

San Diego Regional Water Quality Control Board

SDG&E Presentation

April 10-11, 2013 Public Hearing on
Tentative Order R9-2013-0001
(San Diego Regional MS4 Permit)

San Diego Gas & Electric Company

- Provides essential public services:
 - 3.4 million natural gas & electric customers
- Service territory:
 - 4,000 square miles
 - San Diego County
 - Southern Orange County

San Diego Gas & Electric Company

- We have a fiduciary responsibility to serve our rate payers in the most safe, reliable and responsible manner
- Important that regulatory requirements are appropriate and reasonable for our type of operations
- SDG&E constructs, maintains & operates linear infrastructure crucial to providing our services
- SWRCB refers to utility linear construction as “Linear Underground/overhead Projects (or LUPs)”

Tentative Order

- Requesting changes to the permit
- Include more appropriate language regarding the application of post-construction BMPs to LUPs

Tentative Order

- Post-Construction BMPs
 - Apply to all “Development Projects”
- Definition of “Development Projects” is very broad
 - Does not distinguish between:
 - Typical land development projects (e.g., residential/commercial); and
 - Linear footprint projects (e.g., power lines)

Tentative Order

- Very different types of projects
- Typical land development has new impervious surfaces (e.g., roads, roofs, parking lots) located within a discrete area
- New impervious surfaces (e.g., power poles) associated with LUPs are:
 - Small in area
 - Spread out along the length of the project

Tentative Order

- Post-Construction BMPs
 - Low impact development and hydromodification have focused on traditional land development
 - Increased amounts of impervious surfaces located within a discrete area
 - LUPs do not have significant new areas of impervious surfaces located in a discrete area

Tentative Order

- Post-Construction BMPs
 - Low impact development and hydromodification
 - Application of post-construction BMPs to LUPs would fix a problem that does not exist

Tentative Order

- Permit includes two types of thresholds that trigger post-construction BMPs
 - Based on amount of soil disturbance
 - Based on amount of new impervious surfaces
- SWRCB permits also use these thresholds
- We have worked with the SWRCB to appropriately address LUPs

SWRCB Storm Water Permits

Construction General Permit

- Soil disturbance based threshold (≥ 1 acre)
- Exempts linear underground/ overhead projects from post-construction BMPs

Finding 73

“LUP projects are not subject to post-construction requirements due to the nature of their construction to return project sites to preconstruction conditions.”

SWRCB Storm Water Permits

Small MS4 General Permit

- Impervious surface based threshold
- Clarifies that post-construction BMPs:
 - Are only required for LUPs when the newly constructed contiguous impervious surface exceeds the threshold; and
 - If applicable, then only to the specific location that exceeds the threshold

Tentative Order Thresholds

- Permit includes both thresholds types:
 - Area of land disturbance (≥ 1 acre)
 - Area of new impervious surfaces (multiple)
- Thresholds count areas “collectively over the entire project site”
 - Small sites spread over the length of a long line could exceed the threshold
- Does not distinguish between:
 - Traditional projects; and
 - Linear Underground/ overhead Projects

Post-Construction BMPs for LUPs

- Result of applying these requirements to LUPs:
 - Inconsistency with SWRCB permits
 - Applies a solution
 - Where a problem does not exist
 - Intended to address roofs, roads, parking lots with new impervious surfaces located on a lot or parcel
 - Not intended for small new impervious surfaces (pole foundation) located along the length of a LUP
 - Inconsistent with the reasons for the requirements
 - Would create many implementation issues for LUPs

Solution for LUPs

- Request changes to the permit
- Two options:

Option 1

- Insert language to clarify that LUPs are not “Development Projects” and are not subject to the development planning requirements in Section E.3.

Solution for LUPs

Option 1

- **Finding 10** - Add the following sentence:

“The nature of linear underground/ overhead projects (LUPs) is to return project sites to pre-construction conditions. Therefore, consistent with Finding 73 in the SWRCB’s Storm Water Construction General Permit^{FN}, LUPs are not subject to the development planning requirements (i.e., Section E.3.).

^{FN}Order 2009-0009-DWQ, as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ

Solution for LUPs

Option 1 (cont.)

- **Definition of “Development Project”** - Add the following sentence:

“Development Projects do not include linear underground/ overhead projects (LUPs).”

- **Definition of “LUPs”** - Add the definition from the SWRCB Construction General Permit
- **Fact Sheet** - Make changes consistent with the changes identified above

Solution for LUPs

Option 2

- Insert language that clarifies that:
 - LUPs are not subject to the ≥ 1 acre land disturbance threshold
 - LUPs are only subject to the impervious surface thresholds when a discrete location on a LUP has a newly constructed contiguous impervious surface exceeding a threshold
 - Where exceeded, the permit requirements only apply to that discrete location

Solution for LUPs

Option 2 (cont.)

- **Finding 10** - Add the following sentence:

“The nature of linear underground/ overhead projects (LUPs) is to return project sites to pre-construction conditions. Therefore, consistent with Finding 73 in the SWRCB’s Storm Water Construction General Permit^{FN}, LUPs are not defined as a Priority Development Project based on the LUP’s area of land disturbance (Section E.3.b.1.e.). Additionally, LUPs are not defined as a Priority Development Project based on the LUP’s amount of new impervious surface unless a LUP has a discrete location with newly constructed contiguous impervious surface that exceeds one of the impervious surface thresholds in Section E.3.b. Further, when the LUP has a discrete location with newly constructed contiguous impervious surface that exceeds one of the impervious surface thresholds in Section E.3.b, only that specific discrete location is subject to the structural BMP performance requirements in Section E.3.c.

^{FN}Order 2009-0009-DWQ, as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ”

Solution for LUPs

Option 2 (cont.)

- **Definition of “LUPs”** - Add the definition from the SWRCB Construction General Permit

Solution for LUPs

Option 2 (cont.)

- **Section E.3.b.1.** – Add a footnote to the first sentence:

Priority Development Projects include the following^{“FN”}:

“^{FN}LUPs are not defined as a Priority Development Project based on the LUP’s amount of new impervious surface unless a LUP has a discrete location with newly constructed contiguous impervious surface that exceeds one of the impervious surface thresholds in Section E.3.b. Further, when a LUP has a discrete location with newly constructed contiguous impervious surface that exceeds one of the impervious surface thresholds in Section E.3.b., only that specific discrete location is subject to the structural BMP performance requirements in Section E.3.c.”

Solution for LUPs

Option 2 (cont.)

- **Section E.3.b.1.e.** - Add a footnote to this section that states:

New or redevelopment projects that result in the disturbance of one or more acre of land and are expected to generate pollutants post construction.^{“FN”}:

“^{FN}This section does apply to LUPs, which are not defined as Priority Development Projects based upon the LUP’s area of land disturbance.”

Solution for LUPs

Option 2 (cont.)

- Fact Sheet - Make changes consistent with the changes identified above

Summary

- As written, permit would apply post-construction BMPs equally to traditional projects and LUPs
- This incorrectly applies a water quality solution to a problem that does not exist on LUPs
- We request changes to the permit language to correct this issue
- Two possible options
- We recommend Option 1

Reference – CGP Definition of LUPs

“Linear Underground/Overhead Projects (LUPs) include, but are not limited to, any conveyance, pipe, or pipeline for the transportation of any gaseous, liquid (including water and wastewater for domestic municipal services), liquescent, or slurry substance; any cable line or wire for the transmission of electrical energy; any cable line or wire for communications (e.g., telephone, telegraph, radio, or television messages); and associated ancillary facilities. Construction activities associated with LUPs include, but are not limited to, (a) those activities necessary for the installation of underground and overhead linear facilities (e.g., conduits, substructures, pipelines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment, and associated ancillary facilities); and include, but are not limited to, (b) underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation construction, substructure installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and/ or pavement repair or replacement, and stockpile/borrow locations.”