

State of California  
Regional Water Quality Control Board  
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT  
Wednesday, 21 June, 2006

- ITEM: 3
- SUBJECT: PUBLIC HEARING: Reissuance of the San Diego County Municipal Storm Water Permit (Tentative Order No. R9-2006-0011, 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) (*Phil Hammer*)
- PURPOSE: Today's public hearing will provide the Regional Board with the opportunity to hear public testimony on Tentative Order No. R9-2006-0011. Consideration of adoption of Tentative Order No. R9-2006-0011 is currently scheduled for August 9, 2006.
- PUBLIC NOTICE: The public hearing was originally scheduled for June 14, 2006. Interested parties were notified of this original public hearing date by email on March 13, 2006 and March 27, 2006, while the general public was notified in the San Diego Union Tribune on March 31, 2006.
- Upon rescheduling of the public hearing for June 21, 2006, interested parties were re-notified by email of the new public hearing date on May 5, 2006, while the general public was re-notified in the San Diego Union Tribune on May 11, 2006.
- DISCUSSION: Tentative Order No. R9-2006-0011 is the proposed reissuance of the San Diego County Municipal Storm Water Permit (Order No. 2001-01). Like many state Waste Discharge Requirements, the Tentative Order also serves as a federal National Pollutant Discharge Elimination System permit. The Tentative Order requires the County of San Diego, the 18 incorporated

cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority (Copermittees) to reduce the discharge of pollutants from their municipal separate storm sewer systems (MS4s). Pollutant discharge reduction is accomplished through the Copermittees' development and implementation of comprehensive urban runoff management programs. These urban runoff management programs are to be developed and implemented on jurisdictional, watershed, and regional bases, depending upon the scale of the water quality issues being addressed.

#### Background and Permitting Approach Summary

Tentative Order No. R9-2006-0011 builds upon the current Order No. 2001-01 requirements. Many of the Tentative Order's requirements are the same or similar to the requirements of Order No. 2001-01. In the development of the requirements of Order No. 2001-01, the Order underwent an extensive development and review process which generated over 1,500 public comments. In addition, Order No. 2001-01 was challenged by the Building Industry Association and others up to the State Supreme Court level, with the vast majority of the requirements withstanding administrative and legal review.

The Tentative Order utilizes the requirements of Order No. 2001-01 as its foundation, adding or changing requirements where the need for program improvements or persistent water quality problems have been identified. Recent audits of the Copermittees' programs and review of the Copermittees' annual reports have served as the basis for many of the changes. Where audits or annual report reviews have identified program areas which need improvement, requirements have been modified to ensure that Copermittee implementation of these program areas will improve. These proposed changes are presented in detail in the Fact Sheet/Technical Report for Tentative Order No. R9-2006-0011. For each section of the Tentative Order that has been significantly modified, the Fact Sheet/Technical Report includes a description of the

change and a discussion of the rationale behind the change.

The Tentative Order contains an increased emphasis on urban runoff management on a watershed basis. The purpose of this increased emphasis is to shift the focus of the Copermittees from program implementation to water quality results. After 15 years of Copermittee program implementation, it is critical that the Copermittees link their efforts to positive actions that improve water quality. Addressing urban runoff management on a watershed scale focuses on water quality results by emphasizing the connectivity of the receiving waters within the watershed. The conditions of the receiving waters drive management actions, which in turn focus on the water quality problems of the receiving waters in each watershed.

The Tentative Order seeks to provide the Copermittees flexibility in implementing their programs while ensuring that the requirements are enforceable and will result in effective actions by the Copermittees to reduce the discharge of pollutants to the maximum extent practicable (MEP). To achieve this, the Tentative Order frequently prescribes minimum measurable outcomes, while providing the Copermittees with flexibility in the approaches they are capable of implementing to meet those outcomes. For example, the Tentative Order requires a certain number of inspections of commercial and industrial sites, but provides the Copermittees with flexibility in determining which commercial and industrial sites to inspect.

#### Process Utilized for Tentative Order Development

Tentative Order No. R9-2006-0011 has been developed using an extensive public participation process dating back to May 2004. Development of the Tentative Order has followed an open, logical process which included planning efforts, creation of supporting documents, meetings with Copermittee representatives and other interested parties, and public workshops. Through this process, Regional Board staff, the Copermittees, and other interested

parties have held numerous discussions regarding the Tentative Order. These discussions have identified issues relating to the Tentative Order's requirements, which have been resolved or refined during subsequent correspondence and public workshops. Several key issues remain and are briefly listed below in the "Key Issues" section of this Executive Officer Summary Report. In addition, the key issues and the public participation process are further discussed in Supporting Document # 3, *Summary of the Public Process for Reissuance of the San Diego County Municipal Storm Water Permit (Tentative Order No. R9-2006-0011)*.

#### Purpose and Procedures for Public Hearing

The purpose of the June 21, 2006 public hearing is to provide interested parties the opportunity to formally present their comments and concerns regarding Tentative Order No. R9-2006-0011 to Regional Board members. Regional Board members may discuss the Tentative Order and/or comments received at the public hearing, as well as provide guidance to staff. However, because staff has not yet prepared written responses to all comments received, the Regional Board is not scheduled to take formal action on the Tentative Order at the public hearing.

#### Consideration of Adoption of Tentative Order No. R9-2006-0011

The Regional Board is currently scheduled to consider adoption of the Tentative Order at its August 9, 2006 meeting. This schedule will allow staff to prepare two important documents for Regional Board member review prior to decision making on the Tentative Order. Comprehensive written responses to all final written comments received will be provided to the Regional Board members in advance of the August 9, 2006 Regional Board meeting. A revised final draft of the Tentative Order, incorporating applicable changes in response to comments, will also be provided to the Regional Board in advance of its August 9, 2006 meeting.

In the event that the Regional Board extends the written comment period beyond June 21, 2006, it may not be possible to have the Regional Board consider adoption of the Tentative Order at the August 9, 2006 Regional Board meeting. The subsequent Regional Board meeting date for consideration of adoption of the Tentative Order would be September 13, 2006.

**KEY ISSUES:**

1. The Tentative Order requires the Copermittees to develop a Hydromodification Management Plan (HMP), which will include criteria to control downstream erosion (hydromodification) caused by increases in urban runoff flow rates and durations resulting from new development.
2. The Tentative Order requires the Copermittees to track and inspect maintenance of treatment control best management practices implemented at new development projects at specified frequencies.
3. The Tentative Order requires the Copermittees to inspect and clean the MS4 and conduct street sweeping at specified frequencies.
4. The Tentative Order requires the Copermittees to annually conduct inspections of 40% of their inventoried industrial and commercial sites.
5. The Tentative Order includes specific requirements for implementation of watershed-based activities which directly reduce the discharge of pollutants.
6. The Tentative Order requires the Copermittees to assess the effectiveness of their programs in terms of impacts to water quality and modify their programs accordingly.

**LEGAL CONCERNS:**

None

**SUPPORTING DOCUMENTS:**

1. Tentative Order No. R9-2006-0011. Renewal of Order No. 2001-01. Released for public review and comment on March 13, 2006.

2. Fact Sheet/Technical Report for Tentative Order No. R9-2006-0011. A comprehensive document providing background information and justification for each of the changes to Order No. 2001-01 included in the Tentative Order. In general, the document is organized according to the Tentative Order; discussions included in the document correspond with particular Tentative Order sections.

3. Summary of the Public Process for Reissuance of the San Diego County Municipal Storm Water Permit (Tentative Order No. R9-2006-0011). A document describing the public process undertaken in the development and reissuance of the Tentative Order. Key issues are also briefly discussed.

4. Summary of Modifications to the Directives of Order No. 2001-01 Found in Tentative Order No. R9-2006-0011. A document in table format summarizing the significant changes made to the directives of Order No. 2001-01, as found in Tentative Order No. R9-2006-0011.

5. Regional Board Letter to Copermittees Responding to Their Preliminary Comments. A May 15, 2006 letter to the Copermittees responding to their preliminary comments raised at the first public workshop on the Tentative Order. The discussions included in this letter served as the basis for further discussions at the second public workshop.

6. Preliminary Responses to Questions on Tentative Order No. R9-2006-0011 from the Building Association of San Diego County. A document providing preliminary responses to questions raised by BIA at the first public workshop on the Tentative Order. While the majority of BIA's questions have received preliminary responses, several preliminary responses are currently being developed. An updated document, with preliminary responses to all BIA questions, will be provided with the Supplemental Executive Officer Summary Report.

7. Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 4/25/2006 – Priority Issues for April 26, 2006 Workshop. A table created by the

Copermittees identifying their initial main issues with the Tentative Order.

8. County of San Diego Proposed Permit Language. A November 1, 2005 County of San Diego submittal which includes language proposed for use in the Tentative Order.

9. Written Comments from Copermittees (to be provided with the Supplemental Executive Officer Summary Report). All final written Copermittee comments received by 5:00 PM June 7, 2006 will be provided in the Supplemental Executive Officer Summary Report.

10. Written Comments from All Other Interested Parties (to be provided with the Supplemental Executive Officer Summary Report). All final written Interested Party comments received by 5:00 PM June 7, 2006 will be provided in the Supplemental Executive Officer Summary Report.

RECOMMENDATION(S): Receive public testimony and close public hearing.