

EXECUTIVE OFFICER SUMMARY REPORT  
June 26, 2014

ITEM: 9

SUBJECT: A Resolution of Commitment to an Alternative Process for Achieving Water Quality Objectives for Biostimulatory Substances in Loma Alta Slough (Tentative Resolution No. R9-2014-0020). (Barry Pulver and Chad Loflen)

PURPOSE: To receive public testimony and consider adoption of Tentative Resolution No. R9-2014-0020.

RECOMMENDATION: Adoption of Tentative Resolution No. R9-2014-0020.

KEY ISSUE: The Resolution (Supporting Document No. 2) provides assurance to the U.S. Environmental Protection Agency (USEPA) and the public that although the Board is postponing adoption of a Total Maximum Daily Load (TMDL), it remains committed to resolving the water quality impairment in Loma Alta Slough and has a practical, measureable, and timely alternative for doing so.

PRACTICAL VISION: This action advances San Diego Water Board values of:

Leadership: This action is a judicious use of the Board's authority to efficiently restore the beneficial uses of Loma Alta Slough by relying on existing prohibitions and requirements of the Regional MS4 Permit (Order No. R9-2013-0001) as an alternative to adopting a TMDL.

Stewardship: This project advances the restoration of water quality in and beneficial uses of Loma Alta Slough.

Communication: This action is the result of a robust, effective stakeholder process that provided scientific studies and consensus on reasonable and meaningful targets.

Transparency: This action strengthens public participation and Board expectations for the forthcoming Water Quality Improvement Plan that will describe the municipal actions to be taken to restore water quality in Loma Alta Slough.

This action advances Practical Vision Chapter 2, Monitoring and Assessment, goals:

- a) Stakeholder participation, including identifying and conducting special studies, resulted in the selection of the numeric targets for Loma Alta Slough.
- b) The draft TMDL Report includes monitoring questions and a monitoring plan designed for performance monitoring (M4).

**DISCUSSION:**

Loma Alta Slough is a coastal estuarine wetland located in the City of Oceanside (Supporting Document No. 1). Excessive eutrophic conditions within the Slough restrict the ability of its water to support designated beneficial uses. The Slough was placed on the federal Clean Water Act (CWA) section 303(d) list of impaired water bodies in 1996. Staff and stakeholders have developed the technical aspects of a TMDL. Rather than adopting the TMDL, however, the Tentative Resolution proposes an alternative to TMDL adoption that instead acknowledges the new Regional MS4 Permit already has, given the findings of the draft TMDL, the capacity and requirements to efficiently restore the beneficial uses of Loma Alta Slough.

**TMDL Development**

Since 2006, a stakeholder-based process has conducted special studies and identified sources of the Slough's eutrophication. This process provided the support for the technical analysis presented in the draft TMDL Report (Supporting Document No. 3). Numeric targets, based on nutrient numeric endpoints, were selected by a consensus of the stakeholder group. Hydrodynamic and water quality modeling of the Slough then demonstrated that a 96 percent reduction of the current dry-weather phosphorus loading is needed to achieve the numeric targets.

Although groundwater provides some phosphorus to the Slough, the primary driver of the Loma Alta Slough eutrophication is phosphorus delivered by dry-weather urban runoff. Therefore, the elimination of non-storm water discharges to the municipal separate storm sewer system is needed to restore beneficial uses of the Slough. The draft TMDL's Implementation Plan, therefore, focuses on implementation of the existing Regional MS4 Permit.

### **Proposed Regulatory Approach**

A tentative Investigative Order and draft TMDL Report, that collectively would have adopted the Phosphorus TMDL, were released for public review in March 2014. A Public Workshop was held on April 24, 2014. The public comment period ended on May 5, 2014. Public comments on the March 2014 documents are provided in Supporting Document No. 4, and the Response to Comments is Supporting Document No. 5.

Staff agreed with stakeholder comments that a more effective and efficient, yet transparent and accountable, approach to realizing the desired water quality outcome would be to forgo formal adoption of the TMDL and instead rely on the prohibitions and requirements of the Regional MS4 Permit. Today's Resolution memorializes that decision.

During development of the TMDL, the Board adopted the Regional MS4 Permit, which prohibits the dry-weather urban runoff discharges that are causing the impairment and provides a structured approach based on Water Quality Improvement Plans for achieving water quality objectives. Thus, it provides a viable alternative to a traditional TMDL, especially given the City of Oceanside has committed to incorporating the draft TMDL's numeric targets, monitoring plan, and time line into its Water Quality Improvement Plan. If the Water Quality Improvement Plan approach fails to produce meaningful results, the Resolution calls for the Board to reinitiate procedures to adopt the TMDL.

#### **LEGAL CONCERNS:**

None

#### **SUPPORTING DOCUMENTS:**

1. Site Map
2. Tentative Resolution No. R9-2014-0020
3. Attachment to Tentative Resolution No. R9-2014-0020: Phosphorus Total Daily Maximum Load for Loma Alta Slough, Oceanside, California, dated (Draft) May 2014
4. Public Comments to March 2014 draft documents
5. Response to Comments

#### **PUBLIC NOTICE:**

The Tentative Resolution and draft TMDL Report were released through the State Water Board's Lyris list for the Loma Alta Slough TMDL on June 10, 2014.