

March 7, 2011

Via Hand Delivery

Mr. David W. Gibson
Ms. Michelle Mata
Water Resource Control Engineer
San Diego Regional Water Quality Control Board
9174 Sky Park Court
San Diego, CA 92123-4340

SUBJECT: Comment Letter – 3/11/2011 Board Workshop –
Fireworks Draft Permit

Dear Mr. Gibson and Ms. Mata:

The San Diego Unified Port District (Port) thanks you for the opportunity to provide comments on Tentative Order #R9-2011-0022, General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks. We appreciate your office's efforts in working with the numerous stakeholders to obtain input on this important community issue. The Port has reviewed the tentative order and has the following comments at this time. The Port plans to attend the Board Workshop on March 11, 2011, and may offer additional comments at that time.

The Port is concerned that word "sponsor" is overly broad and requests that it be defined. For example, on page 6, Section II.B and throughout the Tentative Order, the document states "When a fireworks event(s) is sponsored by one person but is operated or conducted by another person, it is the sponsor's duty to submit an NOI and obtain coverage under this order." Locally, display "sponsors" are considered individuals or groups that donate funding to those who put on the fireworks shows. Monetary "sponsors," such as the Port and numerous others, have no involvement in or control over the displays and do not "discharge" the fireworks. Therefore, they should not be required to be named on the General Permit and thereby assume legal liability for another party's actions over which they have no control. Should that occur, many monetary sponsors may choose to withdraw their support, which would jeopardize the ability of the shows to continue. Therefore, please either eliminate the word "sponsor" throughout the Tentative Order or clarify that people or groups that merely donate funds to the organizers of fireworks shows need apply for coverage under the Order.

The Port also has the following initial questions and comments on the draft Monitoring and Reporting Program (Attachment E, Section IX) that we expect will be addressed at the Board Workshop on March 11, 2011:

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1. Section IX.A.1 defines a Category 1 Discharger, in part, as a discharger of fireworks "containing a net explosive weight of 1,000 pounds or more, . . .", which requires water monitoring. In contrast, in Section IX.B.2, no water monitoring routinely is required for fireworks containing a net explosive weight of less than 1,000 pounds. Please clarify why this distinction was made.
2. Section IX.A.3 requires sediment sampling every three years. Please provide the basis for this requirement, as most long-term monitoring programs evaluate sediment trends using a five-year sampling strategy.
3. Section IX.A.3 also requires the development of a Conceptual Model identifying the physical and chemical factors that control the fate and transport of pollutants and receptors that could be exposed to pollutants in the water and sediment. Please clarify how this model will distinguish the pollutant contributions from fireworks events from historic and legacy conditions and other ongoing sources of pollutants or discharges in the vicinity.
4. In Section IX.A.2, Category 1 Dischargers are encouraged to establish or join monitoring coalitions for San Diego Bay and/or Mission Bay. As you know, these bays have been sampled on regular intervals for the last 15 to 20 years through the Bight Program and Regional Harbor Monitoring Program and as a result, have established a solid baseline of water and sediment conditions. Please clarify how the proposed fireworks monitoring would use the established monitoring information to identify impacts that are specific to fireworks sources.

The Port looks forward to continuing its work with the Regional Board and the numerous stakeholders on these issues. If you have any questions, please contact me at (619) 686-6254.

Sincerely,



Eileen M. Maher
Assistant Director
Environmental & Land Use Management

EMM:rig
File: Fireworks
cc: Darlene Nicandro
Docs #458059