

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

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ocean Pollution Re-
5 duction Act II”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

5 (2) In 1994, the United States District Court
6 for the Southern District of California determined
7 that upgrading the City of San Diego’s Point Loma
8 Wastewater Treatment Plant (in this Act referred to
9 as the “Point Loma Plant”) to secondary treatment
10 standard would not be in the public interest, being
11 excessively costly without producing additional envi-
12 ronmental benefits.

13 (3) The Point Loma Plant currently meets all
14 the requirements of secondary treatment except for
15 the removal of total suspended solids and bio-
16 chemical oxygen demand.

17 (4) At the direction of Congress, the Environ-
18 mental Protection Agency (in this Act referred to as
19 the “EPA”) requested that the National Research
20 Council advise the agency on ways to improve waste-
21 water management in coastal urban areas. The re-
22 sulting study “Managing Wastewater in Coastal
23 Urban Areas” produced several important findings,
24 including—

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

4 (B) total suspended solids can be ade-
5 quately controlled by advanced primary treat-
6 ment and high dilution outfalls; and

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

11 (5) Past reviews by the City of San Diego, the
12 EPA, the State of California, and scientists affili-
13 ated with the Scripps Institution of Oceanography,
14 the University of California, San Diego, and other
15 organizations have concluded the Point Loma Plant
16 does not have any known significant adverse effect
17 on the ocean environment outside the immediate
18 area of the discharge.

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

23 (7) Implementing full secondary treatment
24 standards at the Point Loma Plant will cost approxi-
25 mately \$1,800,000,000.

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

6 (9) The City of San Diego generates all the en-
7 ergy it needs to operate the Point Loma Plant onsite
8 through co-generation. Implementing full secondary
9 treatment will turn a "green" facility into one of the
10 region's largest energy consumers, requiring the pur-
11 chase of over \$17,000,000 each year in electricity
12 and producing more than 100,000 tons of green-
13 house gas emissions annually.

14 (10) Implementing full secondary treatment
15 standards at the Point Loma Plant will require re-
16 moval of 1,250,000 tons of earth from environ-
17 mentally sensitive habitat immediately adjacent to
18 the Point Loma Ecological Reserve.

19 (11) Recognizing the unique situation sur-
20 rounding the Point Loma Plant, Congress adopted
21 the Ocean Pollution Reduction Act (OPRA). OPRA
22 allowed the Point Loma Plant to avoid conversion to
23 full secondary treatment and instead operate under
24 a modified permit according to standards contained

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

3 (12) The City of San Diego has complied with
4 all requirements of OPRA and the results have been
5 significant, including reduction in the discharge of
6 total suspended solids and biochemical oxygen de-
7 mand, advanced ocean monitoring, and construction
8 of 45,000,000 gallons per day of treatment capacity
9 to produce reclaimed water at a cost of approxi-
10 mately \$340,000,000.

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

17 (14) The City of San Diego has completed its
18 Water Purification Demonstration Project showing
19 that municipal wastewater can successfully be treat-
20 ed to levels suitable for potable reuse. The City of
21 San Diego completed its Recycled Water Study in
22 2012 describing how wastewater can be diverted
23 from the Point Loma Plant to new treatment facili-
24 ties to generate water suitable for potable reuse.
25 Through the construction and operation of new

1 treatment facilities to produce 83,000,000 gallons
2 per day of water suitable for potable reuse, the City
3 of San Diego is expected to reduce the total sus-
4 pended solids discharged by the Point Loma Plant
5 to the same or lower levels as would be achieved by
6 implementing full secondary treatment, while cre-
7 ating an important new local source of water.

8 (15) The City of San Diego currently relies on
9 imported water for over 85 percent of its water sup-
10 ply. A new local source of water can significantly re-
11 duce the environmental impacts of importing water
12 to San Diego from the Colorado River and the Cali-
13 fornia Bay-Delta by offsetting the City's demand for
14 imported water.

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

21 **SEC. 3. SAN DIEGO POINT LOMA PERMITTING REQUIRE-**
22 **MENTS.**

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

1 Management Act of 1972 (16 U.S.C. 1456), the Adminis-
2 trator may issue a permit under section 402 of the Federal
3 Water Pollution Control Act (33 U.S.C. 1342), which, in
4 lieu of the requirements of section 301(j)(5) of such Act
5 (33 U.S.C. 1311(j)(5)), and in lieu of section
6 301(b)(1)(B) of such Act (33 U.S.C. 1311(b)(1)(B)) oth-
7 erwise applicable to the discharge of biochemical oxygen
8 demand (in this section referred to as “BOD”) and total
9 suspended solids (in this section referred to as “TSS”)
10 from the Point Loma Plant into marine waters, applies
11 or otherwise ensures implementation of the provisions of
12 subsection (b).

13 (b) CONDITIONS.—The permit shall apply or other-
14 wise ensure that the applicant shall—

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

20 (2) discharge no more than 12,000 metric tons
21 of TSS per year commencing on the date of enact-
22 ment of this section, no more than 11,500 metric
23 tons of TSS per year commencing on December 31,
24 2025, and no more than 9,942 metric tons of TSS
25 per year commencing on December 31, 2027;

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

3 (4) remove no less than 80 percent of TSS on
4 a monthly average and no less than 58 percent of
5 BOD on an annual average, taking into account re-
6 moval occurring at all treatment processes for waste-
7 water upstream from and at the Point Loma Waste-
8 water Treatment Plant;

9 (5) attain all other effluent limitations of sec-
10 ondary treatment as determined by the Adminis-
11 trator pursuant to section 304(d)(1) of the Federal
12 Water Pollution Control Act (33 U.S.C. 1314(d)(1)),
13 other than with respect to concentration limits for
14 BOD and TSS;

15 (6) comply with the requirements applicable to
16 Federal issuance of a permit under section 402 of
17 the Federal Water Pollution Control Act, including
18 State approval consistent with this Act and ocean
19 discharge criteria evaluation pursuant to sections
20 401 and 403 of the Federal Water Pollution Control
21 Act, respectively (33 U.S.C. 1341 and 33 U.S.C.
22 1343);

23 (7) implement the pretreatment program re-
24 quirements of sections 301(h)(5) and 301(h)(6) of
25 the Federal Water Pollution Control Act (33 U.S.C.

1 1311(h)(5) and 33 U.S.C. 1311(h)(6)) in addition to
2 the requirements of section 402(b)(8) of the Federal
3 Water Pollution Control Act (33 U.S.C. 1342(b)(8));

4 (8) provide 10 consecutive years of ocean moni-
5 toring data and analysis for the period immediately
6 preceding the date of each application sufficient to
7 demonstrate to the satisfaction of the Administrator
8 that the discharge of pollutants pursuant to this sec-
9 tion meets the requirements of section 301(h)(2) of
10 the Federal Water Pollution Control Act (33 U.S.C.
11 1311(h)(2)) and that the applicant has established
12 and will maintain throughout the permit term an
13 ocean monitoring program that meets or exceeds the
14 requirements of section 301(h)(3) of the Federal
15 Water Pollution Control Act (33 U.S.C. 1311(h)(3));
16 and

17 (9) to the extent potable reuse is permitted by
18 Federal and State regulatory agencies, demonstrate
19 that at least 83,000,000 gallons per day on an an-
20 nual average of water suitable for potable reuse will
21 be produced by December 31, 2035, taking into ac-
22 count production of water suitable for potable reuse
23 occurring at all treatment processes for wastewater
24 upstream from and at the Point Loma Plant.

1 (c) MILESTONES.—The Administrator shall deter-
2 mine development milestones necessary to ensure compli-
3 ance with this section and include such milestones as con-
4 ditions in each permit issued before December 31, 2035.

5 (d) SECONDARY TREATMENT.—Nothing in this sec-
6 tion prevents the applicant from alternatively submitting
7 an application for the Point Loma Plant that complies
8 with secondary treatment pursuant to section
9 301(b)(1)(B) and section 402 of the Federal Water Pollu-
10 tion Control Act (33 U.S.C. 1311(b)(1)(B) and 33 U.S.C.
11 1342).

12 (e) DEFINITIONS.—Any term used in this section
13 which is also used under the Federal Water Pollution Con-
14 trol Act shall have the same meaning as when used in such
15 Act.

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