

State of California
Regional Water Quality Control Board
San Diego Region

SUPPLEMENTAL
EXECUTIVE OFFICER SUMMARY REPORT
Wednesday, December 13, 2006

ITEM: 10

SUBJECT: Consideration of adoption of the San Diego County Municipal Storm Water Permit, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority (NPDES Permit No. CAS0108758). A public hearing for this item was held June 21, 2006: Oral comments will be accepted on modifications to the Tentative Order that have been made following the public hearing. Time allotted for oral comments may be limited at the discretion of the Chairman. The written comment period for this item is closed. (Tentative Order No. R9-2006-0011) (*Phil Hammer*)

DISCUSSION: The main purpose of this Supplemental Executive Officer Summary Report is to discuss an issue that is likely to be raised at the December 13, 2006 Regional Board meeting. A brief summary of the Copermittees' compliance history under the current permit is also provided.

The issue which may be raised at the December 13, 2006 Regional Board meeting revolves around the Tentative Order's requirements addressing hydromodification (sections D.1.g and J.2.a). The Tentative Order requires the Copermittees to develop a draft Hydromodification Management Plan within two years of adoption of the Tentative Order. The Hydromodification Management Plan will include criteria to ensure that increases in runoff resulting from development projects will not result in increased potential for erosion of downstream receiving waters. However, the Southern California Coastal Water

Research Project (SCWRPP) was recently awarded an approximately \$1 million grant to conduct similar work over the next three years. With the grant, SCCWRP is expected to develop tools to identify streams at risk to the effects of hydromodification, identify anticipated effects to streams as a result of hydromodification, and identify potential management measures to offset hydromodification effects.

Since the two projects are similar, it will be advantageous for the Copermittees to use SCCWRP's work where possible to meet the Tentative Order's requirements. Nothing in the Tentative Order prevents them from doing so. However, of concern are the timelines for the two projects. The Tentative Order requires submittal of a draft Hydromodification Management Plan within two years of adoption of the Tentative Order. SCCWRP's grant work is on a timeline of approximately three years.

It may eventually be appropriate to alter the Tentative Order's timeline to more closely match that of SCCWRP's in order to avoid duplicative efforts and allow the Copermittees to fully benefit from SCCWRP's work. It is not recommended that the timeline be altered prior to the Tentative Order's adoption, however, because of the uncertainty involved with the grant work. The grant, which is not yet finalized, includes relatively broad and flexible language regarding its work products, while the Tentative Order contains specific requirements. It is unclear at this time that the grant work will result in compliance with these specific requirements of the Tentative Order. Because of the possibility that the grant work will not meet the Tentative Order's requirements, it is inadvisable at this time to alter the Tentative Order's timelines to accommodate the grant work. Such a change is only justified after it is clear that the grant work will meet the Tentative Order's requirements. Whether or not the grant work will ultimately meet the requirements of the Tentative Order will only be known when the details of the grant are established, which will occur well after adoption of the Tentative Order is considered.

The ability of the SCCWRP to conduct some or all of its grant work in accordance with the Tentative Order's shorter timeline must also be explored. A shorter timeframe for the study would be beneficial because hydromodification impacts associated with many development projects are likely to continue largely unabated while hydromodification criteria are developed. Moreover, full evaluation of SCCWRP's ability to conduct its grant work in accordance to the Tentative Order's timeline will ensure that any timeline extension added to the Tentative Order is not excessive. Such an evaluation cannot be completed in the short time prior to consideration of adoption of the Tentative Order.

For these reasons, the ability to modify the grant work to meet the requirements of the Tentative Order should first be assessed before the Tentative Order's requirements are changed. The Tentative Order's hydromodification requirements and timelines have been negotiated over the course of approximately two years and should not be changed at this late date based on work that may possibly be conducted under a grant. Potential modifications to the Tentative Order's hydromodification timeline should be considered at approximately one year after adoption of the Tentative Order. This will provide adequate time for the above issues to be addressed and will help ensure that any modifications are appropriate.

COMPLIANCE
HISTORY:

Since adoption of the current permit, Order No. 2001-01, the Copermittees have received approximately 84 Notices of Violation for failure to comply with the permit. This number does not include 21 Notices of Violation that were considered as a group by the Regional Board and subsequently withdrawn. Under the current permit, an average of approximately 14 Notices of Violations were issued each year. In addition, an Administrative Civil Liability was issued to one Copermittee.