

EXECUTIVE OFFICER SUMMARY REPORT  
October 10, 2007

- ITEM: 10
- SUBJECT: Reissuance of Waste Discharge Requirements and NPDES Permit CAG919001 for discharges from temporary groundwater extraction and similar waste discharges to San Diego Bay, tributaries thereto under tidal influence, and storm drains or other conveyance systems tributary thereto. If adopted, Tentative Order No. R9-2007- 0032 0034<sup>1</sup>, would supersede the current WDR Order No. R9-2000-0090. (Tentative Order No. R9-2007- 0032-0034) (Vicente Rodriguez)
- PURPOSE: The Regional Board will consider whether to adopt a WDR/NPDES General Permit for the discharge of extracted groundwater waste into San Diego Bay.
- PUBLIC NOTICE: An initial notice was published on April 27, 2007 for soliciting public input on the first draft of Tentative Order No. R9-2007-0034. On September 5, 2007 a notice was published in the San Diego Union-Tribune and on September 7, 2007 on the Regional Board website soliciting public input on Tentative Order No. R9-2007-0034. The written comment period ended on October 3, 2007 and the oral comment period ends at the October 10, 2007 public hearing.
- DISCUSSION: This Order, if adopted, would reissue a general NPDES permit regulating the discharge of groundwater extraction waste to San Diego Bay (see Supporting Documents Nos. 1 and 2), including the portions of tributary streams that are subject to tidal flows, and all storm water conveyance systems and other drains that are tributary thereto from all temporary construction groundwater extraction, and similar waste discharges.

The Regional Board has regulated the discharge of groundwater extraction waste to San Diego Bay since 1990

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<sup>1</sup> The published agenda incorrectly refers to this item as Tentative Order No. R9-2007-0032. The correct order number is R9-2007-0034, as it is correctly written on the permit in Supporting Document No. 2.

with adoption of NPDES Permit (Order No. 90-31). The Order was reissued in 1995 (Order No. 95-25) and most recently in 2000 (Order No. 2000-90). The most recent Order expired June 14, 2005, but is administratively extended until adoption of tentative Order No. R9-2007-0034.

#### Purpose of Order

Order No. 2000-90 regulates temporary groundwater extraction discharges to San Diego Bay. The types of projects that are considered temporary include: subsurface excavations that require dewatering (for example: foundation, tunneling, and footings) and remediation projects that utilize pumping and treating of ground water prior to discharge to the surface. There are currently about a dozen projects regulated under the permit.

New permanent groundwater extraction discharges are prohibited from enrolling in this Order. Permanent discharges include dewatering of subterranean structures, such as parking garages which: a) are not designed or constructed to withstand hydrostatic pressure or do not preclude infiltration of groundwater, and b) require removal of groundwater to prevent water infiltration to the structure(s). However, two existing permanent discharge projects that have been regulated under this Order since 1995 will continue under R9-2007-0034. These are:

- a. Embassy Suites Hotel permanent dewatering system, and
- b. One America Plaza permanent dewatering system.

It has been a policy to continue these projects because they were in the original Order; however, at some future date individual NPDES permits may be adopted by the Regional Board for these two permanent discharges.

#### Comments Received

During the comment period, the Regional Board received one comment letter from the City of San Diego. (see Supporting Document No. 3). The City expressed support for the new requirement that prior to enrollment in the Order, a discharger must first obtain approval from the municipality prior to discharging wastewater to the municipalities' storm water conveyance system (Municipal Separate Storm Sewer Systems or MS4).

The City identified a concern about the impact these discharges could have on the growth of bacteria in storm drains as identified in the tentative bacteria TMDL, which is to be considered by the Regional Board in the future. The City recommends that bacteria monitoring downstream of the discharge point be added to a dischargers self monitoring reporting program. The City further recommends the enrollment be terminated if bacteria growth would adversely affect the City of San Diego's ability to comply with the tentative bacteria TMDL.

Since, the Regional Board has not yet adopted a bacteria TMDL, it would not be appropriate to add requirements to the permit based on the tentative TMDL. Regional Board response to comments is attached (Supporting Document No. 4).

**KEY ISSUES:** Should the permit require additional bacteria monitoring and revocation of the discharge due to bacteria growth?

**LEGAL CONCERNS:** None.

**SUPPORTING DOCUMENTS:**

1. Location Map
2. Tentative Order No. R9-2007-0032
3. Comments from the City of San Diego
4. RB Response to City of San Diego comments
5. List of ACLs since 2000

**SIGNIFICANT CHANGES:** Below are the significant changes from the existing Order No. 2000-90.

1. The tentative Order has a new look based on a new statewide template for NPDES requirements. While each region is unique, there are many aspects of NPDES permits that can be standardized. Since 2004, staffs of the State and Regional Boards, along with USEPA's contractor, have embarked on standardizing NPDES permits in the State.
2. The Notice of Intent (application) has been revamped to streamline Regional Board staff review of the information needed to make a determination of enrollment without delays to request additional information.
3. The new Order establishes a tiered permitting, with dischargers ranked into three broad categories: 1) those

requiring treatment of priority pollutants to meet water quality standards are classified as the highest level; 2) those that require or may require treatment, but include only non-priority pollutants, to meet water quality standards are classified as the moderate level; and 3) those discharges that are low flow and no treatment is needed to meet water quality standards are classified as the lowest level.

4. Effluent limits for priority toxic pollutants in the tentative requirements are derived from applicable water quality objectives contained in the California Toxics Rule (CTR) 40 CFR 131.38 following the model-based procedure in the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2005 (State Implementation Policy or SIP), rather than being set at the initial CTR objectives.
5. The new Order will require applicants to first receive approval from the municipality with jurisdiction over the storm water conveyance system (MS4) prior to discharger enrollment in the Order. Previously the Order required notification to the municipality of the discharge.
6. The new Order clarifies that only those discharges will be approved that have no other technically and economically feasible alternatives of disposal of the wastewater. Currently the Regional Board enrolls dischargers without considering alternatives. By considering other feasible alternative, such as discharge directly into the sanitary sewer system, fewer projects may need to discharge into San Diego Bay.

**COMPLIANCE HISTORY:** Currently there is one enrollee in the current extraction permit R9-2000-0090 with outstanding effluent violations that are subject to Mandatory Minimum Penalties. That discharge has subsequently been terminated. A hearing is scheduled on today's agenda to resolve those outstanding violations (Agenda Item No. 8, Terra Vac, Body Beautiful Car Wash Remediation Dewatering).

Since the year 2000 the Regional Board has imposed Administrative Civil Liability 19 times against dischargers that violated effluent limitations contained in the current permit R9-2000-0090 (Supporting Document No. 5).

**RECOMMENDATION:** The adoption of tentative Order No. R9-2007-0034 is recommended.