

San Diego Regional Stormwater Copermittees Regional Program Planning Subcommittee

Meeting Notes

Co-Chairs Todd Snyder and Jon Van Rhyn

Date	Location	Agenda Summary
9/4/2012 Start time: 10:00 AM End time: 1:00 PM	County of San Diego 5510 Overland Ave San Diego, CA	<ul style="list-style-type: none"> Review of 8/30 Comments per AMEC email

Meeting Attendance:

Number of Voting Copermittees at this Meeting: 6

VOTING MEMBERS

<input checked="" type="checkbox"/> City of Carlsbad Elaine Lukey Tim Murphy	<input checked="" type="checkbox"/> City of El Cajon Jaime Campos	<input checked="" type="checkbox"/> City of Escondido Cheryl Filar	<input type="checkbox"/> City of Lemon Grove
<input checked="" type="checkbox"/> City of Oceanside Cynthia Mallett	<input type="checkbox"/> City of Poway	<input checked="" type="checkbox"/> City of Vista Paul Hartman	<input type="checkbox"/> Port of San Diego
<input type="checkbox"/> City of San Diego	<input checked="" type="checkbox"/> County of San Diego Jon Van Rhyn Todd Snyder	<input checked="" type="checkbox"/> Christine Sloan Sheri McPherson	<input checked="" type="checkbox"/> Stephanie Gaines Tracy Cline Joann Weber

NON-VOTING MEMBERS

<input type="checkbox"/> City of Chula Vista	<input checked="" type="checkbox"/> City of Coronado Rosanna Lacarra*	<input checked="" type="checkbox"/> City of Del Mar Mikhail Ogawa*	<input checked="" type="checkbox"/> City of Encinitas Erik Steenblock
<input checked="" type="checkbox"/> City of Imperial Beach Chris Helmer	<input type="checkbox"/> City of La Mesa	<input checked="" type="checkbox"/> City of National City John Quenzer*	<input type="checkbox"/> City of San Marcos
<input checked="" type="checkbox"/> City of Santee Helen Davies	<input type="checkbox"/> City of Solana Beach	<input type="checkbox"/> Airport Authority	<input checked="" type="checkbox"/> Secretary Hilary Potter
<input checked="" type="checkbox"/> AMEC Matt Rich Dustin Bambic			

*Indicates consultant representing copermittee

1. **Introductions and Announcements**
2. **Administrative Issues**

3. Administrative Draft Permit Activities

A. Review of 8/30 Comments per AMEC Email

Copermittees discussed comments highlighted in the September 4 email from AMEC which identified comments received on 8/30/2012 that involved new or substantial changes to the comment table and redlined permit.

1. General (National City): *Suggest that the Comment Table be split into two portions – one that matches the Redline, and one that provides backup comments for re-written sections that are not accepted.*

The Copermittees discussed various ways of making the comment table and redlined permit easier for the RWQCB to understand, including splitting the comment table section by section and splitting the comment table as suggested by National City.

The consensus reached by the Copermittees was to leave the comment table as-is.

The schedule for changes to the comment table and current redlined permit was also discussed. The workgroups shall submit final revisions to the comment table by the end of this week. Any redline revisions should be completed in today's meeting.

Content for the cover letter was also suggested, including explaining to the Regional Water Quality Control Board (RWQCB) staff that the Copermittees' first preference is the redlined text, but if that is not acceptable, then there is rationale provided in the comment table that should be considered and informing RWQCB staff that the Copermittees are willing to meet to explain the revisions and rationale behind them.

2. Provision A (Santee): *Revise second sentence to, "The goal of this provision is to address the impacts of MS4 discharges through the permit program established by Section 402(p)(3)(B) of the Clean Water Act."*

Helen Davies (City of Santee) informed the Copermittees that this comment came from the City of Santee's legal counsel. Dustin Bambic (AMEC) explained that reference to the Clean Water Act would be a finding rather than language within a provision of the permit.

The consensus reached by the Copermittees was to leave the sentence as-is.

3. Provision A.2.a (Santee): *"Our understanding is that these sections will be revised to refer to the CASQA proposed language. The comments regarding TMDLs and WQIPs will remain, but the language that is suggested for other receiving waters will simply refer to the CASQA proposal."*

Dustin Bambic (AMEC) explained that the mini-PPS had gone through quite an effort to come up with compliance determination language for Provision A. Instead of pulling all of that language and inserting the CASQA language, the approach was to

back off on the reference to receiving water limitations in the redline, but leave in the language for A1 and A3 (discharge prohibitions and effluent limitations). The Copermittees recognized that this issue is being heard at the State level at a State Water Resources Control Board (SWRCB) workshop in November.

The Copermittees reached consensus to defer the issue to the Attorneys' Group as it is an issue of liability.

4. Provision A.2.a.4.b (Santee): *"We should make a general comment that the Permit should only reference legally approved water quality standards. Some of the documents that are referenced in this portion of the Permit do not all contain or establish legally approved water quality standards."*

Helen Davies (City of Santee) informed the Copermittees that this comment came from the City of Santee's legal counsel. She could not provide further clarification.

The Copermittees decided to leave the section as-is, unless the City of Santee's legal counsel can provide a specific concern about a specific reference.

Additional Comment: Provision A.4 (County of San Diego): *A qualifier should be added to the second sentence of the introduction to Provision A.4 that recognizes compliance is not expected to be immediate.*

Dustin Bambic (AMEC) explained that the second sentence came from the existing MS4 permit (99-05), except that WQIP was substituted for SWMP and expanded to be applicable to A.1 and A.3. It may need to be more explicitly stated that implementation of the WQIP constitutes compliance.

The Copermittees reached consensus to defer the issue to the Attorneys' Group as it is unclear what the legal interpretation would be.

5. Provision B (Santee): *"Consistent with our comments relating to page 9, we think our comments should only include express language from the Act and no more."*

Dustin Bambic (AMEC) referred the Copermittees to the second sentence in the first paragraph of Provision B. Todd Snyder (County of San Diego) clarified that the City of Santee's recommendation would be to remove the third item in the list in that sentence, referring to beneficial uses. Helen Davies (City of Santee) concurred, stating that it is outside the bounds of the MS4 permit per the Clean Water Act. Todd Snyder (County of San Diego) explained that the concern is that RWQCB staff has been clear from the beginning that one goal is the restoration of beneficial uses, and it may be inflammatory to the RWQCB to suggest deleting that goal. Jon Van Rhyn (County of San Diego) pointed out that the same language is used in Provision E, so if there are changes made to Provision B, they need to be made to Provision E as well. Dustin Bambic (AMEC) suggested revising the beginning to say "support attainment and enhancement" instead of "attain."

The Copermittees reached consensus to change "...attain the reasonable protection..." to "support attainment of the reasonable protection..."

6. Provision D (Port of San Diego): Replace "The Copermittees must develop Water Quality Improvement Plans for each Watershed Management Area that 1) prioritize water quality conditions resulting from the Copermittee's MS4 discharges to and from the MS4s..." with "... Watershed Management Area that 1) identify water quality priorities based on a ranking of water quality conditions resulting from the Copermittee's MS4 discharges to and from the MS4s..."

The Copermittees felt there is more flexibility with "prioritize" rather than "identify... based on a ranking..."

The Copermittees reached consensus to leave the language as-is.

7. Provision B (Santee): Strike the requirement for numeric goals.

The Copermittees discussed that this language is peppered throughout the entire permit, and that the RWQCB has been clear that numeric targets will remain in the permit. In addition, the RWQCB has been clear in discussions that numeric targets will not be enforceable. The Copermittees discussed that if the RWQCB does not accept the non-enforceability language, then numeric targets should be struck from the permit, but it would be disingenuous to suggest this after not mentioning it at any previous meeting with RWQCB staff. Elaine Lukey (City of Carlsbad) suggested not to strike the requirement at this point, but to keep the issue as a priority and, if necessary, re-visit the strategy upon issuance of the draft permit.

The Copermittees reached consensus to include this issue in the cover letter, re-address upon issuance of the draft permit, but leave the language as-is for now.

8. Provision B (Santee): "I question if we can be required to have a 10-year plan with a 5-year permit."

Helen Davies (City of Santee) understands the concept of planning for the long-term, but does not understand how it can be written as a 10-year requirement in the 5-year permit; it leaves the opportunity for a new permit to be issued in 5 years with potentially different requirements or goals but the Copermittees may still be tied to completing the previous permit's 10-year commitments.

The Copermittees discussed that the 10-year reference is for goals, not commitments. The footnote added in the redline version clearly states that the 10-year goals are not required to be achieved. Further discussion included revising the footnote or rephrasing "final numeric goals" to "long-term numeric goals."

The Copermittees reached consensus to leave the language as-is.

9. Provision B.2.c (Del Mar): change “priorities” to “priority(ies)”

Mikhail Ogawa (City of Del Mar) explained that “priorities” indicates immediately that there will be more than one priority, and that may not be accurate in all cases.

The Copermittees reached consensus to revise the language as suggested and to move B.2.c.(6) into the introductory paragraph.

10. Provision B.5.a (Del Mar): “conflicts with B.5.b.(1) where this should be considered annually – if there is a chance for changes annually, do we need to state here that the changes should be reported when they are made or in the ROWD?”

Mikhail Ogawa (City of Del Mar) explained that B.5.a indicates changes are to be submitted once a permit cycle while B.5.b.(1) indicates changes are to be submitted annually. Copermittees discussed that the language in B.5.b.(1) does refer back to B.5.a.

The Copermittees reached consensus to leave the language as-is.

11. Provision B.5 (Del Mar): “Not strong enough – recommend being explicit and calling out exact provisions to be considered for adaptation”

Mikhail Ogawa (City of Del Mar) explained that it is currently not clear that Provision D can be included in adaptive management. The Copermittees discussed possibly adding “(Provision E)” after “jurisdictional runoff management programs” and adding “(Provision D)” after “monitoring and assessment strategies and schedules.” Another suggestion was to add reference to B.4 in the introductory paragraph.

The Copermittees reached consensus to revise the introductory paragraph to include a reference to B.4. In addition, the title of B.5 shall be revised to “Iterative and Adaptive Management Process” and the introductory paragraph to B.5 shall be revised to “...adapting the Water Quality Improvement Plan, jurisdictional runoff management programs and monitoring and assessment programs, as necessary,...”

Additional Comment: Provision B (Oceanside): Provision B.6.d references JRMPs in the WQIP section. It should be moved.

Copermittees discussed the appropriate placement for the language of Provision B.6.

Copermittees reached consensus to move B.6.a to the top of Provision B and move the rest of B.6 into Provision F, with a reference to Provision F being left in B.6. All Provisions are to be reviewed for consistency in having any plan submittals or reporting requirements reference Provision F instead of including plan submittal or reporting requirements within other Provisions.

12. Provision C (Santee): *“We are uncomfortable with using the action levels from another permit as the interim action levels. The trade-off is that if they want us to prepare the WQIP, they should not also require default action levels. Which effectively constrain where the action levels can be set, as they will end up being a floor in the WQIP.”*

Todd Snyder (County of San Diego) referred the Copermittees to the last sentence of the first page of Provision C which states “The action levels established as part of R9-2007-0001 will serve as the interim action levels until the Water Quality Improvement Plans are completed and approved.”

The Copermittees discussed that the RWQCB has made it clear that they will not negotiate the action levels. Furthermore, the action levels are intended to be non-enforceable and only used as prioritization tools, based on conversations with RWQCB staff.

The Copermittees reached consensus to leave the language as-is but to also include this issue in the cover letter that action levels are non-enforceable and are to be used as prioritization tools.

13. Provision D.5.a.4 (Land Development Workgroup): *Strike Specific Question and final paragraph regarding evaluation factors.*

Christine Sloan (County of San Diego) explained that the hydromodification monitoring as put in the administrative draft permit was watershed-specific hydromodification monitoring to get an assessment on how changes are happening in a certain segment. The current 5-year HMP monitoring project is very specific on how to assess the plan itself and is tied to small development areas high in the watersheds; the current 5-year HMP monitoring project cannot be applied region wide in a perpetual program. The current 5-year HMP monitoring project has an end date and is already covered by an existing RWQCB Resolution. The hydromodification monitoring under the administrative draft permit should be kept separate from the current HMP monitoring project.

The Copermittees reached consensus to strike the Specific Question from the HMP Monitoring subsection.

14. Provision E.2.a (Santee): *“We should qualify any legal authority requirement, as well as all the post-construction requirements, by the phrase “To the extent allowable by law...” This phrase is found in the Phase II Regulations and the Board must understand that there are limits to what a municipality can legally do. They cannot require us to do something that we do not have the legal authority to do or that would violate the State or Federal Constitution.”*

The Copermittees agreed with the comment and reached consensus to revise the language as suggested.

15. Provision E.3.c.2.b (National City): *“Saying “pre-project” here instead of “pre-development” will result in a major reduction in requirements (relative to the current requirements) for any redevelopment projects that disturb the site enough not to qualify for the 50% rule but do not have a significant increase in impervious area. Currently these sites need to treat the entire 85th percentile volume associated with the post-project condition or meet the flow-based standard. Under this proposed language, these types of redevelopment projects would essentially not have to do anything for treatment (other than basic LID required for all projects, including non-PDPs) because they could say the design capture volume, as defined here, is zero. If that change is intended, then I suggest that a rationale for it be included in the comment table, since it is a fairly major departure from the current (2007) permit. If that change was not intended, I suggest “pre-development” instead of “pre-project.””*

Matt Rich (AMEC) explained that this comment has been incorporated as “pre-project” has been changed back to “pre-development” and the EPA definition of “pre-development” has been added to the definitions section.

16. Provisions E.5.a.1 and E.5.b.1 (Carlsbad): *Change heading to “Source Identification and Prioritization” from “Source Inventory and Prioritization”*
and

17. Provision E.5.a.1 (Carlsbad): *Change to “Each Copermittee must identify sources and maintain an updated inventory...”*

The Copermittees agreed with the comments and reached consensus to revise the language as suggested.

18. Provision E.5.a.3.c (Carlsbad): *Change “must” to “may develop a strategy to implement...”*

Jon Van Rhyn (County of San Diego) explained that the “must” and “may” language in Provision E.5.a.3 was deliberate and that developing a retrofit strategy for industrial, commercial, and municipal sources is a must.

The Copermittees reached consensus to leave the language as-is.

Additional Comment: Provision E.5.a.3.d (Oceanside): *Suggestion is to add language about property or human protection under the channel rehabilitation and improvement subsection.*

The Copermittees discussed that property or human protection is covered by the words “community acceptance” in subbullet ii.

The Copermittees reached consensus to leave the language as-is.

19. Provisions E.5.a.3 and E.5.b.3 (Carlsbad): *Recommend removing and incorporating into BMP Implementation for both ICM and Residential Sections.*

The Copermittees discussed the recommendation and reached consensus to leave the language as-is.

20. Provision E.5.a.1.g (Carlsbad): *Revise to “...and generates or potentially generates...”*

Elaine Lukey (City of Carlsbad) explained that this would make subpart (g) match subparts (e) and (f) in the same subsection.

The Copermittees reached consensus to revise the language as suggested.

21. Provision E.5.b.1 (Carlsbad): *Replace entire section with “Each Copermittee must identify residential areas and activities that have a reasonable potential to discharge a pollutant load to and from the MS4.”*

Elaine Lukey (City of Carlsbad) explained that this revision would make the section less prescriptive and the recommendation is the language in the current permit. Jon Van Rhyn (County of San Diego) stated that the idea was to include language to show that the Copermittees are being more proactive with their residential programs. RWQCB staff and the NGOs have made it clear that residential areas should be a priority in this permit and that the current activities and programs of the Copermittees will not be sufficient moving forward. Erik Steenblock (City of Encinitas) expressed that the original administrative draft permit language was much more prescriptive requiring inventory and inspections of all residential sources; the current redline language is a compromise between the current permit language and the administrative draft permit language and is informed by conversations with RWQCB staff.

The Copermittees reached consensus to leave the language as-is.

22. Provision E.5.b.1.b (National City): *Revise bulleted list.*

Copermittees discussed the relevant programs that could possibly be listed here and reached consensus to delete the bulleted list.

23. Provision E.5.b.4 (Carlsbad): *Replace entire section with “Residential Area Oversight. Copermittees must develop a program to facilitate oversight in residential areas. Oversight of residential areas may be conducted through complaint response, IDDE activities, or other methods deemed necessary and/or effective. Each Copermittee shall enforce its storm water ordinance for all residential areas as necessary to maintain compliance with this order.”*

Jon Van Rhyn (County of San Diego) responded to the comment, stating that indications from RWQCB staff and NGOs is that currently residential areas are under-emphasized and they expect efforts to be increased in these areas under the

new permit. Erik Steenblock (City of Encinitas) agreed that the Copermittees will be required under this new permit to commit to doing something more for the residential areas than what is currently done. The Copermittees discussed several options for the language in Provision E.5.b.4 but could not reach a consensus.

The Copermittees decided to table the issue until Thursday's PPS meeting. Any suggested revisions shall be submitted via email to Todd Snyder (County of San Diego) no later than 3:00 Wednesday 9/5. Todd will email the proposed language options to the Copermittees for consideration, and the Copermittees will make the decision on this language at Thursday's PPS meeting.

Additional Comment: Provision E.1 (City of San Diego): Replace entire section with a reference back to Provision B.

Jon Van Rhyn (County of San Diego) explained that the language in Provision E.1 (Modification of Jurisdictional Runoff Management Program Requirements) is intended to clarify that there is a relationship between JRMP obligations and WQIP obligations and that there are two instances (watershed basis and jurisdictional basis) where Copermittees might want to adapt in a direction different than what is in the permit. Modification or waiving of specific requirements would require approval of the RWQCB Executive Officer. The first part of Provision E.1 covers modifications made at a Watershed Management Area level. The second part of Provision E.1 covers modifications made at a jurisdictional level. This issue is important specifically to those jurisdictions that are in multiple watersheds. This language also explicitly states that modifications may be below the minimum requirements set forth in the permit.

The Copermittees could not reach consensus on this issue and decided to table the issue until Thursday's PPS meeting. Any suggested revisions shall be submitted via email to Todd Snyder (County of San Diego) no later than 3:00 Wednesday 9/5. Todd will email the proposed language options to the Copermittees for consideration, and the Copermittees will make the decision on this language at Thursday's PPS meeting.

24. Attachment E, Section 6 – Attachment A to Comment Table (Inconsistencies with TMDL Requirements) (Encinitas): Regarding the following (existing) comment on page 79 of the Comment Table, "Carlsbad WMA RPs include Cities of Oceanside, Solana Beach and Vista. These 3 cities are not located within the Moonlight HA. RPs did not include Cities of Oceanside, Solana Beach, and Vista in the TMDL." – "There are other comments to remove San Marcos HA entirely from Table 6.0 If [it] is recommended to not include San Marcos HA in Table 6.0, this comment is in disagreement with [Table 6.0] comment. This comment becomes obsolete."

Mikhail Ogawa (City of Del Mar) explained that all the requirements of Attachment E do not apply to watersheds that are in a dormant condition. There should be a general statement instead of specific HA's being listed.

The Copermittees reached consensus that Erik Steenblock (City of Encinitas) and Mikhail Ogawa (City of Del Mar) are to provide revised language to the consultants by the end of the day.

4. Action Items

Action Item		Responsible Party	Timeline
1	Submit final revisions to the comment table.	Workgroups	9/7/2012
2	Get redline recommendations from Attorneys' Group for Provision A.	Todd Snyder (County of San Diego)	9/5/2012
3	Submit redline recommendations for Provision E.5.b to Todd Snyder.	All Copermittees	9/5/2012, 3 PM
4	Submit redline recommendations for Provision E.1 (Modification of Jurisdictional Runoff Management Program Requirements) to Todd Snyder.	All Copermittees	9/5/2012, 3 PM
5	Submit redline recommendations for Attachment E, Section 6 to AMEC.	Erik Steenblock (City of Encinitas) and Mikhail Ogawa (City of Del Mar)	9/4/2012

5. Next Meeting

Date: September 6, 2012

Time: 10 AM to 1 PM

Location: County of San Diego, 5510 Overland Drive

FY2012-13 REGIONAL TASKS AND WORK PRODUCTS
(for inclusion in Annual Report)

Working Body	Task/Work Product	Program Implementation	Status
Regional Program Planning Subcommittee	Permit Re-issuance Support		Ongoing

Working Body	Task/Work Product	Program Implementation	Status
Regional Program Planning Subcommittee	Regional Standards for Reporting and Assessment		Ongoing
Regional Program Planning Subcommittee	Regional Framework/Guidance for Watershed-Based Implementation Planning		Ongoing
Regional Program Planning Subcommittee	Watershed Activities Database		Ongoing

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