



June 22, 2017

State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-2000
Attention: Jeanne Townsend, Clerk to the Board

Submitted via email to commentletters@waterboards.ca.gov

Comment Letter—303(d) List portion of the 2014 and 2016 California Integrated Report

The City of Escondido respectfully submits the following comments on the draft Clean Water Act Sections 305(b) and 303(d) Integrated Report for the San Diego Region (draft Integrated Report) and the San Diego Regional Water Quality Control Board's (RWQCB's) interpretation and application of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy).

- 1. The category assignment process should be transparent and updated with each new Integrated Report, and reflect the RWQCB's regulatory approach to restoring beneficial uses.** The RWQCB should establish a defined procedure for assigning and/or reassigning 303(d) listings of Category 4b or 4c (where no TMDL is required), instead of defaulting to Category 5 (TMDL required). Specifically, when pollutants are being addressed through regulatory measures aside from TMDLs, including Water Quality Improvement Plans (WQIPs) as appropriate, the Regional Board should ensure this is reflected in the assigned category, and the categories should be assessed and updated with each new Integrated Report. This will support the Water Quality Improvement Planning process.
- 2. Total Maximum Daily Load (TMDL) scheduling should be transparent and updated with each new Integrated Report, and reflect the RWQCB's regulatory approach to restoring beneficial uses.** The results of assessment of criteria for TMDL scheduling (Section 5 of the Listing Policy) should be transparent in the draft Integrated Report, and updated with each new Integrated Report to reflect the true realities of state resources and priorities, including the availability of data; this will reduce uncertainty for municipalities like the City of Escondido and support the Water Quality Improvement Planning process.
- 3. The City of Escondido supports the County of San Diego's efforts to delist Escondido Creek and San Marcos Creek for selenium, as data collected in each creek support delisting based on the Listing Policy.** In May 2014, the County of San Diego submitted five comment letters to the RWQCB related to the 2010 §303d listings for selenium in five

creeks; the letters and data are referenced and included in the County of San Diego's comment letter for this decision. Additional data were collected by the County of San Diego for use in the de-listing evaluation and compared to the California Toxics Rule (CTR) Freshwater Criterion of 0.005 mg/L. In Escondido Creek, 0 of 32 samples exceeded the criterion; in San Marcos Creek, 0 of 31 samples exceeded the criterion. Based on the age of the exceedances (each major Line of Evidence was based on samples collected in 2002) and significantly decreasing trend results (step six of section 3.10 of the Listing Policy) this pollutant is not likely to exceed the criterion in the future.

4. **Remove new §303(d) listings for Benthic Community Effects (Escondido Creek - Decision ID 46213, San Marcos Creek - Decision ID 43723) and clarify expectation for TMDLs for this "pollutant".** Although we appreciate the reasons for assessing biological criteria, listing waterbodies in the San Diego region for Benthic Community Effects before establishing Biological Objectives in the Basin Plan (a currently ongoing process) is premature. The Biological Objective would be the standard against which data would be assessed to establish whether there a listing required. Furthermore, based on information communicated in the RWQCB workshop on July 19, 2016, Benthic Community Effects listings are "co-listed" as Category 4C and therefore TMDLs are not required, but all appendices and related information of the new Benthic Community Effects listings state a TMDL date of 2025. It is unclear how a TMDL could even be established for Benthic Community Effects. These listings should be removed.

5. **The State Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy) that is used to evaluate waterbody/pollutant combinations needs to be updated.** The Listing Policy was adopted in 2004, and since then there have been numerous changes to the way regulated parties address pollutants, as well as improved science and methods. It would be beneficial for the State and Regional Boards to collaborate and seek comments from interested parties to update the Listing Policy to reflect current science and methods, and provide up-to-date guidance. Recommended updates include re-assessed definitions for toxicants and conventional pollutants, changes to the criteria tables and policies for listing and delisting, more transparent decisions for categories and TMDL development dates, and updates to the types of pollutants and/or conditions that are addressed by the Listing Policy.

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The City of Escondido recognizes the significant effort required to process thousands of lines of evidence and data sets and is grateful for the opportunity to submit comments. Please contact Helen Davies at (760) 839-6315 or hdavies@escondido.org with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Helen M. Davies". The signature is written in a cursive style and is underlined with a blue line.

Helen Davies, M.S., CPSWQ
Environmental Programs Manager, Utilities Department
City of Escondido