



**CITY OF CORONADO**  
**PUBLIC SERVICES & ENGINEERING**

1825 STRAND WAY  
CORONADO, CA 92118-3005  
December 14, 2016

TEL: (619) 522-7383  
FAX: (619) 522-2408

VIA EMAIL TO: [sandiego@waterboards.ca.gov](mailto:sandiego@waterboards.ca.gov)  
Attn: Christina Arias  
Reference 786088: CArias

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: Comments - Investigative Tentative Order No. R9-2016-0205.**

Dear Ms. Arias:

The City of Coronado (City) appreciates the opportunity to comment on Tentative Order R9-2016-0205, An Investigative Order (Tentative 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 Tentative Order is in response to the State Water Board adoption on April 7, 2015 of the Final Trash Amendments (Trash Amendments) for Ocean Waters and Inland Surface Waters, Enclosed Bays, and Estuaries of California. The issuance of the Tentative Order and opportunity for comments reflects the collaborative approach the San Diego Regional Water Quality Control Board (Regional Board) takes to regulating the City and Copermittees. In this spirit of collaboration, the City respectfully submits the following comments and recommended changes to the language in the Tentative Order. We are optimistic that a revised Order will be reflective of our input and comments while meeting the Regional Board's obligations regarding the Statewide Trash Amendments (Trash Amendments) issued by the State Water Resources Control Board (State Board). In addition to the City's comments, a redline/strikeout version of the Tentative Order with suggested modifications is included as an attachment.

The City's goal in providing this comment letter is for the Tentative Order to be explicitly consistent with the language and intent of the State Board's adopted Trash Amendments.

The City has identified six key items of concern within the Tentative Order including:

1. The insertion of abbreviated or modified language not consistent with the Trash Amendments Findings;
2. The directive to submit an implementation plan for each Watershed Management Area and incorporation of implementation measures, interim milestones, and compliance schedules (the implementation plan) for Track, 1 and Track 2 into the Water Quality Improvement Plans;
3. The directive expanding coordination with Caltrans to include submittal of a description of coordination efforts (additional reporting);
4. The requirements to address trash from transient encampments (non-point source) under the MS4 Permit that regulates point sources under the City's authority;
5. The lack of differentiation between Track 1 and Track 2 technical and monitoring reporting requirements;
6. The inclusion of additional reporting requirements for Track 1; and
7. Compliance with the water quality objective and discharge prohibitions through a Track 1 or Track 2 approach.

For each area of concern, a request providing specific recommendations is included. Related detailed requests for modifications to the Tentative Order in redline/strike-out are included as an attachment.

#### **Item No. 1 – Abbreviated or Modified Language**

The language in the Trash Amendments if quoted or transferred to the final Order must be included per verbatim to avoid modifying the requirements and subjecting the City to an Order with a different interpretation of the findings or directives found in the Trash Amendments. The abbreviated or modified language in the current Tentative Order could result in inadvertent non-compliance due to varying interpretations. Examples include Finding Nos. 7, 9.b., 10, and 11.

*Request: Include original Trash Amendment language in the Tentative Order, as applicable. An attachment provides the specific redline/strike-out edits identified as abbreviated or modified language.*

#### **Item No. 2 – Incorporation into the Water Quality Improvement Plan (WQIP) (Finding 13)**

The Trash Amendments were developed to focus on trash originating from the combinations of land uses unique to each jurisdiction, as applicable. The State Board has stated its preference by developing directives that apply to each jurisdiction requiring the analysis of the Priority Land Uses that were identified to “produce” significant amounts of trash. Each jurisdiction has different combinations and locations of those land uses that may be directly connected to the municipal storm drain system or MS4 that it owns and operates. At the watershed level, there is no single authority over land uses or the MS4. It is for this reason, that the State Board wrote the Trash Amendments for individual jurisdictions and MS4s. The Trash Amendments do not fit well in a watershed-based regulatory context, as they are designed to apply and be regulated on a jurisdictional basis. For example, under Track 2, a jurisdiction's Full Capture System Equivalency value is developed based on its own combination of Priority Land Uses to be implemented and managed at the jurisdictional level. It is totally feasible for two neighboring jurisdictions within

the same watershed to have different trash generation rates for their Priority Land Uses based on their own demographics and history of development. It is also entirely possible that these two neighboring jurisdictions would choose to implement different tracks based on their trash management practices.

A watershed approach is not a good alternative to the jurisdictional approach for the City of Coronado. In fact, it may create additional requirements and regulatory burden on jurisdictions compared to other regions in the state due to: 1) increased watershed planning and coordination requirements; 2) redundant reporting (jurisdictional- and watershed-based); 3) increased complexity to determine compliance with the Trash Amendments and the jurisdiction's implementation plan; and 4) increase administrative cost to implement the Trash Amendments (instead of funding actual trash removal efforts).

The City requests that Finding 13 of the Tentative Order to be deleted to remove the additional requirement and potential reporting and economic burden being imposed by administration of the Trash Amendments at through the WQIPs.

*Request: Delete Finding 13 and align the Tentative Order with the Trash Amendments by requiring implementation at the jurisdictional level and reporting through the City's JRMP. Furthermore, the City supports an amendment or addition to the JRMP Annual Report Form (MS4 Permit, R9-2013-0001, Attachment D, Pages D-3 and D-4) to incorporate a streamlined, consistent reporting mechanism for each jurisdiction's annual reporting of the implementation of the Trash Amendments.*

### **Item No. 3 – Coordination with Caltrans (Finding 9.c and Directive A.3)**

The City requests that the Tentative Order be modified to be consistent with the Trash Amendments and with the MS4 Permit with respect to coordination with Caltrans. The Trash Amendments (Finding 9.c) and the MS4 Permit require coordination with Caltrans, as applicable, but neither requires a submittal to the Regional Board describing the coordination efforts.

In general, the City and the Copermittees in the San Diego Bay Watershed Management Area have established a good working relationship with Caltrans through the development and now the implementation of the WQIP. As this coordination continues, it is anticipated that it will include implementation of the requirements under the Trash Amendments, as appropriate, for Caltrans and the City to be compliant. Coordination should not necessitate a new reporting requirement for the City and Caltrans.

*Request: Keep Finding 9.c as it is equivalent to the coordination requirement with Caltrans found in the Trash Amendments, and remove Directive A.3, the requirement for the City to describe this coordination in a separate submittal to the Regional Board.*

### **Item No. 4 – Transient Encampments in the San Diego River Watershed (Finding 9.d, Directive A.4)**

There are two key concerns with the proposed methods to address transient encampments within the San Diego River Watershed.

First, transient encampments are by their nature a non-point source of trash and thus should be considered as such. Therefore, they should not be regulated through an MS4 Permit which is a point source permit. As noted in their Response to Comments for the Statewide Trash Amendments, the State Board intended for the Trash Amendments to apply to NPDES Permits issued pursuant to Federal Clean Water Act Section 402(p) (see response 10.6), with other sources addressed through Waste Discharge Requirements (WDRs) or waivers of WDRs (see response 34.2). As has been found in other regions (e.g., Ventura River Estuary), addressing MS4 sources of trash only, when the problem stems from transient encampments, has little effect on the overall levels of trash. This is because Copermittees often do not have “regulatory control” over properties where transient encampments are common. The request for the Permittees to “address trash runoff from the relevant areas of land affected by transient encampments” via the MS4 Permit is inappropriate as it is the wrong mechanism for controlling this types of discharge. To effectively address the issue, participation from all land owners and key responsible parties, particularly those beyond the control of the MS4 permit, will be needed. Further, it will be necessary to involve other agencies to address the transient problems within any watershed (e.g., social services, police).

In the same context, the requirement to address trash from transient encampments under the MS4 Permit limits the ability of the Copermittee to implement a Track 1 approach, since, consistent with the intent of the amendments, full capture devices would only treat MS4 discharges from priority land use areas, not in the receiving waters.

Second, the Trash Amendments allow the Regional Board to make a determination that specific land uses or locations generate substantial amounts of trash. As drafted, the Tentative Order provides the source of information, but does not provide justification for the determination that trash from transient encampments is a problem, nor does it specify areas of the watershed where there is believes or has proof that it is a problem. Lastly, it follows that a linkage between trash from homeless encampments and the MS4 must be established. The Tentative Order articulates “relevant areas of land affected by transient encampments” which may or may not have anything to do with trash generated from Priority Land Uses and entering the MS4.

*Request: Delete Finding 9.d and Directive A.4 from the Tentative Order. The Regional Board should maintain consistency with the State Board and other Regional Boards in addressing trash generated from transient encampments as a non-point.*

### **Item No. 5 – Distinction between Track 1 and Track 2 Requirements and Consistency with Statewide Trash Amendments (Findings 7, 9, 11, 12, and 14; Directives A.2 and A.3)**

The Trash Amendments provide jurisdictions with two Tracks for compliance, Track 1 and Track 2. The compliance requirements of the two Tracks differ in methodology, reporting and timelines. Selecting the “Track” it intends to implement is one of the first decisions a jurisdiction has to make under the Trash Amendments. The choice includes many factor for the City, including substantial expenditure of time and resources to comply with the Trash Amendments. Therefore, it is essential that the findings and directives of the final Order clearly differentiate between the requirements for Track 1 or 2 and that it not expand the requirements presented in the Trash Amendments. The final Order will be the regulatory document that will later be the basis for incorporation of the Trash Amendments into the Regional MS4 Permit.

To fully reflect the State Board's intent and requirements in the Trash Amendments, the original language from the Trash Amendments should be preserved wherever possible.

*Request: The Regional Board should perform a review of the Tentative Order language to avoid additional requirements and mandates not found in the Trash Amendments that may create additional regulatory burdens and the need for resources compared to future implementation mandates (e.g., 13267 or MS4 Permits) issued by other Regional Boards.*

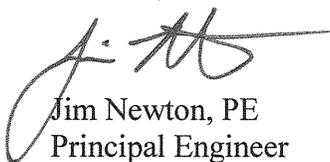
**Item No. 6 – Compliance through Implementation of a Track 1 or Track 2 Approach and Approval of Track 2 Implementation Plan (Finding 7)**

The City requests that the Tentative Order be modified to include clarification that the timely and complete implementation of an approved Track 1 or Track 2 compliance approach will meet the water quality objective and provide compliance with the trash discharge. Revisions to Finding 7 of the Tentative Order should be made to reflect these needed clarifications. In addition, to better understand the process through which the required implementation plans under Track 2 are approved by the Regional Board, language outlining the milestones and timing for approval involved should be added to Finding 7.

*Request: Add language indicating that implementation under a Track 1 or Track 2 approach meets the water quality objective (Finding 5) and provides compliance with the trash discharge prohibitions (Finding 6). Include language in Finding 7 describing the Regional Board's approval process for Implementation Plans developed under a Track 2 approach.*

Thank you for your time and consideration of these comments offered to improve the Tentative Order and ensure consistency with the Trash Amendments. If you have questions, please do not hesitate to contact myself or Jessie Powell at (619) 522-7357 or [jpowell@coronado.ca.us](mailto:jpowell@coronado.ca.us).

Sincerely,



Jim Newton, PE  
Principal Engineer

Attachment/Tentative Order redline/strike out.

**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.
- 2. 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.
- 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 with regulatory authority over priority land uses in the San Diego Region, the San Diego Water Board is required to modify, re-issue, or adopt an applicable MS4 permit, or issue an order pursuant to Water Code section 13267 or 13383 to implement the Trash Amendments.

**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 (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
- County of Riverside
  - City of Menifee<sup>2</sup>
  - 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
- City of Lake Forest<sup>1</sup>
- City of Mission Viejo
- City of Ranch Santa Margarita
- City of San Clemente
- City of San Juan Capistrano
- Orange County Flood Control District
- Riverside County Flood Control and Water Conservation District
- 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.** 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.

---

<sup>1</sup> 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.

<sup>2</sup> 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.

- a. The Trash Amendments established the following narrative water quality objective for trash in Chapter II.C.5 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 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.”*

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 the Ocean Plan and Chapter IV.A.2 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. MS4 Permit Implementation of the Trash Amendments.** The Trash Amendments are required to be implemented through the incorporation of the trash narrative water quality objectives and discharge prohibition into NPDES MS4 permits. The NPDES MS4 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.

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, 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. 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 approved by the San Diego Water Board ninety (90) days after submission unless the MS4 permittee is otherwise notified in writing by the San Diego Water Board Executive Officer.

An MS4 permittees in full compliance with Track 1 or Track 2 implementation is deemed to be in compliance with the trash discharge prohibition and narrative water quality objectives incorporated into the MS4 Permit.

**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 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 using the Track 1 compliance option:

- 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 a one or more land uses identified above with an alternate land use within the MS4 permittee's jurisdiction that generates rates of trash that is-are 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 or greater than the total trash generated from the priority land uses 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 (Ocean Plan Chapter III.L.2.b and 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 (Ocean Plan Chapter III.L.2.d and 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, schools, campuses, 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.

At a future date, the San Diego Water Board may consider other regulatory mechanisms, separate from this Order, to help address trash from transient encampments in the San Diego River Watershed.

~~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) 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. Because this may involve entities not subject to the MS4 Permit, the Coordination may be implemented through another regulatory mechanism, such as a Conditional Waiver of Waste Discharge Requirements, or cooperative agreements which would be separate from the NPDES permit for the MS4 permittees.~~

**10. Compliance Time Schedule.** The Trash Amendments require the implementing 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. The current Regional MS4 Permit (Order R9-2013-0001, as amended by Orders R9-2015-0001 and R9-2015-0100) will expire on June 27, 2018. Full compliance with the Trash Amendments will be

within (ten) 10 years of the effective date of the re-issued Regional MS4 Permit. (ten)-In addition, the implementing permit must require the MS4 permittees to demonstrate achievements of interim milestones such as an average of ten percent (10%) of full capture systems installed every year (Track 1) or average load reductions of ten percent (10%) per year (Track 2) or other progress to full implementation. In no case may the final compliance date 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 to include monitoring and reporting requirements. 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—compliance track selected to be implemented by a MS4 permittee. Reporting shall be performed using the Jurisdictional Urban Runoff Management Plan Annual Report form, as amended, submitted with the Water Quality Improvement Plan Annual Report.

a. 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 as part of the JRMP annual reporting form within the WQIP Annual Report.

b. 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 as part of the JRMP annual reporting form within the WQIP Annual Report 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.

11-12. -

**13. Regional MS4 Permit Watershed MS4 Permittee Collaboration.** 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 Copermittees). 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. The Regional MS4 Permit requires the MS4 Copermittees to develop and implement

Water Quality Improvement Plans (WQIPs) for ten (10) Watershed Management Areas (WMAs), designated in Table B-1 of the Permit. Each jurisdiction or MS4 permittee is required to develop and implement a Jurisdictional Runoff Management Plan (JRMP) that describes how it implements core Regional MS4 Permit requirements and specific strategies identified in the WQIPs to address identified high priority or focused water quality conditions. While the JRMPs are not explicitly part of the WQIP, reporting related to JRMP programs is accomplished through the WQIP Annual Reporting process.

Compliance with the Trash Amendments is based on implementation of specific measures to control trash within and by each jurisdiction (MS4 permittee). There may be benefits from collaborating and sharing information on the implementation of the Trash Amendments. In such cases, as identified by watershed Copermittees. Through the issuance of this Order pursuant to Water Code section 13267, the San Diego Water Board intends for the MS4 permittees to collaborate and share information on the implementation of the Trash Amendments.

12.

**13. Water Quality Improvement 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"> <li>-Aliso Creek</li> <li>-San Juan Creek</li> <li>-San Mateo Creek</li> <li>-Pacific Ocean</li> <li>-Heisler Park ASBS</li> </ul>	<ul style="list-style-type: none"> <li>-City of Aliso Viejo</li> <li>-City of Dana Point</li> <li>-City of Laguna Beach</li> <li>-City of Laguna Hills<sup>1</sup></li> <li>-City of Laguna Niguel</li> <li>-City of Laguna Woods<sup>1</sup></li> <li>-City of Lake Forest<sup>2</sup></li> <li>-City of Mission Viejo</li> <li>-City of Rancho Santa Margarita</li> <li>-City of San Clemente</li> <li>-City of San Juan Capistrano</li> <li>-County of Orange</li> <li>-Orange County Flood Control District</li> <li>-City of Menifee<sup>3</sup></li> <li>-City of Murrieta<sup>4</sup></li> <li>-City of Temecula</li> <li>-City of Wildomar<sup>4</sup></li> </ul>
Santa Margarita (902.00)	Santa Margarita River	<ul style="list-style-type: none"> <li>-Murrieta Creek</li> <li>-Temecula Creek</li> <li>-Santa Margarita River</li> <li>-Santa Margarita Lagoon</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-County of Riverside</li> <li>-County of San Diego</li> <li>-Riverside County Flood Control and Water Conservation District</li> </ul>
San Luis Rey (903.00)	San Luis Rey River	<ul style="list-style-type: none"> <li>-San Luis Rey River</li> <li>-San Luis Rey Estuary</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-City of Oceanside</li> <li>-City of Vista</li> <li>-County of San Diego</li> </ul>

Carlsbad (904.00)	Carlsbad	<ul style="list-style-type: none"> <li>-Loma Alta Slough</li> <li>-Buena Vista Lagoon</li> <li>-Agua Hedionda Lagoon</li> <li>-Batiquitos Lagoon</li> <li>-San Elijo Lagoon</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-City of Carlsbad</li> <li>-City of Encinitas</li> <li>-City of Escondido</li> <li>-City of Oceanside</li> <li>-City of San Marcos</li> <li>-City of Solana Beach</li> <li>-City of Vista</li> <li>-County of San Diego</li> </ul>
San Dieguito (905.00)	San Dieguito River	<ul style="list-style-type: none"> <li>-San Dieguito River</li> <li>-San Dieguito Lagoon</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-City of Del Mar</li> <li>-City of Escondido</li> <li>-City of Poway</li> <li>-City of San Diego</li> <li>-City of Solana Beach</li> <li>-County of San Diego</li> </ul>
Penasquitos (906.00)	Penasquitos	<ul style="list-style-type: none"> <li>-Los Penasquitos Lagoon</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-City of Del Mar</li> <li>-City of Poway</li> <li>-City of San Diego</li> <li>-County of San Diego</li> </ul>

**Table 1. San Diego Region Watershed Management Areas**

Hydrologic Unit(s)	Watershed Management Area	Major Surface Water Bodies	Responsible MS4 permittees
	Mission Bay	<ul style="list-style-type: none"> <li>-Mission Bay</li> <li>-Pacific Ocean</li> <li>-San Diego Marine Life Refuge ASBS</li> </ul>	<ul style="list-style-type: none"> <li>-City of San Diego</li> </ul>
San Diego (907.00)	San Diego River	<ul style="list-style-type: none"> <li>-San Diego River</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-City of El Cajon</li> <li>-City of La Mesa</li> <li>-City of San Diego</li> <li>-City of Santee</li> <li>-County of San Diego</li> </ul>
Pueblo San Diego (908.00) Sweetwater (909.00) Otay (910.00)	San Diego Bay	<ul style="list-style-type: none"> <li>-Sweetwater River</li> <li>-Otay River</li> <li>-San Diego Bay</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-City of Chula Vista</li> <li>-City of Coronado</li> <li>-City of Imperial Beach</li> <li>-City of La Mesa</li> <li>-City of Lemon Grove</li> <li>-City of National City</li> <li>-City of San Diego</li> <li>-County of San Diego</li> <li>-San Diego County Regional Airport Authority</li> <li>-San Diego Unified Port District</li> </ul>
Tijuana (911.00)	Tijuana River	<ul style="list-style-type: none"> <li>-Tijuana River</li> <li>-Tijuana Estuary</li> <li>-Pacific Ocean</li> </ul>	<ul style="list-style-type: none"> <li>-City of Imperial Beach</li> <li>-City of San Diego</li> <li>-County of San Diego</li> </ul>

Notes:

1. 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.
2. 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).
3. 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.
4. 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. The implementation measures, interim milestones, and compliance schedules for Track 1 or Track 2 of the Trash Amendments shall also be incorporated into the Water Quality Improvement Plans to be implemented by the MS4 permittees as part of the adaptive management process.~~

~~Through the issuance of this Order pursuant to Water Code section 13267, the San Diego Water Board intends the MS4 permittees to incorporate the requirements of the Trash Amendments into the Water Quality Improvement Plans after renewal of the Regional MS4 Permit.~~

**14.13. Basis for Requiring Technical and Monitoring Reports.** 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 or Track 2), (b) the plan that will be implemented by each MS4 permittee to comply with the trash discharge prohibition (Track 2 only), (c) the interim milestones that each MS4 permittee will achieve within its jurisdiction (Track 1 or Track 2), (d) the schedules to achieving the interim milestones, and full compliance with the trash discharge prohibition (Track 1 or Track 2), and (e) the monitoring (Track 2 only) and reporting (Track 1 or Track 2) 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). 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 activity in question may have a significant effect on the environment.

**IT IS HEREBY ORDERED**, pursuant to California Water Code section 13267, that the MS4

Permittees must comply with the following directives:

## A. TECHNICAL AND MONITORING REPORTS

1. **Written Notices.** Each MS4 permittee must submit to the San Diego Water Board, **no later than three (3) months from the date of this Order [INSERT DATE]**, 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.
  
2. **Track 2 Implementation Plans.** Each MS4 permittee electing to comply with Track 2 must submit, **no later than eighteen (18) months from the date of this Order [INSERT DATE]**, an implementation plan ~~for each Watershed Management Area described in Table 1 in Finding 13 above that which shall be incorporated into the MS4 Permittee's Jurisdictional Runoff Management Plan after renewal of the Regional MS4 Permit and~~ describes:
  - a. The combination of controls<sup>3</sup> 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 trash implementation plans will be monitored and assessed in Water Quality Improvement Plan Annual Reports;~~
  - ~~d. 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;~~
  - e. 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).
  
3. **Coordination with Caltrans.** Each MS4 permittee subject to this Order must ~~submit, no later than eighteen (18) months from the date of this Order [INSERT DATE], a description of how MS4 permittees will~~ coordinate their efforts to install, operate, and maintain full capture systems, multi-benefit projects, and other treatment controls and/or institutional 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.

---

<sup>3</sup> *Controls include, but are not limited to, full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls ~~treatment controls and institutional controls~~, as defined in ~~the~~ Appendix D to the 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.*

## 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.6.a.(1), B.6.a.(ii), or B.6.(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](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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml)

Ordered By: \_\_\_\_\_  
David W. Gibson  
EXECUTIVE OFFICER  
Date