finding 9.d, Page 6	<ul style="list-style-type: none"> <li>Finding 9.d contains a determination that transient encampments in the San Diego River Watershed Management Area (WMA) are generating substantial trash in amounts that adversely affect the beneficial uses or cause nuisance in the San Diego River. Finding 9.d also requires the MS4 Permittees in the San Diego River WMA to develop plans to address trash runoff from the relevant areas of land affected by the transient encampments through the Track 1 or Track 2 compliance options.</li> <li>While the Tentative Order provides the information sources that led to the determination that transient encampments in the San Diego River WMA are generating substantial trash in amounts that adversely affect the beneficial uses or cause nuisance in the San Diego River, the Tentative Order does not provide access to or justification as to the inclusion of the Finding.</li> <li>Although the Statewide Trash Amendments provide the Regional Board the authority to require the MS4 Permittees to implement trash controls for other land uses or specific locations this language is specific to areas subject to the MS4 NPDES permit. Other areas or facilities that may generate trash, such as high usage campgrounds, picnic areas, beach recreation areas, parks not subject to a MS4 permit, marinas, etc., are discussed under the section for "Other Dischargers" and there is no language stating trash sources originating in, or directly discharging to, receiving waters should be addressed by MS4 Permittees. According to the San Diego River Park Foundation's 2016 <i>State of the San Diego River Report</i>, transient encampments within the San Diego River riverbed account for 89 percent of the trash found in the riverbed, by volume.<sup>1</sup> The Statewide Trash Amendments require MS4 Permittees to install full capture systems in their MS4s or implement a suite of BMPs focusing on the land areas serviced by their MS4s that they have "Regulatory Control" over. The Statewide Trash Amendments did not intend for the MS4 Permittees to address trash sources within receiving waters, which they do not have "Regulatory Control" over.</li> <li>Transient encampments are nonpoint sources of trash and should not be included in the Tentative Investigative Order. Transient encampments would be more effectively regulated under individual Waste Discharge Requirements (WDR) Permits or Conditional Waivers of WDR<sup>2</sup> that are inclusive of all responsible parties with land use authority or ownership in those areas identified as problematic.</li> <li>Furthermore, as there are often no MS4s within the areas surrounding the receiving waters where transient encampments exist, the MS4 Permittees would not be able to utilize the Track 1 compliance option to address these areas. The Tentative Order should refer to Track 1 or Track 2 as they are compliance options specific to point source discharges and are not applicable to nonpoint sources, such as transient encampments.</li> </ul>	<ul style="list-style-type: none"> <li>The issue of transient encampments should be addressed in a separate regulatory action that is more appropriate to nonpoint sources and more inclusive of all responsible parties. For this reason, all language regarding encampments should be removed from the Tentative Investigative Order.</li> <li>If the Regional Board decides to keep this issues within the Tentative Investigative Order, the following modifications are recommended:             <ul style="list-style-type: none"> <li>Provide justification and specific locations regarding the inclusion of the finding that transient encampments in the San Diego River WMA are generating substantial trash in amounts that adversely affect the beneficial uses or cause nuisance in the San Diego River.</li> <li>Revise the second paragraph of Finding 9.d <i>"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 to coordinate with other entities within the watershed, as appropriate, to address trash associated with transient encampments from areas under their jurisdiction. Coordination may be implemented through another regulatory mechanism such as a Conditional Waiver of Waste Discharge Requirements, which would be separate from the NPDES permit for the MS4 permittees. through Track 1 or Track 2 controls as stipulated in the Trash Amendments (Ocean Plan Chapter III.L.2.d and ISWEEB Plan Chapter IV.A.3.d)."</i></li> <li>The City believes the implementation actions addressing trash already included in the San Diego River Water Quality Improvement Plan are a more appropriate and effective response from the MS4 Permittees that can be built upon to address this specific source. The MS4 Permittees in the San Diego River WMA are open to collaborative efforts to address trash in the relevant areas of land affected by the transient encampments, but those efforts should be developed under another regulatory construct, that includes all parties, and is not tied to compliance with the MS4 Permit or with the Statewide Trash Amendments.</li> </ul> </li> </ul>

Comment #	Tentative Order Location	Reason for Proposed Changes/Comments	Comments/Proposed Changes
6	Finding 11, Page 6	<ul style="list-style-type: none"> <li>Finding 11 does not provide adequate information related to the monitoring and reporting requirements specific to the Track 1 and Track 2 compliance options as detailed in the Statewide Trash Amendments. Finding 11 simply states: "The MS4 permittees will be required to provide reports to the San Diego Water Board on an annual basis to monitor 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 permittee." By not providing the specific requirements for the Track 1 and Track 2 compliance options, the Tentative Order leaves the monitoring and reporting requirements ambiguous and could cause unnecessary monitoring and/or reporting by the MS4 Permittees.</li> </ul>	<ul style="list-style-type: none"> <li>Revise language under Finding 11 "The MS4 permittees will be required to provide reports to the San Diego Water Board on an annual basis to monitor 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 permittee."               <ul style="list-style-type: none"> <li><u>MS4 permittees that elect to comply with the Statewide Trash Amendments via the Track 1 compliance option shall provide a report to the Regional Board demonstrating installation, operation, maintenance, and the Geographic Information System- (GIS-) mapped location and drainage area served by its full capture systems on an annual basis.</u></li> <li><u>MS4 permittees that elect to comply with the Statewide Trash Amendments via the Track 2 compliance option shall develop and implement monitoring plans that demonstrate the effectiveness of the full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls, and compliance with full capture system equivalency. Monitoring reports shall be provided on an annual basis and shall include GIS-mapped locations and drainage area served for each of the full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls installed or utilized by the MS4 permittee.</u></li> </ul> </li> </ul>

<sup>1</sup> See the San Diego River Park Foundation's Web Viewer for locations of current and historical transient encampments: <http://www.immappler.com/sandiego16/>.

<sup>2</sup> See State Water Board Response to Comments on page F-31 explaining that transient encampments are a nonpoint source that should be addressed through a WDR or conditional waiver of WDR and requirement on page 12 of the 2007 Ventura River Estuary Trash TMDL Staff Report for precedent that direct disposal (e.g. trash from transient encampments) is a nonpoint source that is addressed through a Conditional Waiver.

Comment #	Tentative Order Location	Reason for Proposed Changes/Comments	Comments/Proposed Changes
7	Finding 13, Page 7	<ul style="list-style-type: none"> <li>Finding 13 states that the Regional Board intends for the MS4 Permittees to incorporate the requirements of the Statewide Trash Amendments into the Water Quality Improvement Plans (WQIPs) after renewal of the Regional MS4 Permit. The implementation measures, interim milestones, and compliance schedules for Track 1 and Track 2 of the Statewide Trash Amendments shall be incorporated into the WQIPs to be implemented by the MS4 Permittees as part of the adaptive management process. A watershed approach is not the best implementation mechanism for the trash programs and is counter to the intent of the State Board. The WQIP is based around defining a highest priority watershed condition. While addressing trash is important, it may not be the highest priority condition within every watershed. The trash requirements are more aligned with requirements in the jurisdictional runoff management programs and could easily be incorporated into these plans without potentially causing a shift to trash being a highest priority in every watershed. Additionally, watershed scale implementation presents particular challenges with respect to the determination of full capture system equivalency, which is developed on a jurisdictional basis independent of watershed boundaries, and demonstration of attainment. Since both are performed on a jurisdictional scale, it is not practical or necessary to revise compliance approaches to make them fit into watershed plans.</li> </ul>	<ul style="list-style-type: none"> <li>Rather than include the trash compliance approaches within the WQIPs, the City recommends that the Track 1 or Track 2 approach be included within the City's Jurisdictional Runoff Management Plan (JRMP). In order to do so, Finding 13 should be completely revised to address appropriate inclusion within the JRMP.</li> </ul>
8	Finding 14, Page 9	<ul style="list-style-type: none"> <li>Finding 14 states that the technical and monitoring reports are needed to provide information "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." However, Finding 14 does not specify which of the items relate to MS4 Permittees complying via Track 1 or Track 2. By not providing the specific requirements for the Track 1 and Track 2 compliance options, the Tentative Order leaves the monitoring and reporting requirements ambiguous and could cause unnecessary monitoring and/or reporting by the MS4 Permittees.</li> </ul>	<ul style="list-style-type: none"> <li>Revise language in Finding 14 to specify which of the items relate to Track 1 and Track 2 "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 (Track 1 and Track 2), (b) the plan that will be implemented by each MS4 permittee to comply with the trash discharge prohibition (Track 2), (c) the interim milestones that each MS4 permittee will achieve within its jurisdiction (Track 1 and Track 2), (d) the schedules to achieving the interim milestones, and full compliance with the trash discharge prohibition (Track 1 and Track 2), and (e) the monitoring (Track 2) and reporting (Track 1 and Track 2) that will be implemented to demonstrate progress toward achieving full compliance with the trash discharge prohibition.</li> </ul>



Comment #	Tentative Order Location	Reason for Proposed Changes/Comments	Comments/Proposed Changes
9	Directive A.2, Pages 9-10	<ul style="list-style-type: none"> <li>Directive A.2 states that “Each MS4 permittee electing to comply with Track 2 must submit, no later than eighteen (18) months from the date of this Order <u>[INSERT DATE]</u>, an implementation plan for each Watershed Management Area described in Table 1 in Finding 13 above....” However, the Statewide Trash Amendments clearly identify individual jurisdictions, and specific land uses within the individual jurisdictions, as the implementation locations. As discussed in Comment #7, requiring implementation on a watershed-scale could affect the MS4 Permittees’ implementation approaches and implementation schedules as trash generation is site-specific and varies between jurisdictions.</li> <li>In addition, Directive A.2.a contains a footnote that states “Controls include, but are not limited to, treatment controls and institutional controls, as defined in the Appendix D to the California Ocean Plan and Appendix E of the Inland Surface Waters, Enclosed Bays, and Estuaries of California.” The footnote does not provide adequate information regarding the types of controls allowed.</li> <li>Furthermore, Directive A.2.e incorrectly links Priority Land Uses with the Track 2 compliance option. Directive A.2.e states “Requests by MS4 permittees, if any, for authorization to substitute a Priority Land Use described in Finding 9 above with an Equivalent Alternate Land Use that generates rates of trash equivalent to, or greater than, 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.” Priority Land Uses/Equivalent Alternate Land Uses are only relevant if a MS4 Permittee selects the Track 1 compliance option.</li> <li>Finally, Directive A.2.f states the Track 2 implementation plan should include “A compliance time schedule based on the shortest practicable time to achieve full compliance with the trash discharge prohibition, including interim milestones (such as average load reductions of ten percent per year) and a final compliance date. 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).” However, the Statewide Trash Amendments do not include any language where the compliance time schedule must be based on the shortest practicable time to achieve full compliance with the trash discharge prohibition. The Statewide Trash Amendments state compliance must be achieved ten years from the effective date of the first implementing permit and not longer than fifteen years from the effective date of the Statewide Trash Amendments.</li> </ul>	<ul style="list-style-type: none"> <li>Consistent with Comment #7, revise Directive A.2 “Each MS4 permittee electing to comply with Track 2 must submit, no later than eighteen (18) months from the date of this Order <u>[INSERT DATE]</u>, an implementation plan, <u>which shall also be incorporated into the applicable Jurisdictional Runoff Management Plan after renewal of the Regional MS4 Permit, for each Watershed Management Area described in Table 1 in Finding 13 above that describes....”</u></li> <li>Revise the footnote in Directive A.2.a “Controls include, but are not limited to, <u>full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls-treatment controls and institutional controls</u>, as defined in the Appendix D to the <u>Water Quality Control Plan for Ocean Waters of California California Ocean Plan and Appendix E of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California.</u>”</li> <li>Delete Directive A.2.e “<u>Requests by MS4 permittees, if any, for authorization to substitute a Priority Land Use described in Finding 9 above with an Equivalent Alternate Land Use that generates rates of trash equivalent to, or greater than, 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.</u>”</li> <li>Revise Directive A.2.f “A compliance time schedule <u>based on the shortest practicable time</u> to achieve full compliance with the trash discharge prohibition, including interim milestones (such as average load reductions of ten percent per year) and a final compliance date. 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).”</li> </ul>

Comment #	Tentative Order Location	Reason for Proposed Changes/Comments	Comments/Proposed Changes
10	Directive A.4, Page 10	<ul style="list-style-type: none"> <li>• Directive A.4 states “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.” The title of Directive A.4 omits “watershed” after “San Diego River”.</li> <li>• In addition, as detailed above (see Comment #5) regarding Finding 9.d, there are several issues related to addressing transient encampments. Specifically, many transient encampments are nonpoint sources located in areas outside of the MS4. As such, clarification is required to ensure developing plans to address trash runoff from the relevant areas of land affected by the transient encampments are independent of the MS4 Permit and the Statewide Trash Amendments and not tied to compliance.</li> </ul>	<ul style="list-style-type: none"> <li>• The City believes the implementation actions addressing trash already included in the San Diego River Water Quality Improvement Plan are a more appropriate and effective response from the MS4 Permittees that can be built upon to address this specific source. The MS4 Permittees in the San Diego River WMA are open to collaborative efforts to address trash in the relevant areas of land affected by the transient encampments, but those efforts should be developed under another regulatory construct, that includes all parties, and is not tied to compliance with the MS4 Permit or with the Statewide Trash Amendments. For these reasons, the City recommends that the Regional Board remove references to the regulation of transient encampments from the Tentative Investigative Order.</li> <li>• However, should the transient encampment issue remain in the Tentative Order, the following revisions are recommended for Directive A.4:             <ul style="list-style-type: none"> <li>○ Revise the title of Directive A.4 “<i>Transient Encampments in the San Diego River Watershed</i>”</li> <li>○ Revise Directive A.4 “<i>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], collaborate with other entities in the watershed as appropriate to a description of how address trash generated from transient encampments in the San Diego River Watershed Management Area. These efforts may be implemented under another regulatory mechanism, such as a Conditional Waiver of Waste Discharge Requirements, that would be separate from the NPDES permit for the MS4 permittees.</i></li> </ul> </li> </ul>