

EXECUTIVE OFFICER SUMMARY REPORT
March 16, 2015

- ITEM: 6
- SUBJECT: National Pollutant Discharge Elimination System (NPDES) Permit Reissuance for Continental Maritime of San Diego Discharge to San Diego Bay (Tentative Order No. R9-2015-0009, NPDES No. CA0109142) (*Kristin Schwall*)
- PURPOSE: To receive public testimony and consider adoption of Tentative Order No. R9-2015-0009 (Tentative Order).
- RECOMMENDATION: Adoption of the Tentative Order (**Supporting Document No. 1**) is recommended.
- KEY ISSUES:
1. The Tentative Order requires monitoring of “high risk” industrial storm water discharges for comparison with Numeric Action Levels (NALs), consistent with the *General Permit for Storm Water Discharges Associated with Industrial Activities* (General Industrial Storm Water Permit), Order No. 2014-00570DWQ, and the U.S. Environmental Protection Agency (U.S.EPA) *Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP)*.
 2. The Tentative Order establishes chronic toxicity effluent limitations for “high risk” industrial storm water discharges.
 3. The Tentative Order requires use of the Test of Significant Toxicity (TST) approach to determine whether or not a discharge is toxic.
 4. The Tentative Order requires the development and implementation of a sediment and receiving water monitoring program, consistent with the State Water Board’s *Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality* (Sediment Quality Plan).
- PRACTICAL VISION: Consistent with the mission of the *Strategy for Healthy Waters* chapter of the Practical Vision strategy document,

the Tentative Order integrates all applicable technology-based requirements; water quality based effluent limitations and receiving water quality standards in order to optimize protection of water quality and beneficial uses in San Diego Bay. Additionally, the Tentative Order has provisions allowing future modification of monitoring requirements to allow the Discharger to participate 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:

Continental Maritime is a full-service ship repair and modernization facility located on 31.8 acres of tidelands on the San Diego Bay waterfront. The property is leased from the San Diego Unified Port District. The lease area is comprised of 14 acres of land and 17.8 acres of water located between Cesar Chavez Parkway and Belt Street in the City of San Diego directly under the Coronado Bridge (**Supporting Document No. 2, Location Map**).

Continental Maritime discharges storm water into San Diego Bay. Continental Maritime captures the first 2.55 inches of rainfall in a storm water diversion system and routes the water to the City of San Diego's sewage collection system for conveyance to a publicly-owned treatment works (POTW). Storm water exceeding 2.55 inches is discharged to San Diego Bay. Continental Maritime reports that no storm water has been discharged from their facility to San Diego Bay since 2004. All other industrial process wastewaters are managed through best management practices and are discharged to the sewage collection system for conveyance to the POTW.

The Tentative Order was noticed and released for formal public review and comment on January 5, 2015. Comments were received from two entities, Continental Maritime, on February 5, 2015 (**Supporting Document No. 3**) and the U.S.EPA, Region IX on February 25, 2015 (**Supporting Document No. 4**). A Response to Comments document containing San Diego Water Board responses to these comments is provided in **Supporting Document No. 5**. Below is a summary of the most significant comments received and the responses to those comments:

Continental Maritime requested that chronic toxicity

requirements be removed and replaced with acute toxicity requirements.

The Tentative Order was not revised in response to the comment. The Tentative Order establishes a chronic toxicity effluent limitation for storm water from Industrial High Risk Areas and requires periodic chronic toxicity monitoring of the discharges to demonstrate compliance with the chronic toxicity effluent limitation and toxicity receiving water limitation. The chronic toxicity effluent limitation and monitoring requirements replace the acute toxicity effluent limitation and monitoring requirements in the prior NPDES permit, Order No. 2008-00049.

The chronic toxicity effluent limitation and monitoring requirements are established in the Tentative Order to ensure full protection of San Diego Bay beneficial uses and are consistent with applicable NPDES permit regulations, current U.S.EPA guidance, draft statewide policy for toxicity assessment and control currently under development by the State Water Resources Control Board, and other NPDES permits regulating storm water discharges which incorporate a chronic toxicity effluent limitation for storm water and/or chronic toxicity monitoring requirements. By letter dated February 25, 2015, U.S.EPA, Region IX expressed their support for incorporating chronic toxicity effluent limitations for industrial storm water discharges in the Tentative Order and commented that use of these chronic toxicity effluent limitations conforms to longstanding U.S.EPA regulations and policy (**Supporting Document No. 4**). These considerations are explained in further detail in the Tentative Order, Attachment F Fact Sheet at pages F16 – F20 and in the Response to Comments document at Comment 1, pages 2 – 5 and Comment 7, page 9.

Continental Maritime requested the removal of the three receiving water monitoring questions which imply compliance benchmarks.

The monitoring and reporting program (MRP) contained in the Tentative Order has been designed to answer specific questions related to water quality standards and the state of receiving waters, consistent with chapter 2, Monitoring and Assessment, of the San Diego Water Board's Practical Vision strategy document. For this reason, the monitoring questions have been retained and modified to address some of the

concerns raised (Response to Comments document at Comment 2, page 6). The modifications are included in section IV of Attachment E and section VII.E of Attachment F of the Tentative Order (**Supporting Document No. 1**).

Continental Maritime requested that the receiving water monitoring be changed from annually to once annually during a qualifying storm event.

Given the infrequency of industrial storm water discharges to San Diego Bay from the Continental Maritime facility, the Tentative Order at Attachment E, Table 3 has been modified to clarify that receiving water monitoring is required once annually during a qualifying storm event (Response to Comments document at Comment 3, page 6).

Continental Maritime commented that the costs of implementing the Tentative Order requirements with respect to chronic toxicity, sediment quality triad sampling and analysis, and Storm Water Pollution Prevention Plan maintenance will be 363% to 696% higher than the previous NPDES Order.

The requirements of this Tentative Order are similar to other facilities on San Diego Bay, regulated under NPDES permits, such as Naval Base San Diego (Order No. R9-2013-0064) and Naval Base Point Loma (Order No. R9-2014-0037). Partially in response to this comment the San Diego Water Board revised the Tentative Order to reduce the frequency of receiving water column monitoring from annually to once annually when a qualifying storm event occurs resulting in a discharge to San Diego Bay. The requirement to conduct receiving water column monitoring will rarely be triggered under these circumstances and the reduction in receiving water monitoring costs will be a significant savings. Another consideration in projecting monitoring costs is that storm water sampling is also only required if there is a discharge to San Diego Bay which again should result in a significant cost savings. Continental Maritime's projected cost estimates represent a worst-case scenario and actual costs will likely be less than they have estimated especially for the sediment quality triad sampling and the Storm Water Pollution Prevention Plan (SWPPP). These considerations are explained in further detail in the Response to Comments document at Comment 5, pages 7- 8.

**SIGNIFICANT
CHANGES:**

The Tentative Order contains the following significant changes from the previous NPDES Order, Order No. R9-2008-0049:

1. The Tentative Order requires monitoring of “high risk” industrial storm water discharges for comparison with NALs.
2. The Tentative Order replaces the current acute toxicity effluent limitation with a chronic toxicity effluent limitation applicable to industrial storm water discharges.
3. The Tentative Order requires the development and implementation of a sediment and receiving water monitoring program.

LEGAL CONCERNS: None

**SUPPORTING
DOCUMENTS:**

1. Tentative Order No. R9-2015-0009 (as revised in responses to comments)
2. Location Map
3. Continental Maritime February 5, 2015 comment letter
4. U.S.EPA, Region IX February 25, 2015 comment letter
5. San Diego Water Board Response to Comments document

PUBLIC NOTICE:

The Tentative Order was noticed and released for formal public review and comment on January 5, 2015. On January 5, 2015, a public notice was published in the San Diego Union Tribune. Notice was also provided in the Meeting Notice and Agenda for the March 16, 2015 Board meeting, which is posted on the San Diego Water Board’s website.