From: "Ed Kimura" <emkimura@earthlink.net>
To: <rb9agenda@waterboards.ca.gov>
Date: 8/1/2007 11:30:15 AM
Subject: Agenda

We are enclosing comments on Agenda Item 6 for the RWQCB hearing on August 8, Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region.

Ed Kimura

Sierra Club

San Diego Chapter

CC: '"Wayne Chiu"' <wchiu@waterboards.ca.gov>

SIERRA CLUB

Main Office: (619) 299 1743
Chapter Coordinator: (619)-299-1741
Fax: (619)-299-7142
Email: creiff@sierraclubsandiego.org
www.sierraclubsandiego.org

San Diego Chapter
Serving the Environment in San Diego and Imperial Counties
3820 Ray Street
San Diego, CA 92104

State of California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court Suite 100
San Diego, California 92123
Attn: Mr. Wayne Chiu

Subject: Draft Technical Report Basin Plan Amendment to
Renew and Issue Revised Conditional Waivers of Waste Discharge
Requirements for Specific Types of Discharge within the San Diego Region

Dear Susan Ritschel, Chair, and Members of the Board:

We appreciate the staff efforts in conducting stakeholder meetings on the agricultural waiver and general waiver workshop to inform and obtain public comments on the proposed revisions to amend the existing conditional waivers in the Basin Plan. Several new types of discharges have been identified that previously have not been regulated but could be regulated by conditional waivers. One benefit of the conditional waivers is to relieve the cost to both the regulator and the discharger of the requirements imposed by WDRs. This benefit must be evaluated in terms of the net benefit to improve the Region water quality. The Technical Report should address means by which water quality improvements can be assessed. For example, are the numbers of impaired water bodies declining? The water Code requires that these waiver conditions be enforced. The Report asks for public oversight as one means to aid in enforcement. Other methods such as analyzing monitoring data from the non-point source control program, TMDLs and MS4 program could be used to assist in the enforcement. The Technical Report should expand on the methods to enforce the conditional waivers.

We support most of the proposed Basin Plan Amendments to renew and issue revised conditional waivers of waste discharge requirements for specific types of discharges within the San Diego Region. However, there are issues in the proposed amendments that are not adequately addressed. These are listed below.

Need for acronyms and glossary. The Technical Report should include a table of acronyms and glossary. The amendment to the Basin Plan should include updates to its Glossary and Acronyms. These additions are important in providing user friendly regulations not only for education element in the agricultural enrollment process but also for the interested members of the public at large.

Comments on the Draft Technical Report are listed below by the respective sections of the draft Technical Report.

7.1 Proposed Waiver No. 1 Discharges from onsite disposal systems.

Page 18, correct typographical error in 1st paragraph, last sentence; change "treat" to "threat".

This waiver includes five types of discharges of which the first four are of concern to us:

1. Conventional septic tank/subsurface disposal systems for residential units,
2. Conventional septic tank/subsurface disposal systems for commercial/industrial establishments
3. Alternative individual sewage systems
4. Conventional septic tank/subsurface disposal systems campgrounds.
5. On-site graywater disposal system

Conventional septic systems issues. Nationwide septic systems have been a significant source of groundwater pollution. EPA Office of Water has been active in taking steps to improve the septic systems. In January 2005, Ben Grumbles, Assistant Administrator for EPA Office of Water issued the document "Decentralized Wastewater Treatment Systems, A Program Strategy"[1]. He introduces the program strategy with this message:

"Decentralized wastewater treatment systems (commonly called septic systems) are a significant component of this nation's wastewater infrastructure. They can be an effective option for protecting public health and the environment if properly designed, installed, and managed. They can be a significant threat to public health and the environment if they are not.

I am pleased to publish this Strategic Plan to improve the performance of decentralized wastewater treatment systems. This Strategic Plan presents our key goals and planned actions for our decentralized wastewater treatment system program. It builds on existing partnerships to provide a solid foundation of information, training, management, and oversight. It includes components for regulators, service providers, and property owners. I believe this Strategic Plan is a significant step forward for communities that choose a decentralized approach to help protect the health of their citizens and the environment."

The Strategic Plan is concise, just 10 pages long.

Waiver must comply with the EPA UIC Program. Our review of the conditional waiver for the conventional septic systems in light of the EPA program strategy and related documents indicates that it requires substantial improvements. The waiver must recognize that EPA classifies these systems as Class V shallow injection wells and regulates them by authority of the Safe Water Drinking Act in the Underground Injection Control Program[2] (40 CFR 144). The objective is to protect underground sources of drinking water.

There are 32 types of Class V injection wells[3] grouped into eight subclasses of which the

---

[1] EPA Office of Water *Decentralized Wastewater Systems A Program Strategy* EPA Office of Water Decentralized Wastewater Treatment Systems, A Program Strategy http://www.epa.gov/owm/septic/pubs/septic_program_strategy.pdf EPA 832-R-002 Jan. 2005

[2] EPA Region 9 *Underground Injection Control (UIC) Class V Wells* http://www.epa.gov/region09/water/groundwater/uic-classv.html

[3] EPA Region 9, *32 Types of Class V Injection Wells* http://www.epa.gov/region09/water/groundwater/uic-docs/32types-gwpc.pdf

conventional septic systems in the waiver are in the subclass of domestic wastewater disposal wells. The UIC Program regulates these systems for multiple residential units or non-residential establishments that service 20 or more persons (also known as large capacity septic systems) unless they receive industrial, commercial or other chemical waste streams. If the latter is true then they are no longer domestic wastewater treatment wells. The UIC Program does not regulate those systems serving less than 20 persons. The proposed waiver should specify that the septic systems for the commercial/industrial establishments must only receive domestic wastes.

The State of California does not have primacy in the UIC Program. It shares joint control with EPA. The minimum requirements UIC Program for these systems are:

1. Obey the non-endangerment performance standard prohibiting injection that allows the movement of fluids containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation or adversely affect public health; and

2. Provide inventory information (including facility name and location, legal contact name and address, ownership information, nature and type of injection wells, and operating status of the injection wells) to the state or EPA regional UIC Program.

A copy of the inventory information is available on line.[4]

We conclude the conditional waiver fails to comply with the UIC Program. The conditional waiver must include operator/owner of the large capacity septic system certification of the minimum requirements.

Information on Alternative Individual Sewerage System is not adequate. The Proposed Waiver No. 1 does not provide adequate information on the acceptable types of Alternative Individual Sewerage Systems. This is a blanket waiver that is not acceptable without additional information to demonstrate that these alternative systems comply with waiver conditions. In response to concerns on onsite wastewater treatment systems, EPA has published the "Onsite Wastewater Treatment Manual". [5] This manual contains useful guidelines on the selection and design of onsite wastewater systems. We request that Technical Report provide information on the acceptable types of alternative Individual Sewerage Systems and on any such systems in operation today in the Region. Owners of new alternative individual sewerage systems should be required to submit a RoWD and details of the system to the Board for approval in order to be eligible for the conditional waiver.

Revisions in the Guidelines in Basin Plans are required. The Guidelines page 4-26 of the Basin Plan for individual sewerage systems has two classes of projects; those involving five or less family units and those involving more than five family units. The definition of the project classes should be revised to projects serving less than 20 persons and projects serving 20 or more persons to be in keeping with the UIC Program. See additional comments on the Guidelines under Specific Waiver Conditions below.

The 100 foot rule must be justified. On page 19, 1.I.A General Waiver Conditions for On-site

[4] EPA http://www.epa.gov/safewater/uic/classv/pdfs/fs_inventory-of-injection-wells.pdf
[5] EPA Onsite Wastewater Treatment Systems Manual EPA 625/R-00/008 February 2002
http://www.epa.gov/safewater/uic/classv/pdfs/techguide_2002_onsite_wwt_systemsmanual.pdf

Wastewater Systems, Conditions 1 and 6 can be conflicting. Condition 1 requires that the effluent from on-site disposal systems cannot be discharged directly or indirectly to any surface waters. It is questionable in our view that Condition 6, which requires the effluent must be discharged at least 100 foot from any surface water body, would be adequate to comply with the more restrictive Condition 1 for highly permeable soil/substrate types. 73% of the County of San Diego subsurface is composed of fractured bedrock[6]. It is very difficult to predict the fate and transport of the effluent from an onsite disposal system located in an area composed of fractured rock[7]. Note that the proposed waiver condition for temporary waste pile No. 6.b) v) forbids emergency land fills on fractured bedrock aquifer or highly permeable soil to protect groundwater quality. Data must be provided to support the minimum 100 foot separation. Otherwise we cannot support this 100 foot rule and require that the minimum separation be increased to a safe-proven distance for all soil conditions or determined on a case-by-case basis according to soil type and permeability.

Page 19, 1.I.A. General Waiver Condition for On-site Wastewater System, Condition 9 must be revised to include EPA UIC Program regulations. We recommend the first sentience be revised to read "*The owner/operator of an on-site disposal system must comply with applicable local, state, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized agencies.*"

Page 20, 1.II.A Specific Waiver Conditions for On-site Septic and Sewerage Systems, Condition 2.b) must be revised in order to comply with the EPA UIC Program the *Guidelines for New Community and Individual Sewerage Facilities* in Chapter 4 (Implementation) of the Basin Plan. In particular, on page 4-26 under Individual Sewerage Systems revise:

1. Projects Involving Five Family Units or Less - Conventional Septic Tank/Subsurface Disposal
   To: Projects Involving Less Than 20 Persons - Conventional Septic Tank/Subsurface Disposal
2. Projects Involving More Than Five Family Units - Conventional Septic Tank/Subsurface Disposal
   To: Projects Involving 20 or More Persons - Conventional Septic Tank/Subsurface Disposal

Additional UIC Program Injection Wells. In addition to the subclass of Domestic Wastewater Disposal Wells, Drainage Wells is a subclass which includes five types:

- Agricultural
- Storm water
- Improved sinkholes to receive storm water runoff in karst topographic area
- Industrial drainage wells – wells that are located in industrial areas built to receive storm water but susceptible to leaks, spills or other chemical discharges
- Special drainage wells to dispose water from sources other than direct precipitation such as swimming pools, landslide control, portable water tank overflow/drainage

With the exception of improved sinkhole drainage wells, the rest could be used for wastewater disposal in this Region. These drainage wells have not been addressed in the Technical Report. Is it

[6] Land Use and Environment Group, Department of Planning and Land Use, Department of Planning and Land Use, Dept of Public Works County, *Guidelines for Determining Significance and Report Format and Content Requirements Agricultural Resources,* March 19, 2007 pp 16-17
http://www.sdcounty.ca.gov/dplu/Resource/docs/3~pdf/AG-Guidelines.pdf

[7] USGS. *Fractured Rock Aquifers: Understanding an Increasingly Important Source of Water*
http://toxics.usgs.gov/pubs/FS-112-02/

correct to assume that these would require the discharger to submit RoWD and comply with the WDR? Comments on drainage wells for storm water and low threat discharges are provided in their respective sections

7.2 Proposed Conditional Waiver No. 2 – "Low Threat" Discharges to Land

2.1.A. General Waiver Conditions for Low Threat Discharges of Water to Land
The UIC Program regulates 32 injection wells as noted above. Drainage Wells is another subclass. It includes five types of drainage, two of which are classified as posing low to moderate risk to water quality; a) storm water drainage wells and b) special drainage wells to dispose water from sources other than direct precipitation such as landslide control, swimming pool drainage. As the Conditional Waiver report makes no mention of these drainage wells, please explain if these are allowed. If so then there should be conditions on their use to comply with the UIC Program regulations. See comment below on storm water infiltration BMPs.

2. II.G. Specific Waiver Conditions for Discharges from Structural BMPs that Require Infiltration on page 25 for storm water are of particular interest. EPA Region 9 has guidelines addressing storm water infiltration wells in California.[8] It states that if the storm water infiltration wells include subsurface fluid distribution systems, it would be considered as a Class V injection well. MS4 permit should be consulted to resolve this issue.

7.4 Proposed Conditional Waiver No. 4 – Discharges from Agricultural and Nursery Operations

The Draft Technical Report describes the current discharges from agricultural and nursery operations are not adequately managed to protect the San Diego Region water quality. One major issue is that there are more than 60% of the farms in the Region are small agricultural operations on 10 acres or less. There is also concern that these small farms are unlikely to be implementing water quality control management measures and best management practices. From the standpoint of watershed management and TMDL compliance, this situation needs to be significantly improved. Given the Regional Board resource constraints we support the proposed tired approach that is patterned after the State Non-Point Source Control Program to implement conditional waivers for the discharges from the agricultural and nursery operations. We are mindful of the proposed Bacteria TMDL for beaches and creeks in the San Diego Region. Implementation of the conditional waiver schedules/planning should be coordinated with the Bacteria TMDL.

Agricultural drainage wells. We consulted the EPA Class V Underground Injection Control Study Volume 2 Agricultural Drainage Wells[9]. It estimates that there is no agricultural injection well in California. EPA considers these wells pose high risk to groundwater so these should not be given a waiver.

7.10 Proposed Conditional Waiver No. 10 – Discharges of Emergency/Disaster Related Wastes

We recommend that the Board inform the agencies involved in emergency response planning be

[8] EPA Region 9 Ground water Office, *Municipal Storm Water and Ground Water Discharge Regulations in California*, http://epa.gov/region09/water/groundwater/uic-docs/calif5d-muniguide.pdf
[9] EPA *The Class V Underground Injection Control Study, Vol. 2 Agricultural Drainage Wells*, EPA/816-R-99-014b Sept 1999 http://www.epa.gov/safewater/uic/classv/pdfs/volume2.pdf

informed of the waiver conditions. We also recommend that waiver conditions address the disposal of medical wastes and unused pharmaceuticals from field emergency medical operations and disposal of wastes from field emergency shelters.

Appendix A

A.3 Review of the Existing Conditional Waivers

Page A-3. This section should be revised to incorporate the UIC Program as discussed in comments on onsite wastewater treatment systems. The *Guidelines for New Community and Individual Sewerage Facilities* in Chapter 4 of the Basin Plan as previously stated should be revised to recognize and comply with the UIC Program replacing more than *5 family units* to *20 or more persons*. The authorities should include EPA.
Page A-5 See comments on section 7.1 of the Draft Technical Report
Page A-15. See comment in 7.2 2.II.G on structural BMPs using storm water infiltration wells.

Appendix B

B.1.7 Temporary Waste Piles and Surface Impoundments of Disaster-Related Wastes. Incorporate comment on Section 7.10

Appendix C
Tentative Resolution No. R9-2007-0104 and Basin Plan Amendment

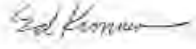
Revise Appendix C per the above comments where applicable.

Appendix D
Environmental Check List

Page D-7. In Section D.3 revise the last sentence in Proper Waste Management to read: *Proper waste management includes complying with local ordinances, local, state, and federal regulations and obtaining any required approvals, permits, certifications, and/or licenses from authorized agencies*. The prior comment explained that the EPA UIC Control Program regulates the Class V Injection Wells which includes large scale septic systems.

This concludes our comments

Sincerely,



Ed Kimura
Water Issues
Sierra Club
San Diego Chapter