



THE CITY OF SAN DIEGO



July 31, 2014

VIA EMAIL TO: commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Townsend:

Subject: Comment Letter – Draft Utility Vaults Permit

The City of San Diego, Transportation & Storm Water Department (City) appreciates the opportunity to provide comments on the General National Pollutant Discharge Elimination System Permit for Discharges from Utility Vaults and Underground Structures to Surface Waters (Draft Permit). Overall, the City's comments are directed at ensuring that the Draft Permit adequately addresses non-point sources of pollution. As currently written, the Draft Permit does not adequately address non-point sources of pollution. If adopted as written, the Draft Permit would inappropriately place the burden of managing pollutants to TMDL listed water bodies and non-storm water discharges to an ASBS from those sources that are outside of the City's regulatory authority. Below are some of our primary concerns, while additional specific comments are included on the attached table.

- To facilitate communication between the Discharger and the local agencies responsible for municipal separate storm sewer systems (MS4s), the Draft Permit should include minimum requirements to notify local authorities of their service area and activities upon approval of their NOI and of any illicit discharges as defined by the MS4 Permit.
- TMDLs have been established to address impairments for bacteria, metals, and sediment in watersheds located within the City. These pollutants are not currently monitored regularly in utility vault discharges and the potential to contribute to these impairments is unknown. The City recommends analysis of discharges for TMDL-regulated pollutants when discharging to a TMDL-listed waterbody. This will directly affect the City's compliance with existing TMDLs.

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- The Draft Permit should prohibit non-storm water discharges consistent with the City's MS4 Permit (Order R9-2013-0001) and with the General Provisions for Permitted Point Source Discharges of Storm water as provided in Resolution No. 2012-2012. The City is not authorized to discharge non-storm water to ASBS and this will increase the cost to divert and treat dry weather flows.

Thank you for your time and consideration of these comments. If you have questions, please contact Ruth Kolb at (858) 541-4328 or at rkolb@sandiego.gov.

Sincerely,



Drew Kleis
Deputy Director

DKrk

Enclosure: City of San Diego Comment Table for Draft Utility Vaults Permit

cc: Tony Heinrichs, Deputy Chief Operating Officer, Office of the Mayor
Kris McFadden, Transportation & Storm Water Department Director
Amanda Guy, Deputy City Attorney, City Attorney's Office
Ruth Kolb, Program Manager, Transportation & Storm Water Department

Attachment 1: City of San Diego Comment Table for Draft Utility Vault Permit,
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#	Page	Section	Topic	Comments
1	5	C. Application	Application to each Regional Water Board	To facilitate communication between the Discharger and the local agencies responsible for MS4s, Discharges should notify the local agency of their service area and activities upon approval from the Regional Board. Dischargers need to be aware of high priority water quality conditions in their service areas.
2	6	E. Discharge to a MS4	Notification	<p>Recommendation: The City requests that the Discharger submit a copy of their NOI or the map of its facilities to the appropriate local agencies. Additionally, the NOI map should highlight water bodies with approved TMDL.</p> <p>The City appreciates that the State Board wants to encourage communication with the Dischargers and local responsible MS4s. The Utility Vault Permit should include minimum notification requirements to local authorities in this section of the permit and in related plans and procedures.</p> <p>Recommendation: Add twenty-four hour notification requirement as described in the previous version of the Utility Vault Permit. Suggested Replacement Language: “Whenever there is a discharge of 50 gallons or more to a municipal storm sewer system (MS4), the Discharger shall contact the appropriate local agency with jurisdiction over the MS4 within 24 hours.”</p>

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3	6	E. Discharge to a MS4	Discharges to MS4s with a direct discharge to an ASBS	San Diego's MS4 NPDES Permit (Order R9-2013-0001) does not authorize discharges from utility vaults and underground structure and does not require a study to characterize the discharges. All non-storm water discharges are prohibited under Order R9-2013-0001. The current Draft Utility Vault Permit language identifies specific statewide NPDES permits that allow these types of discharges and provides a path toward exceptions then applies the same provisions generally to all MS4s listed in Resolution 2012-0012; this list includes the City of San Diego. Recommendation: Clarify the resolution or permit(s) used to support the State's authority to provide a path toward exception of discharges from utility vaults and underground structure to MS4s that directly discharge to an ASBS.
4	7	E. Discharge to a MS4	Resolution No. 2012-2012 Approving Exceptions to the California Ocean Plan for Selected Discharges into Areas of Special Biological Significance, Including Special Protections for Beneficial Uses	The City strongly encourages prohibition of non-storm water discharges to be consistent with the MS4 Permit (Order R9-2013-0001) and with the General Provisions for Permitted Point Source Discharges of Storm water as provided in Resolution No. 2012-2012. Additionally, Resolution No. 2012-2012 prohibits the discharge of trash.

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5	9	VI. Receiving Water Limitations	A. Surface Water Limitations 14. Violation of any applicable water quality objective for receiving waters adopted by the State or applicable Regional Water Board or applicable water quality criterion quality control plan by U.S. EPA pursuant to section 303 of the CWA.	The City is subject to stringent water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) established in Total Maximum Daily Loads (TMDLs) and included in the City's MS4 Permit (Order R9-2013-0001). TMDLs have been established to address impairments for bacteria, metals, and sediment in watersheds located within the City. Failure of this order to adequately address non-point sources of pollution will affect the City's TMDLs compliance requirements, and increase the level of burden to the City from those sources that are outside of our regulatory authority. Currently, the Draft Utility Vault Permit monitoring and reporting requirements do not address compliance with A.14. Recommendation: Add requirements for Discharges to be accountable for discharges that may contribute to water bodies with approved TMDLs. Include additional monitoring and reporting requirements at least once per permit cycle to compare with RWLs or WQBELs associated with approved TMDLs in their service area.
6	15	3. Best Management Practices and Pollution Prevention	iii. Procedures for Discharges from Utility Vaults and Underground Structures	Discharges should include notification of proper local authorities consistent with MS4 Permits. Recommendation: Add twenty-four hour notification minimum requirement as described in the previous version of the Utility Vault Permit.
7	18, C-3	Table 3 NALs Table C-1	NALs for Pollutants of Concern Discharge Monitoring Requirements	Discharges to be accountable for discharges that may contribute to water bodies with approved TMDLs. Recommendation: Add monitoring and reporting requirements at least once per permit cycle to collect samples and analyze for constituents with approved TMDLs in their service area.

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8	B-7	Attachment B- Standard Provisions	Twenty-four Hour Reporting	<p>The Twenty-four hour reporting requirement from the previous Utility Vault Permit was removed from the current Draft Utility Vault Permit. This type of reporting is a critical tool for local authorities to be aware of illicit discharges in their jurisdiction.</p> <p>Recommendation: Add the Twenty-four hour reporting requirement from the previous Utility Vault Permit to notify the proper local agency, in addition to the Regional Board. Below is a portion of the requirements from the previous Permit page D-8.:</p> <p>“Twenty-Four Hour Reporting</p> <p>1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance [40 CFR §122.41(d)(6)(f)].”</p>
9		Attachment C Monitoring and Reporting Program	IV Annual Routine Effluent Monitoring Requirements	<p>TMDLs have been established to address impairments for bacteria, metals, sediment, and pesticides in watersheds located within the City.</p> <p>Recommendation: Analyzing for TMDL –regulated constituents when discharging to a TMDL-listed waterbody.</p>
10	G-1	Attachment G – Discharge Characterization Studies	II.C. Use of Minimum Levels	<p>Incorrect reference to Table G-1.</p> <p>Recommendation: Tables G-3, G-4, and G-5 contain suggested U.S. EPA-approved analytical procedures.</p>

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11	G-8	Attachment G B. Reporting Requirements	V. Criteria Tables G-3, G-4, G-5 Priority Pollutants	Clarify the purpose of criteria provided on pages G-8 through G-12 and provide language in the reporting sections to clarify when a comparison should be completed. The pollutants listed in Tables G-3, G-4, and G-5 do not include all the constituents required to be monitored as listed on page G-7.