

I. Introduction

Launched in 1995, San Diego Coastkeeper is a locally-based non-profit environmental organization focused on the protection of the San Diego region's bays, beaches, watersheds and ocean for the people and wildlife that depend on them. Coastkeeper is San Diego's official agency of the international Waterkeeper Alliance. Coastkeeper's mission includes the near-term goals of dramatically reducing pollution from storm water runoff by ensuring effective implementation of municipal, industrial and construction storm water permits. To further these goals of clean water and a healthy coastal ecosystem, Coastkeeper promotes community outreach and involvement programs, education, and advocacy and legal action.

Specifically, Coastkeeper has committed to advocate for more protective runoff regulations and investigate and enforce against cities, agencies and businesses who do not comply with these requirements. One way to accomplish this goal is with our ongoing stormwater program audit of cities to ensure compliance with San Diego's municipal stormwater permit, San Diego Municipal Separate Storm Sewer Systems (MS4) Permit

II. Background

In 2007 and 2008 San Diego Coastkeeper (Coastkeeper) conducted a program evaluation of the City of Escondido and San Marcos, concerning their implementation of the MS4 Permit between 2003 and 2006. The purpose of this evaluation was to determine the Cities' past levels of compliance with the permit issued by the San Diego Regional Water Quality Control Board (Order R9-2001-0001), and to evaluate the current implementation status of the Copermittees' Jurisdictional Urban Runoff Management Program (JURMP) under the current permit (Order R9-2007-0001). This permit (Permit), which came into effect in March 2008, required significant updates to the Copermittees' JURMP and program implementation.

After completing two municipal audits under the MS4 Permit, Coastkeeper has found a more on-the-ground approach for evaluating Copermittee compliance is warranted. The previous audits were "paper" audits, in that they focused on written submission and reports from the municipalities themselves. An evaluation of such self-reporting is of limited usefulness because municipalities are unlikely to highlight violations, and more likely to bury non-compliance or lax practices in vague language. Though the previous audits were limited to information presented by the municipalities, some areas of concern were brought to light. Some of these areas are the focus of this and future audits.

Of particular concern was the emphasis on reporting to the Regional Board through Annual Reports and time spent on preparation of records instead of actual enforcement. Coastkeeper found through its own inspection of records and discussions with municipal storm water department staff that cities typically did not have the funding for adequate enforcement of the Permit. Coastkeeper therefore chose to focus more on on-the-ground enforcement, consisting of an evaluation of the cities' hotline systems.

The Permit requires co-permittees "to promote, publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s" and "facilitate public reporting through development and operation of a public hotline."¹ Coastkeeper's goal in conducting the audit is to evaluate a particular co-permittee's hotline system for effectiveness. In this way, Coastkeeper evaluates whether the City's hotline can accommodate current and increased public involvement to help police compliance with the City's storm water program.

A component of the recent trend toward drought response ordinances at various cities throughout the County has been implementation of water-waste hotlines. Through these hotlines, cities can effectively turn to their citizenry to be the "eyes and ears" of the enforcement component. Thus, time spent investigating can be more focused and responsive, rather than arbitrary. Moreover, facilities within a city's jurisdiction may very well anticipate an inspector's arrival, but fail to notice public scrutiny.

In the long term, Coastkeeper hopes to change the public attitude about storm water, creating a social norm of storm water program compliance. But a citizenry conscious of storm water violations must be

¹ Permit, section D.4.h.



able to effectively relay information to the city, and the city must in turn be able to respond adequately. Coastkeeper's audit aims to assess a co-permittee's ability to foster both components of such a system.

Program Evaluation Purpose

The purpose of the current program evaluation was to determine the City of Chula Vista's (City) compliance with the current MS4 permit, specifically the hotline system and enforcement. Coastkeeper hopes this review will provide the City with an opportunity to improve its hotline effectiveness and overall enforcement. Compliance with the permit will ensure a healthier coastal ecosystem for the area waters impacted by the City's storm water runoff. Moreover, the public will experience the benefit of reduced pollution from storm water runoff to San Diego region's bays, beaches, watersheds, and ocean.

III. Timeline

On May 27th, 2008, Coastkeeper submitted a Public Records Act² (PRA) request to the City of Chula Vista requesting documents related to the City's implementation of the MS4 permit requirements, and the City's JURMP and storm water program implementation. On May 30th, 2008 the City Clerk notified Coastkeeper that the City's research was complete and responsive documents were mailed to Coastkeeper. On June 2nd, 2008, Coastkeeper sent an introductory letter to the City Clerk, informing the City of Coastkeeper's intent to audit the City's storm water program, and the purposes thereof.

During the summer of 2008, Coastkeeper legal interns compiled a list of activities constituting possible storm water violations pursuant to the MS4 Permit, the City's JURMP, and the City's Municipal Code. Interns performed a few "on-the-ground" inspections of various facilities in the City, and noted compliance. Possible violations were noted and called in to the City's hotline. No further follow-up action was taken at the time.

On May 22nd, 2009, Coastkeeper staff returned to the City and performed another round of on-the-ground inspections, calling in three suspected storm water violations on May 26, 2009. Subsequently, another PRA request for records of the City's hotline calls and responses thereto was sent to the City Clerk on June 15th, 2009. The City Clerk responded with records on June 24th, 2009.

On June 26th, 2009, Coastkeeper submitted another PRA request for the City's most up to date JURMP and inventories of industrial, commercial, municipal, and construction sites. Staff subsequently edited the initial list compiled in 2008 into an inspection checklist and crafted an on-the-ground enforcement program.

On July 7th, 2009, staff and interns visited various sites in the City and reported possible storm water violations via the City's telephone hotline. On July 24th, 2009, Coastkeeper submitted another PRA request for the City's records of hotline calls logged and subsequent responses thereto. The City Clerk promptly responded on July 31st, 2009. In the interim, on July 27th, 2009, Coastkeeper staff and interns returned to those areas where violations had been noted and called in, to inspect follow-up action by the City's Storm Water Department.

IV. Program Evaluation Logistics and Areas Evaluated

a. Applicable Provisions: NPDES MS4 Permit Language³

- Each Copermitttee shall promote, publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.
- Each Copermitttee shall facilitate public reporting through development and operation of a public hotline. Public hotlines can be Copermitttee-specific or shared by Copermitttees.
- All storm water hotlines shall be capable of receiving reports in both English and Spanish 24 hours per day/seven days per week.
- Copermitttees shall respond to and resolve each reported incident in a timely manner.

² Gov. Code Section 6250 et. seq.

³ Permit, D.4.h. Facilitate Public Reporting Of Illicit Discharges And Connections—Public Hotline



- All reported incidents, and how each was resolved, shall be summarized in each Copermittee's individual JURMP Annual Report.

b. City of Chula Vista JURMP Language

- Reported violations are received by Dispatch at the Public Works Department. Information is entered into a data management system. Depending on the case, the person on duty at the Dispatch calls one or both of the following sections of the Public Works Department and provides the necessary information.⁴
- Dispatch at the Public Works Department calls:
 - **Storm Water Management Section:**
 - Investigation of regular storm water violations
 - "Storm Water Management Section staff responds immediately, investigates the case, and takes appropriate action to educate the violator and/or enforce the City's Storm Water Management and Discharge Control Ordinance."⁵
 - **Public Works** maintenance crews:
 - Immediate containment and cleanup of illegal discharges that may enter or have entered storm drain system.

c. Inspection of Sites in Chula Vista

Because the initial 2008 inspections were a "trial-run" for informational purposes, and used to create and refine the audit process, those inspections are not detailed here. Only the two 2009 inspections are discussed below.

i. May 22nd, 2009

During the May 22nd, 2009 inspection, Coastkeeper visited eight locations within the City, finding three possible storm water violations. These three violations were called or emailed on the following Tuesday, May 26th, 2009, and comprised of the following locations:

Location	Facility Type	Violation	Hotline Method
Storm Water Channel near 842 Marina Parkway	Storm Water Conveyance System	Shopping cart and trash	Email
1320 Eastlake Parkway	Home Depot	<ul style="list-style-type: none"> □ Oil on the ground in rental area □ Equipment with no secondary containment □ Leaking gravel bag outdoors □ Evidence of overwatering entering storm drain 	Telephone
1800 Maxwell Road	City of Chula Vista Public Works Center	Sand entering storm drain along sidewalk	Telephone

Staff from the City's Storm Water Department contacted Coastkeeper to narrow down Coastkeeper's request. However, the City was sure none of the calls made on May 26th were "related to storm water." Thereafter, the City responded to Coastkeeper's PRA Request with all records of such hotline calls or emails and subsequent action taken. Of the three hotline communications, the City only had records of the hotline email. Subsequent inspection of the three locations revealed no action had been taken with respect to the telephone calls.

⁴ City of Chula Vista JURMP, p. 9-2.

⁵ *Id.*

ii. July 7th, 2009

After completing the initial 2009 inspection, Coastkeeper staff returned to the City for another inspection. Because the prior inspection had shown a poor response from the City, Coastkeeper felt more data points were necessary. Any variability or anomaly during the previous inspection would drastically skew results, as evidenced in the recording of only two of the three hotline communications.

On July 7th, 2009, Coastkeeper staff and interns inspected a total of 38 locations.⁶ Of these, 36 had been planned and two sites were noted while traveling between planned locations.

Table 2	
Type of Location Visited	Number of Sites
Municipal	10
Construction	10
Industrial/Commercial	16
Other	2

Because of the City's previous omission of two of three hotline calls on May 26th, Coastkeeper felt it appropriate to both call and email all violations in order to provide the most probability of compliance. This would also allow Coastkeeper to evaluate which system of communication was more effective within the hotline system. After receiving numerous hotline calls and emails on July 7th and 8th, the City Storm Water Department contacted Coastkeeper staff. City staff felt the hotline system was being overloaded, and the redundancy was overwhelming. Thereafter, Coastkeeper reported violations only through either calls or emails, but not both. The results of the inspections are found in Table 3 below.

Table 3						
Type of Location	Total # of Sites	# Sites Reported via Hotline	# Sites Recorded by City	Hotline Record Compliance Rate (%)	# Sites Improved	Enforcement Follow-up Compliance Rate (%) ⁷
Municipal	10	4	4	100	2	50
Construction	10	5	5	100	2	40
Industrial/Commercial	16	14	14	100	5	36
Other	2	2	2	100	2	100

During the reporting of violations from July 7th to July 9th, 2009, Coastkeeper staff explained to City staff the purpose of the audit, and the relative timeline for inspection and follow-up. The City was told that Coastkeeper would allow two weeks before requesting relevant documents via a PRA Request and a return inspection to note progress. However, the City felt the need to address "issues" with the audit in a July 21, 2009 letter to Coastkeeper and the Regional Board. Each of these issues is discussed in detail below.

⁶ Detailed data associated with these inspections are available on request.

⁷ Compliance was only found where all violations were corrected or where a follow-up visit was not conducted. Three industrial/commercial sites were not revisited.

Issue 1: The City does not view “landscape irrigation over-spray” as a storm water violation per the Permit, section B.2.

The City correctly points out the general exception for landscape irrigation, allowing Copermittees the option of not prohibiting the listed categories of non-storm water discharges.⁸ Because the Permit requires Copermittees to “effectively prohibit all types of non-storm water discharges into the MS4 unless such discharges are either [individually permitted]; or not prohibited in accordance with section[] B.2.” the exemption does not amount to a wholesale exemption from the entire permit. Several other Permit sections still apply to over-irrigation and irrigation runoff.

- “Discharges from MS4s containing pollutants which have not been reduced to the maximum extent practicable (MEP) are prohibited.”⁹
- “Discharges from MS4s that cause or contribute to the violation of water quality standards (designated beneficial uses and water quality objectives developed to protect beneficial uses) are prohibited.”¹⁰
- “In addition to the above prohibitions, discharges from MS4s are subject to all Basin Plan prohibitions cited in Attachment A to this Order.”¹¹

Thus, the City has effectively exempted over-irrigation from the Permit, and by definition the Clean Water Act. This is highly problematic as over-irrigation carries various pollutants into the MS4 system. Any such flow to the MS4 is surely not “reduced to the maximum extent practicable.”¹² By routinely failing to treat such flows as a possible threat to water quality, the City is failing to meet MEP and protect beneficial uses. The San Diego County Water Authority cites residential water use as 59 percent of all water usage, with 60 percent of that allocation going to landscape irrigation.¹³ Thus, a substantial amount of water is being used and over-used to water landscaped areas. Much of this water reaches the MS4, carrying with it various pollutants such as fertilizers, metals, pet waste, bacteria, organic hydrocarbons, and other debris. All of these pollutants will travel downstream and empty into the receiving water, San Diego Bay.

⁸ “The following categories of non-storm water discharges are not prohibited unless a Copermittee or the Regional Board identifies the discharge category as a significant source of pollutants to waters of the U.S.” Permit, Section B.2.

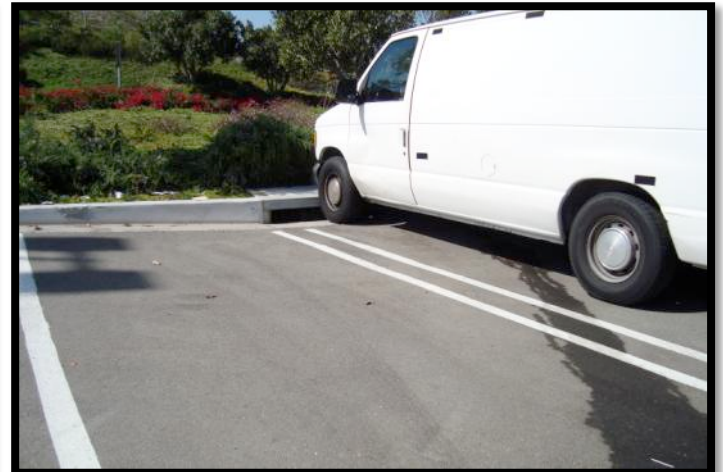
⁹ Permit, section A.2.; Clean Water Act § 402(p)(3)(B)(iii).

¹⁰ Permit, section A.3.

¹¹ Permit, section A.4.

¹² Permit, section A.2.; Clean Water Act §402(p)(3)(B)(iii).

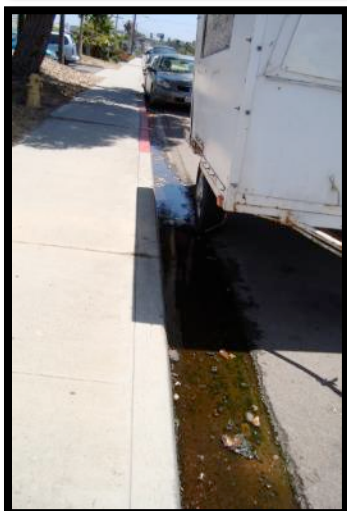
¹³ San Diego County Water Authority, Annual Report, 2008, p.17, 22.



July 7th, 2009: Over-irrigation from planters reaching storm drain at Home Depot Parking Lot (1320 Eastlake Parkway)



July 27th, 2009: Over-irrigation
from planters reaching storm
drain at Home Depot Parking Lot
(1320 Eastlake Parkway)



Runoff from United Rentals, 501 C Street. Pooled water contained various debris and some form of oily substance.

Moreover, other cities within the County, subject to the same Permit, are doing more than the City of Chula Vista. The City of San Diego, for example, has passed an ordinance prohibiting water waste, including over-irrigation.

*A customer shall not allow water to leave the customer's property by drainage onto adjacent properties or public or private roadways or streets or gutters due to excessive irrigation and/or uncorrected leaks.*¹⁴

The City of San Diego further prohibits over-irrigation from entering the MS4 unless BMPs have been used to the MEP.¹⁵ The California Constitution also prohibits waste and unreasonable use of water.

It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.¹⁶

Thus, the City of Chula Vista is surely not controlling over-irrigation or using water to the MEP.

A definition of MEP is not provided in either the federal statute or in the federal regulations. The final determination regarding whether a municipality has reduced pollutants to the MEP can only be made by the Regional Board or the SWRCB, and not by

¹⁴ San Diego Municipal Code § 67.3803.; see also, San Diego Municipal Code § 43.0301 *et. seq.*

¹⁵ San Diego Municipal Code §§ 43.0305, 43.0307

¹⁶ California Constitution, Article 10, Section 2.

the municipal discharger. While the Regional Board or the SWRCB ultimately define MEP, it is the responsibility of the Copermittees to initially propose actions that implement BMPs to reduce pollution to the MEP....The Order provides a minimum framework to guide the Copermittees in meeting the MEP standard.

Fact Sheet/Technical Report, p. 24 (emphasis added). Importantly, the City's blanket exemption for over-irrigation practically ensures water waste and downstream impacts to water quality.

Issue 2: Merely leaving a trash container open is not considered a significant source of pollution or an enforceable violation of the Permit or CVMC.

The City explains its recent efforts to educate the public regarding closing trash lids "particularly" during the rainy season; requirements for new development enclosures to contain solid roofs; and enforcement of pollution prevention ordinances for overflowing trash. Although Coastkeeper applauds the City for taking the aforementioned steps, open trash containers can be a source of pollution during the dry season. Moreover, closed trash containers throughout the year spread a consistent message throughout the City, not just during the rainy season.

Coastkeeper perceived the City's past enforcement practices as an indication of current and future enforcement. Therefore, open trash containers were viewed as a possible storm water violation.

From the 2007-2008 Annual Report, Commercial Inspections (Attachment F-4), p. 1:

19-Feb-08 Agave Grill 5672004700 625 H ST Cat x-Eating/Drinking ... High 713990

Comments/Findings: Trash bin lids are not closed. Grease containers on ground not contained.

From the 2007-2008 Annual Report, Commercial Inspections (Attachment F-4), p.7:

19-Feb-08 Need Tow Inc. 5670311100 240 WOODLAWN AV Cat (i-v) Auto Related Low 48841

Comments/Findings: Office only in a complex. Trash around dumpster and lid not closed.

From the 2007-2008 Annual Report, Commercial Inspections (Attachment F-4), p.1:

20-Feb-08 American Auto Service 5672003600 430 BROADWAY Cat (i-v) Auto Related High 811111

Comments/Findings: The site is reasonably [sic] clean. A 55 GL. Drum of unknown content with an open lid is in the parking lot. Need to follow up inspection.

From the 2007-2008 Annual Report, Industrial Inspections (Attachment F-5), p. 4:

19-Feb-08 Express Pipe & Supply Co 5634512600 117 PRESS LN Wholesale Low 42

Comments/Findings: Supply storage is indoor. Some pipes are stored off the ground. Area is clean and trash bin closed.

The CASQA handbook also suggests covering litter receptacles when not in use, and further suggests covering them frequently.¹⁷ The first objective is to "cover" and a permanent roof cover is also suggested where feasible. (*Id.*, p.1, 3). The City's JURMP makes clear the suggested CASQA protocols are required BMPs: "Please note that although CASQA fact sheets state that listed BMPs are "suggested protocols," the City requires the implementation of such protocols as minimum BMPs when applicable to the business."¹⁸



Overflowing trash at Kleen Blast,
676 Moss Street.

¹⁷ <http://www.cabmphandbooks.com/Documents/Industrial/SC-34.pdf>; p.2.

¹⁸ JURMP, Appendix C, p. C-1.



Lastly, the Permit lists anthropogenic litter as a “pollutant of concern”.¹⁹ By requiring new developments to provide solid roofs on trash enclosures, and asking residents and businesses to keep their trash bins covered, the City implicitly recognizes the effectiveness and need to keep trash cans closed. Other than listing the things the City is doing, the City provides no reasoning for its determination not to view open trash cans as a violation of the Permit or CVMC.

Issue 3: City staff determined that all oil stains reported by Coastkeeper were of an unknown source and had already soaked into the pavement.

The City's response to a report of oil stains at the Land Application Site:

Upon entry into the facility I observed hydraulic oil staining located behind K-Rail in the dirt. Inform Public Works supervisor. On 07/09/09, Public Works crew conducted the proper cleanup and disposal of the spill.²⁰

At one industrial site the following action was taken.

Inspection also found one unattended oil stain among others that had been cleaned with absorbent, and several water spots resulting from NC condensation due to customers leaving vehicles running with NC on. Issued verbal notice for staff to keep up with oil stains in the yard and left storm water public education materials. No further action is necessary at this time.²¹

Another industrial site prompted the following action:

City staff responded and observed minor oil staining in the gravel at the entrance to the facility. In addition, observed engine blocks not properly stored. Spoke with owner of the facility and instructed him conduct the proper cleanup of the staining and remove the engine blocks off the ground. Owner complied and completed as instructed. No further action required.²²

Thus, it would seem the City's assertion that “City staff determined that all oil stains reported by Coastkeeper were of an unknown source and had already soaked into the pavement” is inaccurate.

¹⁹ Permit, p.C-6.

²⁰ Hotline Response to Request No. 09_003206 (emphasis added).

²¹ Hotline Response to Request No. 09_003170 (emphasis added).

²² Hotline Response to Request No. 09_003214 (emphasis added).

Oil stains throughout the Home Depot parking lot. Some oil stains are not dry or absorbed. The rental equipment has no secondary containment, though it is stored on the side of the building in the lot. 1320 Eastlake Parkway.



Issue 4: A construction site was reported to have an uncovered gravel stockpile. The construction of a desilting basin and installation of perimeter controls were deemed adequate for sediment controls during the dry season.

Coastkeeper staff and interns reported five possible storm water violations at construction sites. The site mentioned in the City's comment was therefore not the only site resulting in a hotline call. Moreover, as mentioned above, the audit is geared toward over-reporting rather than under-reporting. Because the audit was conducted during the dry season, the City may require fewer BMPs. However, the audit was meant to test the City's response via its hotline system, as opposed to overall construction BMP implementation.

It should be noted, however, the City responded to each and every hotline call and/or email and seems to have responded appropriately to oil stains inspected. Some of the oil stains called in by Coastkeeper had in fact soaked into the ground and required no immediate action. Nonetheless, it is the City's duty to

investigate all hotline calls with due diligence. Coastkeeper's audit is meant to mimic behavior of an average citizen, leaning toward over-enforcement rather than under. An average citizen might very likely call the hotline to report an oil stain already absorbed into the ground. The purpose of the audit is as much to make sure the City responds to all calls as it is to determine if the correct follow-up action is taken. The City's attitude toward calls it deems to be inappropriate is therefore worrisome.



Lack of BMPs for sediment transport during initial and follow-up visits.





Issue 5: The City would appreciate if in the future, such reports are made by any one of the two available methods and avoid duplication. Chula Vista citizens and City crews use the same hotline to report emergencies such as sewer overflows, illegal dumping in progress, etc., and the hotline must be kept free for emergencies as much as possible.

Though Coastkeeper appreciates the City's apparent prioritization of emergency or "active" violations, the Permit requires a hotline available for public reporting of possible storm water violations. If the City feels the current hotline is inadequate to handle 38 additional calls over a three-day period, Coastkeeper suggests the City add capacity to its system. During the wet season, the City should expect more hotline calls, and increase capacity to adequately address higher volumes.

Moreover, the redundancy in the reporting of violations was a result of previous calls to the City not being recorded. Coastkeeper found the one email to the City had been recorded in May 2009, while calls were somehow lost. Thus, Coastkeeper felt it was important to determine whether the method of reporting was a systemic issue or if the City simply failed to record those calls on that particular occasion. In an effort to give the City every opportunity to respond to hotline reports, Coastkeeper implemented a system of redundancy into hotline reporting.

The City's response to Coastkeeper's efforts is troubling, especially in light of the moderate volume of hotline calls. Although the City may not be accustomed to this type of volume, Coastkeeper hopes an educated citizenry will be able to routinely and consistently report possible storm water violations.

V. Water Quality Impairments

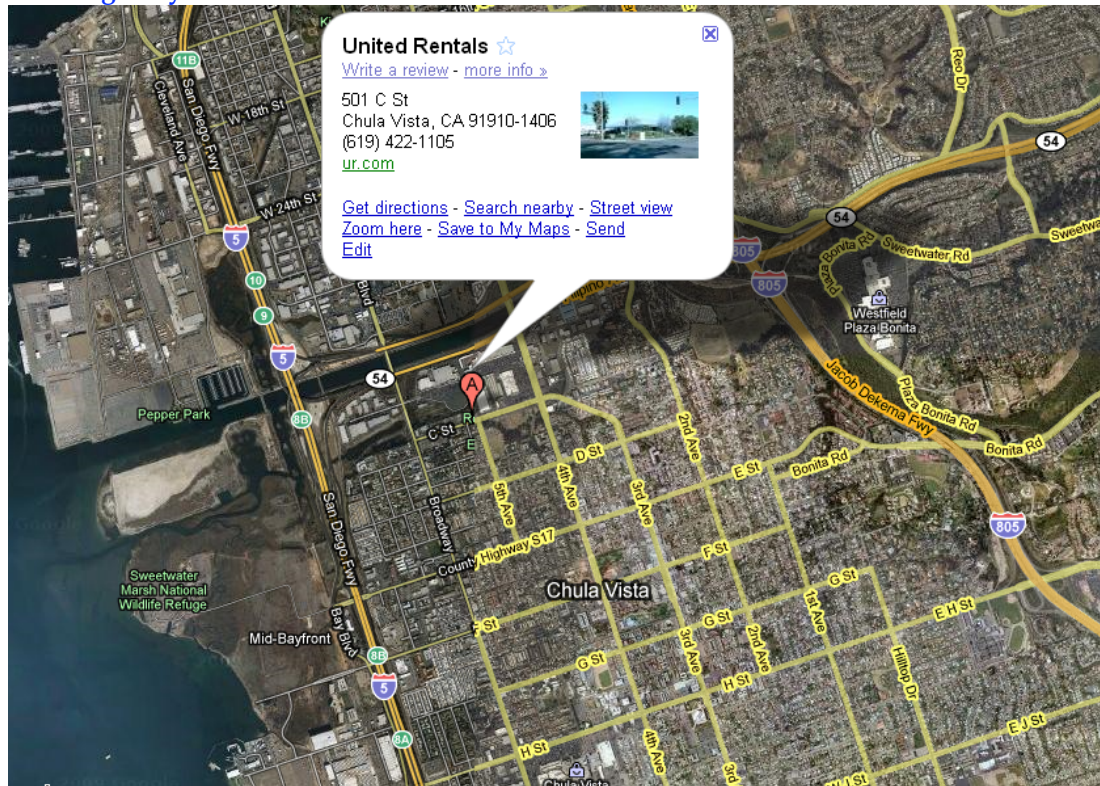
The City of Chula Vista lies entirely within the San Diego Bay Watershed. The City of Chula Vista lies within two of the three hydrologic units that make up the San Diego Bay Watershed: Sweetwater River and Otay River, both of which ultimately drain to San Diego Bay. The City is naturally divided into a number of different drainage basins, which direct flow to the City's major receiving water bodies: San Diego Bay, Sweetwater River, the Lower Otay Reservoir, and Otay River. Some areas of the City drain directly to San Diego Bay without first draining to either of these rivers.

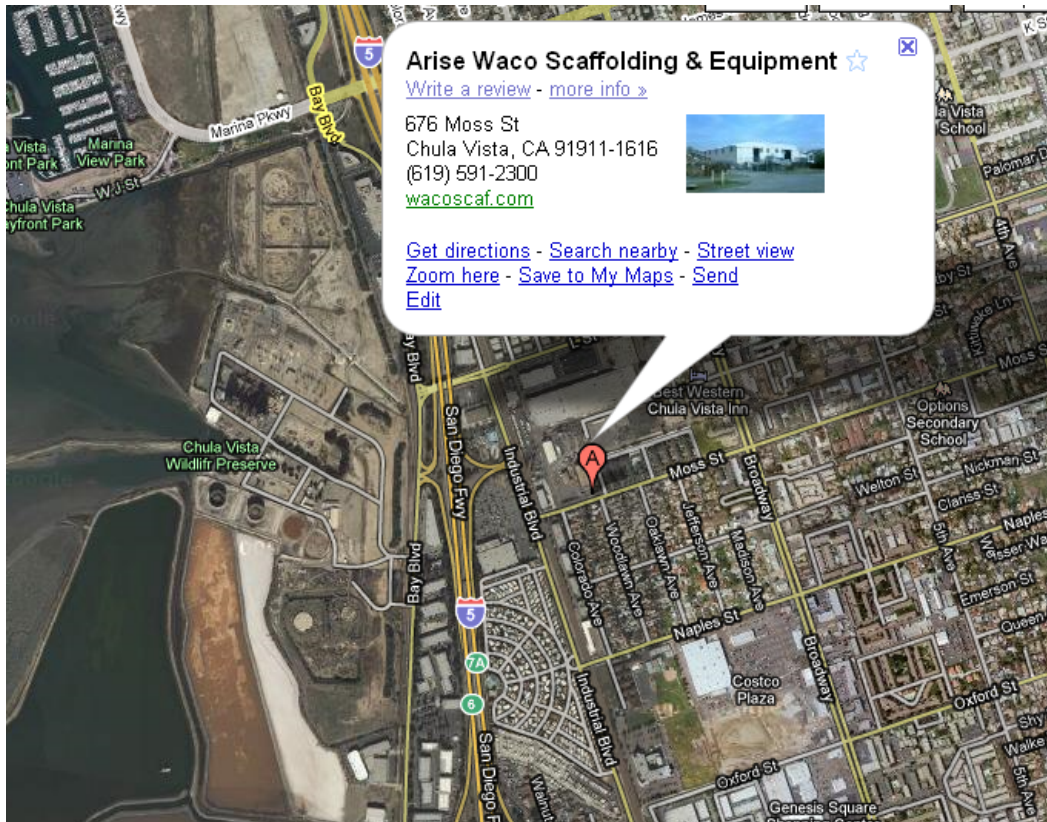
Table 4		
Water Body	2006 303(d) Listed Pollutant	2009 303(d) Listed Pollutant (new)
San Diego Bay	PCBs	
San Diego Bay shoreline at Bayside Park	Indicator Bacteria	Enterococcus Total Coliform
Chula Vista Marina	Copper	
Poggi Canyon Creek	DDT	Selenium Toxicity
Sweetwater River		Enterococcus Fecal Coliform Phosphorus Toxicity
Lower Otay Reservoir	Color Iron Manganese Nitrogen, Ammonia pH	Nitrogen
Long Canyon Creek	Total Dissolved Solids	Chlorpyrifos Escherichia coli

		Fecal Coliform Iron Source Unknown Manganese Selenium
Telegraph Canyon Creek		

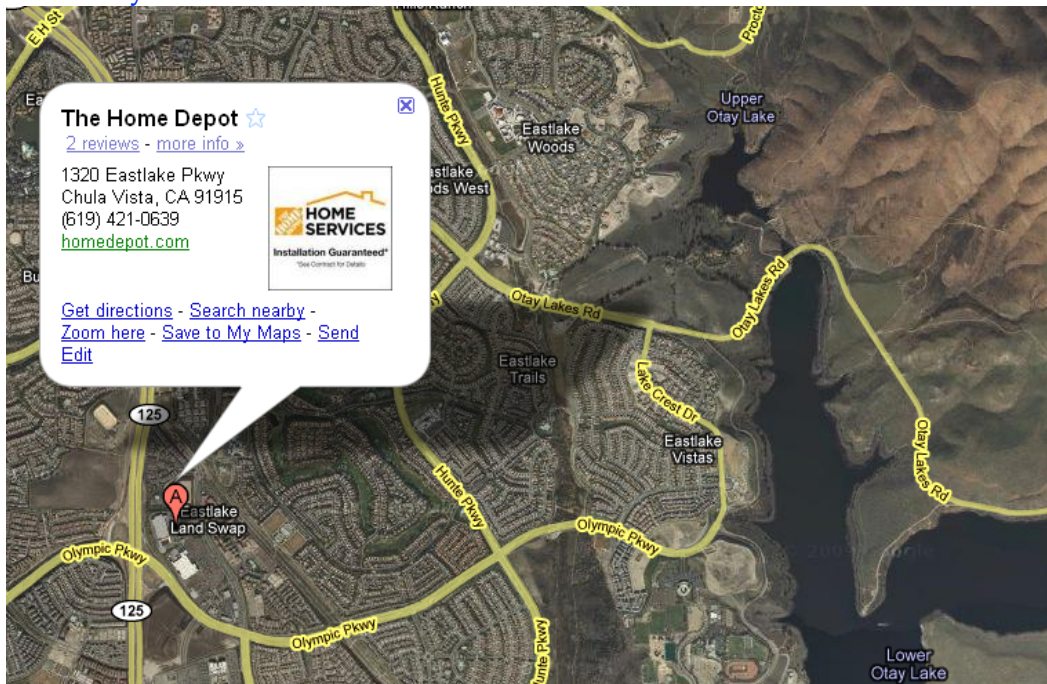
Due to the listing of various waterbodies in the City, it would be helpful if the City kept a watershed based inventory of all projects, rather than simply saying all channels eventually drain to San Diego Bay. Some of the locations are near impaired waterbodies, but it was difficult for Coastkeeper to find proximity to the nearest waterbody. The City is really in the best position to find this information and report it to the public. Some locations called in to the hotline are pictured below showing proximity to waterbodies.

San Diego Bay:





Lower Otay Lake:



VI. Record-keeping Remarks

a. Permit Compliance

The City is required to provide its most recent watershed-based inventory of all construction sites within its jurisdiction. Permit, section D.2.b. However, this list is not watershed based, but sorted by subdivision. Further, the priorities in the construction site list do not always match SUSMP priorities. (see Rolling Hills Ranch, Clearstory, low SUSMP project priority, but high construction project priority).

The Permit also requires the City to keep an up-to-date watershed-based inventory of municipal areas and activities. Permit, section D.3.a.(1). The City's list is not really "watershed based". The list contains no description of what pollutants are or potentially are generated at each location or identification of whether the site is tributary to a CWA § 303(d) listed waterbody.

The City's most recent watershed-based inventory of all industrial and commercial sites within its jurisdiction that contribute a significant pollutant load to the MS4 is also required. Permit, section D.3.b.(1). This list does not contain information regarding pollutants potentially generated by the activity, though such information is in the JURMP Table 7.1. Priority level is given, but the City does not identify whether the site/source is tributary to a CWA § 303(d) listed waterbody or generates pollutants for which the waterbody is impaired. As with the other lists, a narrative description, including SIC codes is missing and only NAICS codes are provided. The NAICS codes provided technically describe the area/activity, but SIC codes are required, and NAICS codes must be translated to activity. Also, the JURMP states that non-filers are reported in the Annual Report but does not specify where. Coastkeeper was unable to find such information in the JURMP or Annual Report.

b. Public Records Act Response

The City Clerk's office responded promptly, thoroughly, and professionally to each Public Records Act request submitted by Coastkeeper. The professionalism of the City Clerk's office and its ability to communicate effectively and gain response from the Storm Water Department streamlined the record review process. Coastkeeper commends the City Clerk's office and the Storm Water Department for the prompt and transparent conveyance of requested public documents.

VII. Suggestions for Improvement

In order to improve upon the current Storm Water Program at the City, Coastkeeper offers the following suggestions:

- 1) The City should view over-irrigation as a threat to water quality, and adopt ordinances similar to those of the City of San Diego.
- 2) The City should have a way of tracking and responding to multiple calls for the same location/issue.
- 3) Commercial and industrial facilities should be inspected more frequently to ensure compliance.
- 4) The City should respond more quickly and effectively to oil stains at commercial parking lots, requiring secondary containment and immediate clean-up.
- 5) A change in the City's perception of the purpose of the hotline and of public participation is needed in order to maximize the City's education and outreach and hotline tools.
- 6) The City should keep track of and report commercial and industrial facility by SIC codes rather than NAICS, as required by the permit. This will enable great public input and identification of facilities requiring coverage under the statewide General Industrial Permit.

VIII. Conclusion

The City had records of every call placed to the hotline – a 100 percent compliance rate. The City also responded to each and every call, sending a storm water department staff member to follow up on each call—also a 100 percent compliance rate. Though the City took issue with many of the calls, and the redundancy of the Coastkeeper hotline emails and calls, the City's compliance rate was much higher in July 2009 than in May 2009, when only a handful of inspection were performed, and two of the three hotline calls were unrecorded.



The City's reluctance to acknowledge any storm water violations that occurred or were spotlighted during Coastkeeper's audit is troubling. The purpose of the hotline is not met, nor is the City implementing such system to the MEP when it fails to acknowledge the public's role in finding and subsequently reporting such violations.

Further, the Coastkeeper disagrees with some of the City's assessments of various storm water violations, or possible violations. Coastkeeper finds the City's purported wholesale exemption of over-irrigation highly problematic in light of the vast quantities of landscape irrigation carrying pollutants to storm drains and channels. In practice, the City's staff seems overall, to have adequately responded to overwatering hotline calls, with two noted exceptions: Home Depot and United Rentals, where overwatering has remained an issue, and water carrying pollutants may be reaching surrounding receiving waters.

The City's attitude toward reporting oil stains is also worrisome, as many oil stains considered "dry" by the City looked to be "wet" during inspection. Indeed the City's records belie the purported lack of storm water issues to that effect. Moreover, the aforementioned Home Depot in particular exhibits a pattern and practice of storing equipment rentals outside in the parking lot, with no secondary containment. The oil from this equipment accumulates and becomes a constant pollutant load, during dry and wet weather.

Obvious limitations with respect to the access of Coastkeeper staff and interns to non-public sites, especially construction, commercial, and industrial sites were found to inhibit the audit process. Nonetheless, if the public at large notices possible violations while legitimately patronizing such locations, enforcement via such patrons is quite feasible. From the vantage point available to Coastkeeper, storm water issues were still noted.

Overall, the City's hotline system in and of itself seems to be functioning well. The City's attitude toward the audit itself is symptomatic of many of the co-permittees' attitudes toward the Regional Board and the Permit. Co-permittees are worried about being found in violation rather than protecting water quality. This attitude must be changed if the goal of public education and enforcement is to be met. If the City does not want its water quality issues or under-compliance (whatever the reason) known to the general public or the Regional Board, implementation of the Permit will never progress to meet MEP. More importantly, the mandates of the Permit and the Clean Water Act will not be met, and beneficial uses will not be restored or protected.

Attachments:

- 1) Letter to Chula Vista from San Diego Coastkeeper re Storm Water Program Audit Intro
- 2) Letter from Chula Vista to Bruce Reznik and Regional Board
- 3) City of San Diego Municipal Code (Waste of Water)