

**REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**EXECUTIVE OFFICER SUMMARY REPORT**

**December 8, 2021**

**ITEM NO. 5**

**SUBJECT**

Consideration of Tentative Order No. R9-2021-0197, *An Order Rescinding Order No. R9-2020-0005, NPDES No. CA0001350, Waste Discharge Requirements for Cabrillo Power I LLC, Encina Power Station, San Diego County, Discharge to the Pacific Ocean.* (Debbie Phan)

**STAFF RECOMMENDATION**

Adoption of the Tentative Order No. R9-2021-0197 (**Supporting Document No. 1**) is recommended.

**KEY ISSUES**

Tentative Order No. R9-2021-0197, if adopted, rescinds Order No. R9-2020-0005, NPDES No. CA0001350, *Waste Discharge Requirements for Cabrillo Power I LLC, Encina Power Station, San Diego County, Discharge to the Pacific Ocean.* Cabrillo Power I LLC (Discharger) is the owner and operator of the decommissioned Encina Power Station (Facility). On July 13, 2021, the Discharger submitted a request to terminate Order No. R9-2020-0005. The Facility has ceased its operations and permanently eliminated all wastewater and industrial stormwater discharges.

**PRACTICAL VISION**

Tentative Order No. R9-2021-0197 is consistent with the Strategizing for Healthy Waters chapter of the *San Diego Water Board Practical Vision*.<sup>1</sup> Rescinding Order No. R9-2020-0005 will not interfere with the goal of the Practical Vision to maintain healthy waters in the San Diego Region.

**DISCUSSION**

The Facility is located on Carlsbad Boulevard in the City of Carlsbad, immediately adjacent to the Agua Hedionda Lagoon between Interstate 5 (I-5) and the Pacific Ocean (**Supporting Document No. 2**). Order No. R9-2020-0005 established waste discharge requirements for discharges of groundwater, industrial stormwater, and low-volume wastewater from the decommissioned Facility. The Facility permanently ceased its wastewater and industrial stormwater discharges on June 30, 2021. A permanent elimination of the discharge is an appropriate cause for termination of Order No. R9-2020-005. (40 CFR § 122.64(a)(4).)

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<sup>1</sup> Practical Vision: [https://www.waterboards.ca.gov/sandiego/water\\_issues/programs/practical\\_vision/](https://www.waterboards.ca.gov/sandiego/water_issues/programs/practical_vision/)

Site-wide stormwater discharges associated with the on-going demolition of the Facility will continue to be regulated under Order No. 2009-0009-DWQ, *NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (NPDES No. CAS000002). Demolition of the Facility is scheduled to be completed by April 2022.

When the discharge is permanently terminated by elimination of the flow, the permit may be terminated by notice to the discharger and certification by the discharger that it is not subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. (40 CFR § 122.64(b).) The Discharger provided the required certification by letter on August 3, 2021. On August 31, 2021, the San Diego Water Board provided notice to the Discharger of its intent to terminate and rescind Order No. R9-2020-005. As such, Order No. R9-2020-0005 is no longer necessary and can be rescinded.

The Tentative Order was noticed for a public hearing and released for public review and comment for a 10-day period on August 31, 2021. The public comment period closed on September 10, 2021. The San Diego Water Board received no comment letters regarding the Tentative Order during the comment period.

## LEGAL CONCERNS

None

## PUBLIC NOTICE

Tentative Order No. R9-2021-0197 was noticed and released for public review and comment on August 31, 2021, with comments due by September 10, 2021. The Notice of Public Hearing and Opportunity to Comment (Notice) was posted on the San Diego Water Board website for the duration of the comment period and sent to the Discharger and all interested parties. The Notice announced a public hearing; availability of the Tentative Order for review; and provided instructions for submittal of written comments. A copy of the Notice is provided in the **attachment of Supporting Document No. 3**.

A notice of rescheduled public hearing was posted on the San Diego Water Board website on November 5, 2021 (**Supporting Document No. 3**). The notice announced that the public hearing to consider the adoption of Tentative Order No. R9-2021-0197 was rescheduled and will occur at the December 8, 2021, San Diego Water Board meeting. Notice of the public hearing on the Tentative Order was also provided in the Meeting Notice and Agenda for the December 8, 2021, San Diego Water Board meeting, which is posted on the San Diego Water Board website.

## SUPPORTING DOCUMENTS

1. Tentative Order No. R9-2021-0197
2. Location and Site Maps
3. Notice of Rescheduled Public Hearing