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116TH CONGRESS
1ST SESSION

H. R. 4611

To modify permitting requirements with respect to the discharge of any pollutant from the Point Loma Wastewater Treatment Plant in certain circumstances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2019

Mr. PETERS introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To modify permitting requirements with respect to the discharge of any pollutant from the Point Loma Wastewater Treatment Plant in certain circumstances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ocean Pollution Reduction Act II''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In 1972, Congress passed the Federal Water Pollution Control Act Amendments of 1972, which required publicly owned treatment works to achieve secondary treatment capability by 1977.

(2) In 1994, the United States District Court for the Southern District of California determined that upgrading the City of San Diego's Point Loma Wastewater Treatment Plant (in this Act referred to as the ''Point Loma Plant'') to secondary treatment standard would not be in the public interest, being excessively costly without producing additional environmental benefits.

(3) The Point Loma Plant currently meets all the requirements of secondary treatment except for the removal of total suspended solids and biochemical oxygen demand.

(4) At the direction of Congress, the Environmental Protection Agency (in this Act referred to as the ''EPA'') requested that the National Research Council advise the agency on ways to improve wastewater management in coastal urban areas. The resulting study ''Managing Wastewater in Coastal Urban Areas'' produced several important findings, including—

(A) biochemical oxygen demand discharged through a well-designed outfall is generally not of ecological concern in open coastal waters;

(B) total suspended solids can be adequately controlled by advanced primary treatment and high dilution outfalls; and

(C) over-control is particularly likely along ocean coasts, but nevertheless full secondary treatment is required regardless of cost or lack of benefits.

(5) Past reviews by the City of San Diego, the EPA, the State of California, and scientists affiliated with the Scripps Institution of Oceanography, the University of California, San Diego, and other organizations have concluded the Point Loma Plant does not have any known significant adverse effect on the ocean environment outside the immediate area of the discharge.

(6) The ocean outfall for the Point Loma Plant discharges effluent 4.5 miles from the coast at a depth of over 300 feet, one of the longest and deepest ocean outfalls in the world.

(7) Implementing full secondary treatment standards at the Point Loma Plant will cost approximately $1,800,000,000.

(8) Implementing full secondary treatment standards at the Point Loma Plant is contrary to the national interest, in that it will compromise views from the Cabrillo National Monument and interfere with the Navy's use of adjacent property.

(9) The City of San Diego generates all the energy it needs to operate the Point Loma Plant onsite through co-generation. Implementing full secondary treatment will turn a ''green'' facility into one of the region's largest energy consumers, requiring the purchase of over $17,000,000 each year in electricity and producing more than 100,000 tons of greenhouse gas emissions annually.

(10) Implementing full secondary treatment standards at the Point Loma Plant will require removal of 1,250,000 tons of earth from environmentally sensitive habitat immediately adjacent to the Point Loma Ecological Reserve.

(11) Recognizing the unique situation surrounding the Point Loma Plant, Congress adopted the Ocean Pollution Reduction Act (OPRA). OPRA allowed the Point Loma Plant to avoid conversion to full secondary treatment and instead operate under a modified permit according to standards contained

in sections 301(h) and 301(j)(5) of the Federal Water Pollution Control Act, as modified by OPRA.

(12) The City of San Diego has complied with all requirements of OPRA and the results have been significant, including reduction in the discharge of total suspended solids and biochemical oxygen demand, advanced ocean monitoring, and construction of 45,000,000 gallons per day of treatment capacity to produce reclaimed water at a cost of approximately $340,000,000.

(13) This Act will capitalize on the record of improvements initiated under OPRA and provide a framework for further enhancements to the City of San Diego's water and wastewater systems, increased potable water reliability, and additional meaningful environmental protection.

(14) The City of San Diego has completed its Water Purification Demonstration Project showing that municipal wastewater can successfully be treated to levels suitable for potable reuse. The City of San Diego completed its Recycled Water Study in 2012 describing how wastewater can be diverted from the Point Loma Plant to new treatment facilities to generate water suitable for potable reuse. Through the construction and operation of new

treatment facilities to produce 83,000,000 gallons per day of water suitable for potable reuse, the City of San Diego is expected to reduce the total suspended solids discharged by the Point Loma Plant to the same or lower levels as would be achieved by implementing full secondary treatment, while creating an important new local source of water.

(15) The City of San Diego currently relies on imported water for over 85 percent of its water supply. A new local source of water can significantly reduce the environmental impacts of importing water to San Diego from the Colorado River and the California Bay-Delta by offsetting the City's demand for imported water.

(16) Due to the severe drought in California, the 2014 water allocation from the State Water Project was only 5 percent of normal, forcing water agencies to draw down water reserves, implement mandatory conservation measures, and search for new, dependable sources of water.

SEC. 3. SAN DIEGO POINT LOMA PERMITTING REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or section 307 of the Coastal Zone

Management Act of 1972 (16 U.S.C. 1456), the Administrator may issue a permit under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), which, in lieu of the requirements of section 301(j)(5) of such Act (33 U.S.C. 1311(j)(5)), and in lieu of section 301(b)(1)(B) of such Act (33 U.S.C. 1311(b)(1)(B)) otherwise applicable to the discharge of biochemical oxygen demand (in this section referred to as ''BOD'') and total suspended solids (in this section referred to as ''TSS'') from the Point Loma Plant into marine waters, applies or otherwise ensures implementation of the provisions of subsection (b).

(b) CONDITIONS.—The permit shall apply or otherwise ensure that the applicant shall—

(1) maintain the currently designed deep ocean outfall from the Point Loma Wastewater Treatment Plant with a discharge depth of no less than 300 feet and distance from the shore of no less than 4 miles;

(2) discharge no more than 12,000 metric tons of TSS per year commencing on the date of enactment of this section, no more than 11,500 metric tons of TSS per year commencing on December 31, 2025, and no more than 9,942 metric tons of TSS per year commencing on December 31, 2027;

(3) discharge not more than 60 milligrams per liter of TSS, calculated as a 30-day average;

(4) remove no less than 80 percent of TSS on a monthly average and no less than 58 percent of BOD on an annual average, taking into account removal occurring at all treatment processes for wastewater upstream from and at the Point Loma Wastewater Treatment Plant;

(5) attain all other effluent limitations of secondary treatment as determined by the Administrator pursuant to section 304(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1314(d)(1)), other than with respect to concentration limits for BOD and TSS;

(6) comply with the requirements applicable to Federal issuance of a permit under section 402 of the Federal Water Pollution Control Act, including State approval consistent with this Act and ocean discharge criteria evaluation pursuant to sections 401 and 403 of the Federal Water Pollution Control Act, respectively (33 U.S.C. 1341 and 33 U.S.C. 1343);

(7) implement the pretreatment program requirements of sections 301(h)(5) and 301(h)(6) of the Federal Water Pollution Control Act (33 U.S.C.

1311(h)(5) and 33 U.S.C. 1311(h)(6)) in addition to the requirements of section 402(b)(8) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)(8));

(8) provide 10 consecutive years of ocean monitoring data and analysis for the period immediately preceding the date of each application sufficient to demonstrate to the satisfaction of the Administrator that the discharge of pollutants pursuant to this section meets the requirements of section 301(h)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1311(h)(2)) and that the applicant has established and will maintain throughout the permit term an ocean monitoring program that meets or exceeds the requirements of section 301(h)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1311(h)(3)); and

(9) to the extent potable reuse is permitted by Federal and State regulatory agencies, demonstrate that at least 83,000,000 gallons per day on an annual average of water suitable for potable reuse will be produced by December 31, 2035, taking into account production of water suitable for potable reuse occurring at all treatment processes for wastewater upstream from and at the Point Loma Plant.

(c) MILESTONES.—The Administrator shall determine development milestones necessary to ensure compliance with this section and include such milestones as conditions in each permit issued before December 31, 2035.

(d) SECONDARY TREATMENT.—Nothing in this section prevents the applicant from alternatively submitting an application for the Point Loma Plant that complies with secondary treatment pursuant to section 301(b)(1)(B) and section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1311(b)(1)(B) and 33 U.S.C. 1342).

(e) DEFINITIONS.—Any term used in this section which is also used under the Federal Water Pollution Control Act shall have the same meaning as when used in such Act.

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