

November 3, 2008

San Diego Point Loma 301(h) Public Participation/Permit Approval Process

On June 15, 2003, the existing discharge permit for the City of San Diego's Point Loma Waste Water Treatment Plant (WWTP) became effective. Because this permit incorporates a variance from federal secondary treatment standards under sections 301(h) and 301(j)(5) of the Clean Water Act (CWA), this discharge was approved by both State and Federal permitting authorities. A 301(h) variance for this facility may not be granted unless EPA concludes the permit application meets the criteria specified in CWA sections 301(h) and 301(j)(5), and the State concurs with EPA's conclusion.

On December 10, 2007, the City of San Diego submitted an application for a renewed permit and 301(h) variance. Staff from the EPA Region 9 (EPA) and the San Diego Regional Water Quality Control Board (RB9) have reviewed this application. EPA has developed a Tentative Decision Document (TDD) which determines that the application meets the CWA criteria for a renewed variance. RB9 staff, in conjunction with EPA, have drafted a revised discharge permit incorporating State waste discharge requirements, which reflects their understanding that the 301(h) variance will be renewed by EPA. Under federal regulations, EPA must provide the public with an opportunity to comment on the TDD and draft permit incorporating the 301(h) variance. EPA must respond to public comments in writing before finalizing a decision on whether a variance under CWA sections 301(h) and 301(j)(5) may be granted. As specified in a Memorandum of Understanding (May 1984) between the State of California and EPA, the joint issuance of an NPDES permit which incorporates both the 301(h) variance and State waste discharge requirements will serve as the State's concurrence on the 301(h) variance.

The following lays out the process EPA and RB9 will use to integrate their administrative and public participation processes in the proposed renewal of the Point Loma discharge permit.

On December 5, 2008 the TDD and draft permit will be public noticed. A public hearing on the TDD and draft permit is scheduled for January 21, 2009. The public comment period on both documents extends until January 28, 2009.

The Public Notice encourages the public to provide comments two weeks prior to the hearing (by January 7) so they may be considered by RB9 prior to the hearing:

"Although the public comment period will remain open until 5:00pm on January 28, 2009, persons commenting on the 301(h) tentative decision and draft permit are strongly encouraged to submit their comments in writing by January 7, 2009, to facilitate consideration of the comments by the Regional Board on January 21."

The January public hearing will be co-chaired by EPA and the RB9 Chair. Questions raised during the hearing may be responded to by RB9 staff at their discretion. Following federal procedures, EPA representatives will not respond to comments during the hearing. RB9 will not formally act on the permit at the January hearing.

EPA, in consultation with RB9 staff, will prepare written responses to all comments received in writing during the public comment period, or provided verbally during the January 21, 2009 hearing. EPA will provide written responses to comments to RB9 at least two weeks before RB9 acts on the permit. It is currently expected that RB9 will consider the draft permit for adoption at either the March 11, 2009, or April 8, 2009 hearings. If adopted, the permit is not made effective until after EPA finalizes the 301(h) decision.

After RB9 adoption, the City of San Diego will submit a Consistency Certification to the CA Coastal Commission. After the Commission's concurrence, EPA will issue the final 301(h) decision, and sign the permit. The joint State/Federal permit becomes effective 33 days after EPA issues the final 301(h) decision and signs the permit.