

**CALIFORNIA REGIONAL WATER QUALITY CONTROL
BOARD SANTA ANA REGION**

ORDER R8-2025-0003

**AMENDMENT TO TIME SCHEDULE ORDER R8-2019-0050, AS
PREVIOUSLY AMENDED BY ORDER R8-2023-0063**

**TO COMPLY WITH
THE REQUIREMENTS PRESCRIBED IN ORDER R8-2009-0030, AS
AMENDED BY ORDER R8-2010-0062**

(NPDES PERMIT NUMBER CAS618030)

FINDINGS

The Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) hereby finds as follows:

1. On May 22, 2009, the Santa Ana Water Board adopted Waste Discharge Requirements (Order R8-2009-0030) and National Pollutant Discharge Elimination System (NPDES) Permit No. CAS618030 for owners or operators of municipal separate storm sewer systems (MS4s) within the County of Orange and incorporated cities therein (Orange County MS4 Permit).
2. On October 29, 2010, the Orange County MS4 Permit was amended by Order R8-2010-0062. The Orange County MS4 Permit expired on May 22, 2014, but the permit was administratively extended and continues to be in effect until the Santa Ana Water Board adopts a new permit. The waste load allocations (WLAs) for Total Maximum Daily Loads for Fecal Coliform in Newport Bay (Fecal Coliform TMDL) were incorporated into the Orange County MS4 Permit as water quality-based effluent limitations.
3. The Santa Ana Water Board adopted a Time Schedule Order (TSO) R8-2019-0050 on December 6, 2019. Finding 18 of TSO Order R8-2019-0050 states, in part, *“Monitoring data submitted by the County of Orange indicates that the Permittees discharging to Newport Bay are not meeting the fecal coliform [effluent limitations], and the final*

compliance date has passed. Accordingly, pursuant to California Water Code section 13300, a discharge of waste is taking place or threatens to take place that violates requirements prescribed by the Santa Ana Water Board.”

4. TSO R8-2019-0050 required that the Permittees must achieve full compliance with the Orange County MS4 Permit’s fecal coliform water quality-based effluent limitations as soon as possible but no later than four years from the adoption of TSO R8-2019-0050. The Santa Ana Water Board also authorized the Executive Officer to grant an extension of the TSO up to one year by Resolution R8-2019-0050 and applicable limits prescribed under the California Water Code (CWC) section 13385, subdivision (j)(3)(C)(i).
5. On December 22, 2023, the Executive Officer adopted Order R8-2023-0063 (Amended TSO). The Amended TSO extended TSO R8-2019-0050 to December 6, 2024, to provide additional time for the Permittees to comply with the fecal coliform effluent limitations in the 2010 Orange County MS4 Permit. As reported in the *2023 Newport Bay Fecal Coliform Annual Data and Progress Report*, when averaged over multiple stations for upper and lower Newport Bay, there are general trends of lower Fecal Coliform levels when compared to previous years. However, the WLAs for REC1 are still not being met for some monitoring stations specified in the Amended TSO.
6. On August 6, 2024, the Permittees in the Newport Bay watershed submitted a written request to extend TSO R8-2019-0050 beyond what was authorized by the Amended TSO. This Order responds to that request and, in part, allows another extension but for a period of three years.
7. The Permittees have developed adaptive approaches to prioritize, identify, and control sources of fecal coliform and a method to demonstrate the effectiveness of controls by monitoring and reporting. The Permittees will implement these through an approved Pollution Prevention Plan (PPP). The PPP was conditionally approved by the Executive Officer on September 10, 2024. Implementation of the PPP is expected to result in compliance with the fecal coliform water quality-based effluent limitations within three years of the date of this Order.
8. Implementation of the PPP will take more time than the Amended TSO would allow. Among several specified tasks, the PPP, for example, requires the Permittees to evaluate a structural treatment control system in the Big Canyon Habitat Restoration and Water Quality Improvement Project. This system is currently in its

construction phase. Therefore, the task in the PPP to evaluate this system cannot be completed within the specified term of TSO R8-2019-0050, and previously extended TSO R8-2023-0063. This particular task and other activities are projected to occur for at least three years from the date of approval of the PPP.

9. This Order adds tasks 9 and 10 to the list of required tasks in Attachment C to the Amended TSO R8-2023-0063. The status of the Amended TSO tasks and the additional tasks are outlined in an updated Attachment C to this Order.
 - a. Task 9 in this Order requires continuation of actions to control sources of fecal coliform. The Permittees identified these actions resulting from the completion of Task 5b in the Amended TSO R8-2023-0063. Task 5b requires targeted source identification at specific locations. A report related to Task 5b has been submitted. This report identifies various sources and proposes follow-up actions, some requiring coordination with multiple agencies and jurisdictions.
 - b. This Order also requires the Permittees to continue implementation of the PPP in accordance with the specified conditions of approval and provision 17 of the Amended TSO R8-2023-0063. A final revised PPP was submitted on July 26, 2024, and conditional approval was provided on September 10, 2024. Implementation of the PPP will continue and is expected to last through the term of the TSO as amended by this Order.
 - c. Task 10 in this Order specifies the reporting requirements for work that will be completed during the remaining term of the TSO. In the Task 5b report, the Permittees proposed follow-up actions to control sources and monitoring to determine the effectiveness of source control measures. In the PPP, the Permittees proposed reporting progress on monitoring and identification of sources as a part of the *Annual Fecal Coliform TMDL Monitoring and Progress Reports* required under a January 2000 Section 13267 Order. Annual TMDL reports are submitted on September 1st of each year since 2001. The Executive Officer's conditional approval of the PPP requires a six-month summary report to be submitted by March 31 of each year and a technical report to be included in the annual report that adequately demonstrates the effectiveness of source identification and controls. Task 10 in this TSO requires that reports must be adequate for demonstrating the effectiveness of source identification and controls to comply

with the fecal coliform water quality-based effluent limitations.

10. The Permittees are making diligent progress towards bringing the waste discharge into compliance with the fecal coliform water quality-based effluent limitations and have demonstrated that an additional three-year period is required to fully comply.
11. This Order is being issued to extend the time to comply with the fecal coliform water quality-based effluent limitations. The 2010 Orange County MS4 Permit is an NPDES permit. Pursuant to Water Code section 13389, and sections 15301 and 15321, subdivision (a)(2) of Title 14 of the California Code of Regulations issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21100 et seq.).
12. If the Permittees comply with the requirements of the Amended TSO, as further amended by this Order, the Santa Ana Water Board does not intend to take any enforcement action for violations of the fecal coliform water quality-based effluent limitations for Newport Bay in the 2010 Orange County MS4 Permit or subsequent permits.
13. The Santa Ana Water Board may reopen the TSO at its discretion or at the request of any of the identified Permittees if warranted. Lack of progress towards compliance with the applicable effluent limitations addressed by the TSO shall be a reasonable cause for the Santa Ana Water Board to modify the terms and conditions of the TSO or consider enforcement alternatives.
14. The Amended TSO, as further amended by this Order, including Finding 11, above, shall remain in effect following the issuance of the Santa Ana Water Board's regional municipal separate storm sewer system permit, currently known as R8-2024-0001, CAS618000. Any reference to effluent limitations in this Order includes all effluent limitations, including water quality-based effluent limitations, that implement the Fecal Coliform TMDL waste load allocations. The Santa Ana Water Board may amend or rescind the TSO as necessary to account for any differences between the current permit and the regional municipal separate storm sewer system permit.
15. The Santa Ana Water Board has notified the Permittees and other interested agencies and persons about this proposed amendment of TSO R8-2019-0050 and allowed them at least 30 days to submit written comments. The Santa Ana Water Board held a public hearing on February 14, 2025, to consider this Order.

REQUIREMENTS

IT IS HEREBY ORDERED, pursuant to Water Code sections 13300, 13383, and 13385, subdivision (j)(3), that Order R8-2019-0050 is amended as follows:

1. Provision 1 is replaced with the following:

The Permittees must demonstrate compliance with fecal coliform WLAs for REC1 as soon as possible but no later than December 6, 2027. The compliance determination shall be based on the method described in Provision 23 of TSO R8-2023-0063.

2. Provision 23.a of the Amended TSO is replaced with the following:

Any request for approval of an alternative method to demonstrate compliance must be submitted to the Executive Officer within 120 days of adoption of this Order.

3. Provision 23.e is added as follows:

The initial determination of compliance, made according to the approved alternative method, must be completed within 180 days prior to the expiration of this TSO. If not, compliance will be determined using the default method as described in Provision 23 of TSO R8-2023-0063.

4. Attachment C of the Amended TSO is replaced in its entirety by Attachment C of this Amendment.

5. The following provisions are added to the Amended TSO:

24. Task 9: Continuation of Targeted Source Identification and Control

The Permittees must continue to identify and control sources of fecal coliform for the duration of this TSO to attain compliance with the fecal coliform effluent limitations by December 6, 2027. The Task 5b report, submitted on August 26, 2024, identified sources of fecal coliform and stated that follow-up control actions and post-abatement monitoring will be implemented. The Permittees must carry out the follow-up actions from the Task 5b report according to a work plan that has been approved by the Executive Officer:

- a. Within thirty (30) days from the adoption of this Order, the Permittees shall submit a work plan. The work plan must include a schedule to complete follow-up actions identified in the Task 5b report. Thirty days after submittal, the Executive Officer will provide written approval of the work plan and schedule, or, if disapproved, a

schedule for resubmission.

- b. If new sources of fecal coliform are found during the term of this Order that were not previously identified in the Task 5b report, the Permittees must report those sources and amend the work plan as directed by the Executive Officer. The amendments must include a schedule for follow-up actions to control the sources and post-abatement monitoring.

25. **Task 10: Reporting of TSO Actions**

The Permittees have proposed reporting follow-up actions in the Task 5b report and the PPP as part of the Fecal Coliform TMDL Annual Monitoring and Progress Reports. These reports are currently submitted on September 1st of each calendar year. Technical reports on actions required by this TSO must be submitted on September 1st of each calendar year to coordinate with the annual reports. As described, in part, the conditional approval of the PPP dated September 10, 2024, *“along with written annual notifications as specified above, a summary report is required by March 31 of each year with a format and content suitable for [] continuous assessment. Further details will be provided in the annual report.”*

- a. The annual reports must contain sufficient information to demonstrate that sources of fecal coliform contamination are identified and demonstrate that source control measures are effective.
 - b. The technical reports must assess data quality and usability based on precision, accuracy, representativeness, comparability indicators, and a data quality assessment, in accordance with a Quality Assurance and Quality Control plan (referenced in the reports).
26. The Executive Officer is authorized to administratively extend this TSO to a date no later than December 6, 2029, following public notice and a public hearing. The extension must be based on findings of fact, which demonstrate that the Permittees are making diligent progress towards attaining compliance with the fecal coliform effluent limitation(s) and substantiation that additional time is warranted to comply with effluent limitations.

ADMINISTRATIVE REVIEW

Any person aggrieved by this action of the Santa Ana Water Board may petition the State Water Resources Control Board for review in accordance with the CWC section 13320 and California Code of Regulations, title 23, section 2050 et seq. To be timely, the petition must be received by the State Water Board by **5:00 pm on the 30th day** after the adoption date of this Order; if the 30th day falls on a Saturday, Sunday or state holiday, the petition must be received by the State Water Board by 5:00 pm on the next business day. The law and regulations applicable to filing petitions are available on the State Water Board website (http://www.waterboards.ca.gov/public_notices/petitions/water_quality). Copies will also be provided upon request.

I, Jayne E. Joy, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the Santa Ana Water Board on February 14, 2025.

Jayne E. Joy, P.E.
Executive Officer

Date: _____

ATTACHMENT C

Summary of Tasks Required by TSO R8-2019-0050, as amended by Order R8-2023-0063 and Order R8-2025-0003, and their status.

| Task | Description | Due Date(s) | <u>Status</u> |
|------|---|------------------------------------|---|
| 1 | Complete ongoing and approved structural Best Management Practices (BMP) projects | | |
| 1a | Hoag Drain and Arches diversion | 15 months after TSO effective date | <u>Construction completed in March 2021. Operation is pending permit from the Orange County Sanitation District (OC San).</u> |
| 1b | Newport Bay bilge pump installation | 18 months after TSO effective date | <u>Completed in April 2021 and is operational.</u> |
| 1c | Newport Dunes diversion revision | 24 months after TSO effective date | <u>Completed in August 2021 and operating under a temporary permit from OC San.</u> |
| 2 | Develop new structural BMP projects | | |
| 2a | East Costa Mesa Channel diversion | 6 months after TSO effective date | <u>Completed on 6/5/2020.</u> |
| 2b | Santa Isabel Channel diversion | 6 months after TSO effective date | <u>Completed on 6/5/2020 and submitted as part of draft PPP.</u> |
| 2c | Additional BMP projects for Newport Dunes | 6 months after TSO effective date | <u>Completed on 6/5/2020 and submitted as part of draft PPP.</u> |
| 3 | Evaluate human sources of fecal contamination | | |

| Task | Description | Due Date(s) | <u>Status</u> |
|------|---|--|---|
| 3a | Source investigation study design | 4 months after TSO effective date | <p><u>Completed on 4/6/2020.</u></p> <p><u>Last revised on 7/28/2021.</u></p> <p><u>Approved on 3/3/2022.</u></p> |
| 3b | Source investigation final report | 12 months after Santa Ana Water Board approval of study design | <p><u>Completed on 2/7/2023.</u></p> <p><u>Revised on 8/7/2023.</u></p> |
| 4 | <p>Pollution Prevention Plan (PPP)</p> <p>A PPP shall include, at a minimum, all of the following:</p> <ul style="list-style-type: none"> a. An analysis of fecal coliforms that the MS4 Permittees discharge into upper and lower Newport Bay, a description of sources of fecal coliforms, and a comprehensive review of the activities known to the discharger that result in the generation and discharge of fecal coliforms. b. An analysis of the potential for pollution prevention to reduce the discharge of fecal coliforms, including the application of innovative and alternative technologies, and any adverse environmental impacts resulting from the use of those methods. c. A detailed description of the tasks and time schedules required to investigate and implement various elements of pollution prevention techniques. d. A statement of the dischargers' | 18 months after Santa Ana Water Board's approval of Study Design | <p><u>PPP submitted on 8/7/2023 and conditionally approved after revision on 9/10/2024.</u></p> |

| Task | Description | Due Date(s) | <u>Status</u> |
|------|--|---|---|
| | <p>pollution prevention goals and strategies, including priorities for short-term and long-term action.</p> <p>e. A description of the dischargers' existing pollution prevention methods.</p> <p>f. An analysis, to the extent feasible, of the relative costs and benefits of the possible pollution prevention activities, including but not limited to Tasks 1 and 2 above. This includes estimates of numerical pollutant load reduction in receiving waters and defensible estimates of project costs.</p> <p>g. A specification of, and rationale for, the technically feasible and economically practicable pollution prevention measures selected by the discharger for implementation, including but not limited to Tasks 1 and 2 above.</p> | | |
| 5 | <p><u>Short Term Study Modifications: Source Control Evaluations and Targeted Source Identifications</u></p> | | |
| 5a | <p><u>Evaluate Source Controls:</u> Quantify reductions in fecal coliform bacteria densities achieved by the following structural controls: <u>Santa Ana-Delhi Channel Diversion and Trash Capture System, Peters Canyon Channel Water Capture and Reuse Pipeline, IRWD San Joaquin Marsh and Wildlife Sanctuary, Backbay Drive Drain Diversion, and Newport Dunes Catch Basin Plugs.</u></p> | <p><u>Submit the quantification methodology within 60 days of approval of TSO R8-2023-0063.</u></p> <p><u>Complete the technical/scientific study and submit a final report no later than 8 months of approval of this Amendment to the TSO R8-</u></p> | <p><u>Study completed, and a final report submitted on 8/22/2024.</u></p> |

| Task | Description | Due Date(s) | <u>Status</u> |
|------|---|--|--|
| | | <u>2023-0063.</u> | |
| 5b | <p><u>Targeted Source Identifications:</u> Conduct <u>targeted source identification in the Back Bay Drive Drain and lower Santa Ana – Delhi Channel (south of Warner Avenue) sub-watersheds. Targeted source identifications must be conducted in accordance with the Task 3a study design and shall consist of the following activities as a minimum:</u></p> <ol style="list-style-type: none"> 1. <u>Coordination with local jurisdictions to confirm information on the storm drain and sanitary sewer systems.</u> 2. <u>Evaluate the Backbay Drive Drain and lower Santa Ana-Delhi Channel sub-watersheds, from downstream to upstream, to identify potential sources of fecal indicator bacteria.</u> 3. <u>Conduct a minimum of three stages of progressive source investigation monitoring. Within each stage, conduct at least three rounds of repeat sampling events at a minimum of 3 locations.</u> 4. <u>Other investigative tools may be used to assist in evaluating and identifying potential source(s).</u> | <p><u>Report on improvement effort within 90 days of approval of this Amendment to the TSO R8-2023-0063.</u></p> <p><u>Complete evaluations and submit a report within 8 months of approval of this Amendment to the TSO R8-2023-0063.</u></p> | <p><u>Evaluations completed and report submitted on 8/22/2024.</u></p> |
| 6 | <p><u>Coordinate with wastewater agencies to update spill emergency response plans and share maps and resources with wastewater agencies to reduce the volume of sewage from SSOs reaching the receiving waters.</u></p> | <p><u>Submit a report within 120 days after approval of this Amendment to the TSO R8-2023-0063.</u></p> | <p><u>Report submitted on 4/6/2024.</u></p> |

| Task | Description | Due Date(s) | <u>Status</u> |
|------|--|---|--|
| 7 | <p><u>Submit for Santa Ana Water Board approval a revision of the PPP that was submitted on August 7, 2023, to address all comments in the Santa Ana Water Board letter dated September 13, 2023. The revised PPP must also include initiation of a source investigation study of the San Diego Creek sub-watershed and an evaluation of the efficacy of structural source controls in the Big Canyon Habitat Restoration and Water Quality Improvement Project.</u></p> | <p><u>Submit revised PPP within 150 days after approval of this Amendment to the TSO R8-2023-0063.</u></p> | <p><u>Revised PPP submitted and approved on 9/10/2024.</u></p> |
| 8 | <p><u>Communication Plan: In conjunction with Santa Ana Water Board staff, the Permittees will develop a schedule and participant list for technical staff meetings to help facilitate development and implementation of Tasks 1-7.</u></p> | <p><u>Within 30 days of approval of this Amendment to the TSO R8-2023-0063.</u></p> | <p><u>Submitted on 1/22/2024.</u></p> |
| 9 | <p><u>Task 9 specifies the Permittees must continue to identify and control additional sources of fecal coliform for the duration of this TSO to attain compliance with the fecal coliform effluent limitations by December 6, 2027. The Permittees must carry out the follow-up actions from the Task 5b report according to a work plan that has been approved by the Executive Officer.</u></p> | <p><u>Submit initial work plan for follow-up actions within 30-days of adoption of Order 2025-0003.</u></p> | |
| 10 | <p><u>Task 10 specifies that reports on follow-up actions are to be submitted by September 1 of each year.</u></p> | <p><u>September 1 of each year.</u></p> | |