

EXECUTIVE OFFICER SUMMARY REPORT
November 18, 2015

ITEM:	8
SUBJECT:	NPDES Permit Reissuance: University of California, San Diego - Scripps Institution of Oceanography Discharge to the Pacific Ocean (Tentative Order No. R9-2015-0070, NPDES No. CA0107239). <i>(Joann Lim)</i>
PURPOSE:	To receive public testimony and consider adoption of Tentative Order No. R9-2015-0070 (Tentative Order).
RECOMMENDATION:	Adoption of the Tentative Order (Supporting Document No. 1) is recommended.
KEY ISSUES:	<ol style="list-style-type: none">1. The Tentative Order incorporates the requirements contained in the State Water Resources Control Board (State Water Board) Resolution,¹ <i>Approving an Exception to the California Ocean Plan for the University of California San Diego Scripps Institution Of Oceanography and Adopting an Addendum to the Initial Study/Mitigated Negative Declaration</i> (2015 Ocean Plan Exception, Supporting Document No. 2), which was adopted on April 21, 2015.2. The Tentative Order modifies the effluent limitations and monitoring requirements consistent with the <i>Water Quality Control Plan for Ocean Waters of California</i> (California Ocean Plan) and the 2015 Ocean Plan Exception.3. The Tentative Order requires use of the Test of Significant Toxicity (TST) approach to determine whether or not a discharge is toxic.
PRACTICAL VISION:	<p>Consistent with the mission of the <i>Strategy for Healthy Waters</i> chapter of the Practical Vision, the Tentative Order integrates all applicable technology-based requirements, water quality-based effluent limitations, and receiving water quality standards in order to optimize protection of water quality and beneficial uses in the Pacific Ocean.</p> <p>Additionally, the Tentative Order has provisions allowing for participation in regional monitoring and assessment programs to meet individual monitoring requirements in keeping with San Diego</p>

¹ The State Water Board has not yet assigned a resolution number to the adopted resolution.

Water Board Resolution No. R9-2012-0069, *Resolution in Support of a Regional Monitoring Framework*.

DISCUSSION:

The University of California, San Diego – Scripps Institution of Oceanography (Facility) is located immediately adjacent to the Pacific Ocean in the community of La Jolla in San Diego, California. It is owned and operated by the University of California, San Diego (Discharger).

The Facility makes use of an open seawater system to support its on-site research and aquaria activities. The open seawater system currently supplies 0.50 to 0.75 million gallons per day of seawater to laboratories and aquaria within the Facility. The seawater is ultimately discharged back to the ocean via four outfalls: Outfalls 001, 003, 004a, and 004b (see **Supporting Document No. 3** for the location of the outfalls). The Discharger also discharges storm water from the Facility to the Pacific Ocean via Outfall 002.

All outfalls discharge to the San Diego-Scripps Area of Special Biological Significance (ASBS). In July 2004, the State Water Board issued Resolution No. 2004-0052, a conditional exception to the Ocean Plan's prohibition on discharges into the San Diego – Scripps ASBS. Resolution No. 2004-0052 expired at the end of the five-year term of Order No. R9-2005-0008 (Current Order). Since that time, both the Current Order and Resolution No. 2004-0052 have remained in effect on administrative extension. Resolution No. 2004-0052 established requirements and conditions applicable to the discharges into the ASBS from the Discharger's waste seawater system and from the municipal storm water collection system. The San Diego Water Board incorporated the conditional exception requirements into the Current Order.

On April 21, 2015, the State Water Board issued a new resolution that amends the conditional exceptions (2015 Ocean Plan Exception) and that finds that the Discharger has complied with all of the conditions of Resolution No. 2004-0052. The 2015 Ocean Plan Exception extends the conditional exception with no expiration date and establishes special conditions to ensure that the discharges from the Facility will not alter the natural water quality conditions in the San Diego – Scripps ASBS, outside of the zone of initial dilution. The zone of initial dilution includes the surf zone. As such, it is possible that water quality standards in the Ocean Plan will be exceeded within the surf zone.

If adopted, the Tentative Order will supersede the Current Order and will incorporate all of the applicable conditions of the 2015 Ocean Plan Exception, as directed by the State Water Board.

The Tentative Order was noticed and released for formal public comment on September 11, 2015. Written comments were received from the Discharger (**Supporting Document No. 4**) and oral comments were received from the U.S. Environmental Protection Agency (USEPA). A Response to Comments Report containing the San Diego Water Board responses to these comments is provided as **Supporting Document No. 5**.

The Discharger commented that the Facility does not meet the definition of Concentrated Aquatic Animal Production (CAAP) facilities, as specified in title 40 of the Code of Federal Regulations (40 CFR) part 122, Appendix C, and requested that the best management practices (BMPs) that had been added to the Tentative Order be removed. Given that the Facility does not meet the definition of a CAAP facility, as specified in 40 CFR part 122, Appendix C, the BMPs contained in the *Compliance Guide for the Concentrated Aquatic Animal Production Point Source Category* (http://water.epa.gov/scitech/wastetech/guide/aquaculture/upload/2006_05_03_guide_aquaculture_guidance_full-final.pdf) have been removed from the Tentative Order.

The Discharger also requested modifications to monitoring frequency for toxicity at Discharge Point No. 002, based on their interpretation of the 2015 Ocean Plan Exception and clarification from the State Water Board. The Tentative Order has been modified to be consistent with the Discharger's request.

Finally, the USEPA requested some changes to the toxicity monitoring requirements in the Tentative Order, and the Tentative Order has been modified concurrent with their direction.

LEGAL CONCERNS:

None

SUPPORTING
DOCUMENTS:

1. Revised Tentative Order No. R9-2015-0070
2. Agenda Package for the 2015 Ocean Plan Exception
3. Location Map
4. Comments from the Discharger, dated October 9, 2015
5. San Diego Water Board Response to Comments Report
6. Compliance Record

**COMPLIANCE
RECORD:**

During the term of Order No. R9-2005-0008, there were ten effluent limitation exceedances, seven deficient reporting violations, and one unauthorized discharge of chlorinated potable water that resulted in one exceedance of total chlorine residual in the receiving waters, outside of the zone of initial dilution and surf zone. Staff enforcement letters were sent to the Discharger for these violations, and the Discharger has taken actions to prevent future violations. Details of each violation are provided in **Supporting Document No. 6.**

PUBLIC NOTICE:

The Tentative Order was noticed and released for formal public review and comment on September 11, 2015. The public noticing consisted of publishing of the notice in the San Diego Union Tribune and posting on the San Diego Water Board's website. Notice was also provided in the meeting notice and agenda for the November 18, 2015 Board meeting. The release for public review and comment consisted of an email sent to all known interested parties and posting on the San Diego Water Board's website.