STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENVIRONMENTAL ANALYSIS, MS 27
1120 N STREET
P. O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 653-7507
FAX (916) 653-7757
TTY (916) 653-4086

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May 7, 2008

Ms. Amy Mecklenborg
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
(858) 637-7139
By e-mail: amecklenborg@waterboards.ca.gov

Re: Amendment to the Water Quality Control Plan for the San Diego Basin to Incorporate Implementation Provisions for Indicator Bacteria Water Quality Objectives to Account for Loading from Natural Uncontrollable Sources Within the Context of a Total Maximum Daily Load

Dear Ms. Mecklenborg:

The California Department of Transportation (Department) appreciates the opportunity to comment on this Basin Plan Amendment to incorporate implementation provisions for indicator bacteria water quality objectives to account for loading from natural uncontrollable sources within the context of a Total Maximum Daily Load (TMDL). The Department applauds the effort of the San Diego Regional Water Quality Control Board (Regional Board) to account for the natural sources of fecal pathogen indicators to water bodies in the region and supports the adoption of this policy. We wish to offer these recommendations for the policy.

1. The Department recommends rephrasing the statement on page 11 of the Basin Plan Amendment: "Dischargers must also demonstrate that residual indicator bacteria densities do not indicate an elevated health risk beyond that allowable by indicator bacteria water quality objectives." The impact of indicator bacteria densities on health risk is a very complicated issue. Numerous epidemiological studies have been performed to evaluate the correlation between health risk and indicator bacteria densities and, although correlations have been established, proving a level of health risk would be extremely difficult. This statement also fails to take into consideration the health risk that may be present due to natural sources, such as wildlife; as a result, a health risk above that associated with the indicator bacteria water quality objectives may be present at the reference site. The Department requests that the compliance with the reference system and anti-degradation approach (RSAA) not require stakeholders to perform an evaluation of the link between human health risk and indicator bacteria.

2. The 'reference system and anti-degradation approach' (RSAA) and the 'natural sources exclusion approach' (NSEA) currently require monitoring of indicator bacteria to prove compliance (discussed on page 3 of the Draft Basin Plan Amendment). However, the Draft Technical Report (released with the Basin Plan Amendment on February 29, 2008) discusses some other viable methods to prove compliance, including: "Direct monitoring for pathogens associated with humans could also be useful in demonstrating control of anthropogenic sources." (p. 19); "Additionally, the San Diego Water Board supports the idea of measuring pathogens (the agents causing impairment of beneficial uses) rather than indicator bacteria (surrogates for pathogens)" (p. 23); and Implementation of the NSEA approach could include "Source tracking studies to identify indicator bacteria sources" (p. 19). We feel it would be helpful to add language to the Basin Plan Amendment to allow for direct monitoring of pathogens and/or source tracking studies as alternatives to monitoring bacterial indicators to show compliance with these two approaches.

3. On page 12, the Basin Plan Amendment states: "The appropriateness of these approaches and the specific exceedances or exceedance frequencies to be permitted under each will be evaluated within the context of TMDL development or recalculation for a specific water body, at which time the Regional Board may select one of these approaches, if appropriate." The Department believes that both the RSAA and NSEA approaches should be allowed by this Basin Plan, and that the consideration not be deferred to the future. Natural sources of fecal pathogen indicators are present in every watershed and should be accounted for in each TMDL for fecal pathogens.

3. The Department would appreciate clarification of the last paragraph on page 12 of the Basin Plan Amendment: "These implementation provisions may only be used within the context of a TMDL addressing municipal storm water, including the municipal storm water requirements of the Statewide Permit for Storm Water Discharges from the State of California Department of Transportation (Caltrans), and non-point source discharges. These implementation provisions do not apply to NPDES discharges other than municipal storm water discharges. In addition, these implementation provisions shall not be applied to individual industrial storm water NPDES discharges or general industrial and construction storm water NPDES discharges." After reading the second sentence, it is difficult to determine which entities are covered by the policy. Please clearly state who is included under the terms of the policy, in addition to the reference to the Department. We offer the following suggested text for this paragraph:

   "These implementation provisions may only be used within the context of a TMDL addressing municipal storm water, including municipal storm water Statewide Permits and non-point source discharges. These implementation provisions shall not be applied to individual industrial storm water NPDES dischargers or general industrial and construction storm water NPDES discharges."

Thank you for the opportunity to comment. The Department supports the adoption of a policy to account for loading from natural sources, and we hope that these comments are helpful. If you have any questions, please contact Ivan Karnezis at (916) 653-5381.

Sincerely,

JOYCE BRENNER, P.E.
Acting Chief
Stormwater Implementation