

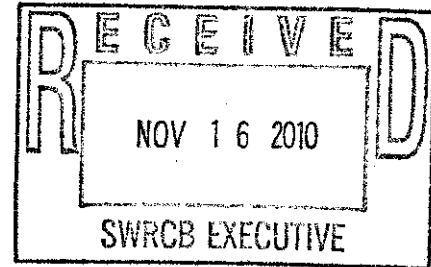
THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

November 16, 2010

Ms. Jeanine Townsend, Clerk to the Board
State Water Resource Control Board
1001 I Street, 24th Floor
Sacramento, California 95814

Sent via E-Mail: commentletters@waterboards.ca.gov



Subject: Comment Letter – Draft Aquatic Animal Invasive Species Control Permit

Dear Ms. Townsend:

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to provide comments on the State Water Resources Control Board (SWRCB) Draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Pesticide Discharges to Waters of the United States from Aquatic Animal Invasive Species Control Applications (Draft Invasive Species Permit). Metropolitan is comprised of 26 cities and water districts that provide drinking water to nearly 19 million people in parts of Los Angeles, Orange, San Diego, Riverside, San Bernardino, and Ventura counties. The mission of Metropolitan is to provide its service area with adequate and reliable supplies of high quality water to meet present and future needs in an environmentally and economically responsible way. Metropolitan currently delivers an average of 1.7 billion gallons of water per day to a 5,200 square-mile service area. Metropolitan is a member of the Association of California Water Agencies and supports the comments that they have provided to you in their letter and detailed mark-up of the Draft Invasive Species Permit.

Control of aquatic invasive animal and plant species is a growing challenge in California and a critical issue for Metropolitan. Metropolitan needs to be able to respond quickly, using the most effective, approved pest management methods to control and eliminate targeted species, while implementing best management practices to mitigate impacts to the environment. For these reasons, Metropolitan needs streamlined and flexible regulatory requirements that allow us to fulfill our mission both now and in the future. As presently written, the Draft Invasive Species Permit does not provide Metropolitan with the needed flexibility, and imposes additive administrative and regulatory requirements with no perceived benefit to water quality.

Metropolitan received a preliminary draft of subject permit via e-mail from SWRCB staff on August 23, 2010. In response to staff's request for input, Metropolitan provided the attached comments letter on August 31, 2010 to SWRCB staff. Metropolitan's previous letter, which is attached and incorporated by reference, included the following comments:

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- Requested SWRCB staff to convene a Technical Advisory Committee, and hold a workshop prior to scheduling of a public hearing to better understand stakeholder concerns,
- Questioned the necessity of the Draft Invasive Species Permit and the rationale for SWRCB staff making it a high priority, and
- Stated that the provisions in the Draft Invasive Species Permit duplicate existing regulatory requirements of such agencies as Department of Fish and Game, and the various Regional Boards and county Flood Control Districts.

Issues

Although SWRCB staff referenced Metropolitan's comments letter at the State Water Board (Board) hearing on November 2nd, the revised Draft Invasive Species Permit fails to address our previous concerns; and raises several additional issues that the Board must resolve with staff before proceeding with adoption of the Draft Invasive Species Permit. Staff has stated that the Draft Invasive Species Permit needs to be in place by April 2011 to meet legally mandated deadlines and the Environmental Protection Agency's (EPA) Pesticide General Permit (PGP). However, this deadline is not applicable to the current situation in California and may be more relevant to other parts of the United States.

Metropolitan does not presently need the Draft Invasive Species Permit for the application of sodium hypochlorite for mollusk control. Metropolitan applies sodium hypochlorite to a closed aqueduct system with no discharges at the time of application. Potable water is discharged from our systems when we dewater for operations and maintenance shutdowns. These discharges are regulated under other existing discharge permits that contain limits for residual chlorine, and include monitoring and reporting provisions. Additionally, Metropolitan is already required to provide California Department of Fish and Game (pursuant to provisions of Assembly Bill 1683 and Section 2301 of the Fish and Game Code) a written Quagga Mussel Control Program which essentially duplicates the provisions of the Aquatic Pesticide Application Plan (APAP) contained in the Draft Invasive Species Permit.

Metropolitan is concerned that the Draft Invasive Species Permit is too prescriptive and does not provide the needed flexibility and emergency provisions to allow us to quickly address potential new and emerging invasive species with approved pesticides without a lengthy application, review, and approval process. Although there is a reopener provision in the Draft Invasive Species Permit, our understanding from SWRCB staff is that the amendment process is lengthy and could take three to six months.

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Additionally, the monitoring and reporting provisions in the Draft Invasive Species Permit are more extensive than those in the existing SWRCB Aquatic Weed Permit and in EPA's PGP. The EPA PGP includes narrative based effluent limits rather than numeric effluent limits. The Draft Invasive Species Permit includes a requirement for toxicity testing (with the exception of sodium hypochlorite) that is not appropriate or scientifically sound to include in aquatic pesticide permits. The pesticides that Metropolitan applies are already approved by EPA under FIFRA and are applied in accordance with requirements designated on the pesticide label. Under these circumstances, additional monitoring, toxicity testing, and numeric limits create an unnecessary and duplicative additional burden, and create the inherent risk of conflict with the existing FIFRA requirements.

Recommendation

In light of the above issues, Metropolitan requests that the Board consider delaying the adoption hearing for the Draft Invasive Species Permit, until we successfully resolve our concerns. Metropolitan requests reconsideration of our previous recommendation to first establish a Technical Advisory Committee comprised of representatives from SWRCB, Department of Fish and Game, California water associations, and affected water agencies. This will allow for a collaborative dialogue among all of the stakeholders to arrive at the best practical solutions to best control aquatic invasive species and to ensure environmental protection of receiving waters.

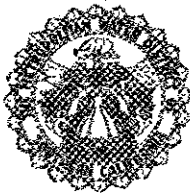
Please contact Janet Bell at (213) 217-5516 with any questions or comments, or I can be reached at (213) 217-5646.

Very truly yours,



Bart Koch
Section Manager, Environmental Health and Safety

cc: Mark Rentz, ACWA



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

August 31, 2010

Mr. Phil Isorena, NPDES Unit Chief
State Water Resources Control Board
1001 I Street
Sacramento, California 95812-0100

Dear Mr. Isorena:

Metropolitan Water District of Southern California Comments on Draft Water Quality Order No. 2011-XXXX-DWG-General Permit No. CAG XXXXX – Statewide National Pollutant Discharge Elimination System (NPDES) Permit for Residual Pesticide Discharges to Waters of the United States from Aquatic Animal Invasive Species Control Applications

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to provide comments on the initial draft of the SWRCB Statewide NPDES Permit for Residual Pesticide Discharges to Waters of the United States from Aquatic Animal Invasive Species Control Applications (Draft Permit). We received a preliminary draft of this permit via e-mail from Sarah Ong on August 23, 2010 with comments requested on August 30, 2010 with an extension provided until September 1, 2010. Because of the very short timeframe provided for comments, we are providing general comments and concerns rather than detailed technical comments on the specific permit provisions. Metropolitan reserves the right to submit further comments on the official noticed draft.

Recommendation

In lieu of proceeding directly to formal public comments, we are requesting that SWRCB staff convene a Technical Advisory Committee (TAC) with potentially affected stakeholders, and hold workshops prior to scheduling a public hearing. This will provide for a collaborative dialogue between Metropolitan, other affected entities, and SWRCB staff so we can better understand one another's needs and concerns, and arrive at the best practical solutions to ensure environmental protection of receiving waters. Metropolitan staff has participated in such advisory committees with other water purveyors and regulatory agency staff from several of the Regional Boards, including most recently the San Diego Regional Water Quality Control Board, and found both the cooperative process and outcome to be most beneficial for all of the participants.

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Concerns with Draft Permit

Metropolitan staff is actively tracking development of the U.S. Environmental Protection Agency's (EPA's) Pesticide General Permit (PGP) and renewal of the State-wide General NPDES Permit for Discharge of Aquatic Pesticides for Aquatic Weed Control in Waters of the U.S. (WQO 2004-009-DWQ). We were therefore, completely surprised by the new Draft Permit, which appears to have been expedited without sufficient justification from SWRCB as to the necessity and priority. SWRCB staff has indicated that they do not have information yet on all the various entities that could be affected by this new Draft Permit so they have received almost no input from stakeholders. Rather than creating a totally new Draft General Permit, the SWRCB should review existing regulatory and permit requirements to determine whether additional regulatory requirements are even warranted. Such requirements may already be captured under existing permit provisions or regulations.

Although the use of chlorine and chlorine products, including sodium hypochlorite, for quagga mussel control is relatively new, potable water purveyors have a long history of using chlorine for disinfection. Residual chlorine receiving water limits are already imposed for dewatering from potable water supply systems under the various Regional Board General Permits, Municipal Separate Storm Sewer System (MS4) permits, Basin Plan Water Quality Objectives, and/or permits from county Flood Control Districts. Therefore, Metropolitan, and any other potential dischargers regulated under this new Draft Permit, are already required to meet the residual chlorine limits stipulated in the new Draft Permit. The monitoring and reporting provisions in the Draft Permit duplicate these efforts and impose redundant requirements.

Additionally, Metropolitan prepared a written Quagga Mussel Control Program in May 2008, pursuant to provisions of Assembly Bill 1683 and Section 2301 of the Fish and Game Code, which was approved for a five year time period (2008-2013). The proposed Draft Permit duplicates several of the elements that are captured in this plan, and does not streamline regulatory requirements.

We believe it is in the best interests of affected stakeholders and SWRCB to resolve the general concerns before proceeding with a new permit for aquatic invasive species. We look forward to working with you and your staff in a TAC approach to allow time for SWRCB staff and affected stakeholders to work toward mutually acceptable solutions.

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If you have any questions on this matter, please contact Ms. Janet Bell at (213) 217-5516, or I can be reached at (213) 217-5646.

Very truly yours,



Bart Koch
Section Manager, Environmental Health and Safety

JB:dm
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