Inland Empire Waterkeeper
Advocacy • Education • Restoration • Enforcement

ORANGE COUNTY
COASTKEEPER
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Via E-mail: commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: **Bacterial Standards for REC-1 Waters**

Dear Ms. Townsend,

Orange County Coastkeeper ("Coastkeeper") is a grass roots environmental organization with the mission to preserve, protect and restore the watersheds and coastal environment of Orange County. Since 1999, Coastkeeper has been a proud member of the California Coastkeeper Alliance as well as the International Waterkeeper Alliance. At 177 programs strong, the International Waterkeeper Alliance is one of the nation's fastest growing environmental movements with "Keeper" programs covering the entire California coast and large portions of the state's interior.

Coastkeeper is dedicated to ensuring the protection of California's water quality and urges the State Water Quality Control Board ("Board") to adopt Bacterial Standards that reflect the recreational interests of Californians. Basic recreational interests include the ability of Californians to feel and be secure during their contact with the state's fresh water resources. Therefore, we support the efforts of the Board, but we suggest some alterations in the approaches taken to achieve this goal.

The format of our suggestions mirrors that of the scoping document and is done so with the intent to aid the reader. Not every element within the scoping document is discussed in this comment letter. Coastkeeper is interested in seeing how issues one, five, six, and seven develop during the scoping meetings, but at this time we are not committed to one suggestion over another.

We do have a number of comments on the following elements within the scoping document.

Element 2: Level of Protection of Water Contact Recreation

Coastkeeper encourages the Board to adopt US EPA's (1986) recommended risk level of eight illnesses per 1,000 swimmers for fresh water when considering the level of protection for water contact recreation. Adopting this protective standard would provide a responsible balance between sufficient water quality for recreational users and the costs associated with

enhancing the water quality. Although Coastkeeper would prefer the adoption of a risk level more stringent than US EPA recommendations, we are cognizant of the realities within the structure of the state's system and anticipate that the adoption of the US EPA standards would adequately protect recreational water safety while also being responsive to realities of the states regulatory scheme. Additionally, the adoption of these standards would likely provide the additional benefit of consistency with the federal standards, which may result in some unforeseen intergovernmental benefits.

Element 3: Calculation of Effluent Limits

The Board should apply criteria end-of-pipe to protect the recreational uses occurring in the area surrounding these discharge points. We feel that the adoption of a criteria based on effluent variability would fail to adequately protect recreational uses since the risk of illness in the affected area would be unknown at any specific time. Recreational uses should be protected at all times.

Element 4: Mixing Zones

The Board should not incorporate the use of mixing zones under any circumstances. The effect of mixing zones is inconsistent with the purpose behind the delineation of certain reaches as REC-1. REC-1 water should, whenever practicable, meet the standards applied to it and should never be mistaken as treatment zones.

Recently, a trend has developed whereby government agencies and intergovernmental pacts have focused on restricting the use of mixing zones. The US EPA has begun restricting the use of mixing zones for toxic chemicals. Additionally, the 1998 Great Lakes Initiative banned the use of mixing zones for twenty-two bioaccumulative chemicals. Instead, the industries utilizing these chemicals were required to treat the discharge at the source.

The Board should recognize that while bacterial mixing zones are distinguishable from toxic and bioaccumulative mixing zones there is a national trend away from the utilization of mixing zones and a movement to further restrict their use. The utilization of bacterial mixing zones in areas designated REC-1 would likely pose a periodic threat to persons engaged in activities involving water contact. Therefore, the Board should not adopt a policy which would permit the utilization of bacterial mixing zones within the fresh waters of California.

Element 8: Compliance Schedules and Interim Requirements

Coastkeeper encourages the Board to allow up to a two-year compliance schedule in recognition of the critical nature of bacterial contamination in the REC-1 waters of the state. A compliance schedule of two-years provides a sufficient timeline for compliance without placing an undue burden on the parties.

The adoption of a compliance schedule permitting the extension of compliance by an additional three years would needlessly defer improvements to water quality.

Element 9: Site-Specific Objectives

Coastkeeper encourages the Board to adopt a policy allowing calculation of more stringent site-specific SSMs. Appropriate Bacteria Standards concerning site-specific objectives should allow for some flexibility, but they should reflect the importance placed on the protection of REC-1 waters by requiring stricter requirements than those within the US EPA requirements.

Element 10: Implementation of Bacterial Objectives in Regards to TMDLs

The Board should reject the proposed reference system/antidegradation approach or natural sources exclusion approach to the implementation of bacterial objectives in regards to TMDLs because the exclusion ignores fatal flaws in the capacity to differentiate between natural and anthropogenic sources of bacteria.

Proponents of the exclusion argue that it would become operative only after all the anthropogenic sources of bacteria are controlled so as not to cause or contribute to the contamination of a single sample. As such, there should be some variance permitted by regulators in recognition of naturally occurring bacterial sources which might impact compliance.

However, the natural sources exclusion fails to account for anthropogenic legacy sources of bacteria which would skew compliance requirements downward. The Board should be concerned by the definitions attached to "natural sources" and "anthropogenic sources" in the realm of a potential exception to compliance with bacterial.

In a recent study by the Southern California Coastal Watershed Research Project
In a recent study by the Southern California Coastal Watershed Research Project (Fecal Indicator Bacteria (FIB) levels during dry weather from southern California reference streams L.L. Tiefenthaler, E.D. Stein and G.S. Lyon. 2008.) if was found that the dry weather water quality in Southern California reference streams already meets water quality objectives. With this finding we feel it is unnecessary to include a natural source exception for bacteria standards.

In conclusion, Coastkeeper would like to thank you for the opportunity to comment on the Statewide Bacterial Objective for Water Contact Recreation in the Fresh Waters of California. The quality of our state's recreational waters is of critical importance to Coastkeeper and we look forward to continued cooperation with the Board during this deliberative process.

Sincerely,

Ray Hiemstra
Associate Director of Programs
Orange County Coastkeeper

Autumn DeWoody
Programs Director
Inland Empire Waterkeeper