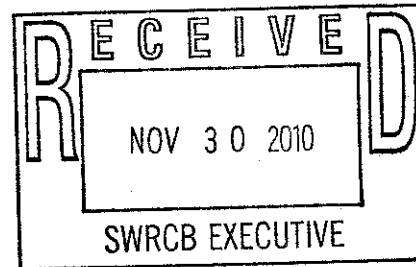


November 30, 2010

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



SUBJECT: COMMENT LETTER - SAN DIEGO WATER BOARD INDICATOR BACTERIA, PROJECT I

Dear Ms. Townsend:

OC Public Works/OC Watersheds appreciates the opportunity to submit comments to the State Water Resources Control Board regarding the Revised Total Maximum Daily Loads for Indicator Bacteria, Project I - Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek), herein referred to as the Beaches and Creeks TMDL. We have participated in the development of the Beaches and Creeks TMDL from the beginning of the project in 2004 and have remained active members of the Stakeholder Advisory Group. We have also provided comments on each of the previous drafts of the TMDL and would like to acknowledge the San Diego Water Board staff efforts to revise and improve the amendment through these drafts. However, the current version of the amendment still contains errors in analysis which affect the underlying scientific validity of the TMDL. There are two issues of particular concern which have been brought to the attention of the San Diego Water Board through previous comments and at Stakeholder Advisory Group meetings with their staff. Presented below is an overview of these two key issues, how they affect the validity of the TMDL, and why we feel that San Diego Regional Board has not adequately addressed these issues in their previous responses.

1. Inconsistent Definition of Wet Weather Days

The Beaches and Creeks TMDL defines wet weather days as "...days with rainfall events of 0.2 inches or greater and the following 72 hours". The TMDL also utilizes a 22 percent allowable exceedance frequency for wet weather based upon data from a reference study at Leo Carrillo Beach. The 22 percent exceedance frequency observed at Leo Carrillo Beach however was based upon wet weather days defined as rain events of 0.1 inches or greater and the following 72 hours. As such, the wet weather TMDLs developed as part of the Beaches and Creeks TMDL were calculated using one set of criteria while the TMDL wet weather allowable exceedance frequency was applied under a different set of conditions. It is not valid to utilize two different criteria for wet weather when developing the Beaches and Creeks TMDL. In fact the net result of this

inconsistency is to artificially increase the number of exceedances due to precipitation runoff in "dry" weather by categorizing days with between 0.1 and 0.19 inches of rain as "dry".

In their response to this comment, San Diego Regional Board staff did not address the discrepancy in wet weather definitions. The response stated that since the discrepancy was included in the December 2007 version of the TMDL and comments regarding the definition were not submitted at that time, no change is necessary. This response is inadequate, since other subsequent changes in the TMDL have made the wet weather definition discrepancy problematic. In the December 2007 TMDL compliance was based on the total loading of bacteria. In the February 2010 TMDL compliance is based on exceedance frequencies. This discrepancy in the TMDL artificially increases exceedance frequencies and will have a profound impact on the ability to comply with the TMDL.

Regional Board staff in its Response to Comments Part III (page V-3) concedes that the discrepancy may cause potentially higher exceedance frequencies, but argue that the 22 percent exceedance frequency is an *initial* allowable exceedance frequency with the expectation that a region specific allowable exceedance frequency would be developed as additional data is collected. They continue that the only possible alternative to using the 22 percent exceedance frequency would be to utilize a 0 percent exceedance frequency. We believe that this response is inadequate in addressing stakeholder concerns and possible alternatives. No consideration, for example, is given to revising the TMDLs to reflect wet weather as rainfall at 0.1 inches or greater as is the case in the Santa Monica Bacteria TMDL.

It should be noted that stakeholders have also previously commented that a criteria of rainfall of 0.2 inches or greater is also inconsistent with the Orange County and San Diego County Municipal Stormwater Permit's definition of wet weather days, which is based on USEPA criteria of 0.1 inches or greater in 40 CFR 122.21(g)(7).

2. No Dry Weather Allowable Exceedance Frequency

The Beaches and Creeks TMDL allows no dry weather exceedances of bacteria water quality objectives. In the Santa Monica Bay bacteria TMDLs, where Leo Carrillo Beach is also used as a reference system, dry weather is sub-divided into "summer dry" and "winter dry" weather. The summer dry season is assigned a 0 percent allowable exceedance frequency and winter dry weather is assigned a 3 percent allowable exceedance frequency. Several stakeholders have commented on this discrepancy and have requested consistent inclusion of all Leo Carrillo Beach reference system exceedance frequencies in the Beaches and Creeks TMDL.

In its Response to Comments Part III (page V-4), the San Diego Regional Board notes that it "decided to use the 0 percent dry weather exceedance frequency as an *initial* allowable exceedance frequency... Because of the uncertainty associated with using a reference system that is not specific to the San Diego Region..." We believe that the San Diego Regional Board has not adequately explained why it included the 22 percent wet weather allowable exceedance frequency developed for Leo Carrillo Beach, but requires

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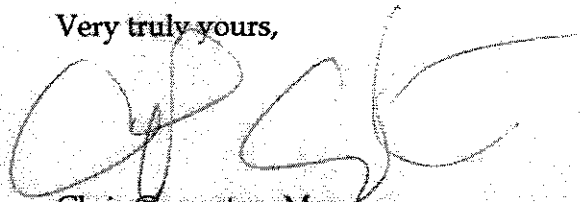
Ms. Jeanine Townsend

a region-specific study to establish a dry weather exceedance frequency. No rationale is provided for this inconsistent application of the reference data or what specific data would be necessary to develop a region-specific dry weather exceedance frequency or when and who would be conducting the necessary study.

Overall, the two key issues reflect the same concern with how the San Diego Regional Board has inconsistently and in some cases incorrectly applied reference study data. They appear to be relying on unfunded future studies to correct current flaws in their analysis. We request that these important issues be addressed prior to adoption of the TMDL by the State Water Resources Control Board and that the use of reference condition studies be applied consistently.

Thank you for your consideration of our unresolved concerns regarding the Beaches and Creeks TMDL. If you have any questions regarding these comments, please contact Amanda Carr at (714) 955-0650.

Very truly yours,

A handwritten signature in black ink, appearing to read 'CC', is written over the typed name.

Chris Crompton, Manager
Environmental Resources

cc: South Orange County NPDES Permittees