

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

**EXECUTIVE OFFICER SUMMARY REPORT  
JUNE 9, 2021**

**ITEM 4**

**SUBJECT**

NPDES Permit Reissuance: *General National Pollutant Discharge Elimination System Permit for the Discharge of Lanthanum-Modified Clay to Surface Waters of the United States in the San Diego Region* (Tentative Order No. R9-2021-0056, NPDES No. CAG999003). (Keith Yaeger)

**STAFF RECOMMENDATION**

Adoption of the Tentative Order No. R9-2021-0056 (Tentative Order; **Supporting Document No. 1**) is recommended.

**KEY ISSUES**

The existing General National Pollutant Discharge Elimination System (NPDES) permit for the discharge of lanthanum-modified clay to surface waters under Order R9-2012-0063 (Current Order) is expired. It is being proposed for reissuance under the Tentative Order. Significant changes between the Tentative Order and the Current Order, are described in the Significant Changes section of this Executive Officer Summary Report.

The Tentative Order regulates the application of lanthanum-modified clay to freshwater inland surface waters in the San Diego Region to control legacy phosphorus releases from bottom sediments to overlying waters. Lanthanum-modified clay is primarily used in lake maintenance and restoration projects to manage algal blooms and eutrophication by reducing phosphorus levels in the water column, one of the major contributing factors to algal growth.

**PRACTICAL VISION**

Consistent with the mission of the Strategy for Healthy Waters chapter of the Practical Vision, the Tentative Order integrates best management practices (BMPs) and all applicable receiving water quality standards to optimize protection of water quality and beneficial uses of inland surface waters in the San Diego Region. Additionally, the Tentative Order has provisions allowing for participation in regional monitoring and assessment programs in keeping with San Diego Water Board Resolution No. R9-2012-0069, *Resolution in Support of a Regional Monitoring Framework*.

**DISCUSSION**

The Tentative Order is a General NPDES permit that proposes to continue the regulation of lanthanum-modified clay applications to freshwater inland surface waters in the San Diego Region. Lanthanum-modified clay discharges are currently regulated under the Current Order, which will be superseded on the effective date of the Tentative Order. If adopted, the Tentative Order will remain in effect for a five-year fixed term.

Lanthanum-modified clay is applied to freshwater inland surface waters to bind excess free phosphorus to improve water quality by limiting nutrient availability to algae and

aquatic weeds. Entities proposing to enroll in the Tentative Order are required to submit a Water Quality Management Plan that, among other things, includes BMPs to

- Limit the application rate for lanthanum-modified clay to the waterbody to the amount necessary to bind the free phosphorus in the waterbody;
- Prevent the lanthanum-modified clay from discharging to downstream waterbodies;
- Implement corrective measures in the event of an exceedance of receiving water limitations caused by the application of lanthanum-modified clay;
- Implement source control measures to prevent future inputs of phosphorus to the waterbody; and
- Establish a monitoring and reporting program to ensure applicable receiving water limitations are maintained.

Orange County Parks and the Citizens Development Corporation are the only entities enrolled in the Current Permit. Orange County Parks obtained coverage under the Current Order in 2013 for the application of lanthanum-modified clay to Laguna Niguel Lake, an approximately 44-acre fishing and recreational lake in Laguna Niguel, California. The Citizens Development Corporation obtained coverage under the Current Order in 2019 for the application of lanthanum-modified clay to Lake San Marcos, an approximately 55-acre recreational lake located near the City of San Marcos, California. Based on previous self-monitoring reports and scientific literature, the application of lanthanum-modified clay to control phosphorus levels is not expected to cause water quality impairments.

The Tentative Order was noticed for a public hearing and released for public review and comment for a 30-day period on March 19, 2021. The public comment period closed on April 18, 2021. The San Diego Water Board received no comment letters regarding the Tentative Order during the comment period.

### **SIGNIFICANT CHANGES**

The following are the significant differences between the Tentative Order and the Current Order:

1. The Tentative Order requires visual observations of harmful algal blooms (HABs) using the California State Water Resources Control Board's *Visual Guide to Observing Blooms*. If a HAB is observed, the Discharger is required to report the HAB using the State Water Board's *California Freshwater and Estuarine Harmful Algal Bloom Report Form*.
2. The Tentative Order updates the bioassessment procedures to be consistent with the latest Surface Water Ambient Monitoring Program's standard operating procedures for wadable streams.

### **PUBLIC NOTICE**

The Tentative Order was noticed and released for public review and comment on March 19, 2021, with comments due by April 18, 2021. The Notice of Public Hearing and Comment Period (Notice) was posted on the San Diego Water Board website for the duration of the comment period and sent to all interested parties. The Notice announced a public hearing to be held on June 9, 2021; availability of the Tentative Order for review; and provided instructions for submittal of written comments. A copy of the Notice is provided in **Supporting Document No. 2**. Notice of the public hearing on the Tentative

Order was also provided in the Meeting Notice and Agenda for the June 9, 2021 San Diego Water Board meeting, which is posted on the San Diego Water Board website.

**SUPPORTING DOCUMENTS**

1. Tentative Order
2. Notice of Public Hearing