County of San Diego

DEPARTMENT OF PUBLIC WORKS

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

Dear Ms. Townsend:

COMMENT LETTER – SAN DIEGO WATER BOARD INDICATOR BACTERIA, PROJECT I

Thank you for the opportunity to comment on the San Diego Water Board Indicator Bacteria, Project I TMDL. The Bacteria TMDL affects 20 water bodies and a total watershed area of over 1,700 square miles. As a large agency with jurisdiction in multiple watersheds, the County of San Diego is keenly interested in ensuring that the Bacteria TMDL allows us to move forward with cost-effective implementation approaches based on sound science and reasonable expectations for success. We offer the following three comments and recommendations for your consideration.

1. **The definition of a rain event should be changed to "rainfall events of 0.1 inches or greater and the following 72 hours."**

The TMDL defines wet weather days as "days with rainfall events of 0.2 inches or greater and the following 72 hours". This is inconsistent with the San Diego Municipal Stormwater Permit's definition of wet weather days, which is based on USEPA criteria in 40 CFR 122.21(g)(7). It is also inconsistent with the definition used to calculate allowable exceedance frequencies at Leo Carrillo Beach. Data from the Leo Carrillo reference system were used to establish allowable exceedance frequencies in this Bacteria TMDL. Inconsistency would have several negative consequences. First, it undercuts the scientific validity of the TMDL. It is inappropriate to apply a wet weather exceedance frequency calculated using one set of assumptions, and then apply that frequency as part of a numeric target under different conditions. Second, the 0.2 inch

definition artificially expands the number of dry weather days over the course of a monitoring season. Since the Bacteria TMDL allows no exceedances of water quality objectives during dry weather days, dischargers are effectively required to demonstrate 100% achievement of water quality objectives even after a storm event as big as 0.19 inches. This is inconsistent with the intent of a reference system approach. Finally, by placing Phase I MS4 dischargers under two different triggering conditions for wet weather sampling, the TMDL limits the ability of Phase I MS4s to coordinate TMDL monitoring with MS4 Permit monitoring.

A simple fix is to revise the TMDL's definition of a rain event to be consistent with the Municipal Stormwater Permit, USEPA criteria, and the definition used in the Leo Carrillo reference system study (0.1 inch). A similar suggestion was submitted to the Regional Water Quality Control Board (Regional Board) during its public comment period. The Regional Board's response to this comment was inadequate. In its *Response to Comments Part III* (page V-3), RWQCB staff notes that the 0.2 inch criterion was included in the original Basin Plan amendment adopted on December 12, 2007. It also notes that no comments opposing the 0.2 inch definition were submitted at that time. The December 2007 iteration of the TMDL based compliance on total loading of bacteria (not exceedance frequency). Furthermore, the 2007 TMDL did not incorporate a reference system approach and did not specify much detail with respect to water quality monitoring requirements. Therefore, the recommendation above has only become relevant since the TMDL was amended for adoption in February 2010.

2. **The TMDL should include allowable exceedance frequencies for dry weather similar to those included for wet weather.**

The Bacteria TMDL allows for no exceedances of bacteria water quality objectives during dry weather conditions. In other TMDLs where Leo Carrillo Beach is used as a reference system, the dry weather TMDL is split into two seasons: summer dry weather (0% allowable exceedance frequency) and winter dry weather (3% allowable exceedance frequency). It is scientifically defensible to set an allowable exceedance frequency greater than 0% for dry weather conditions since studies have shown that reference beaches and creeks do sometimes exceed water quality objectives during dry weather. A recent study published by SCCWRP confirms that exceedances of bacteria water quality objectives do occur during dry weather conditions in Southern California reference streams, including San Mateo Creek in San Diego County (Tiefenthaler, L., E. Stein and G. Lyon. 2008. *Fecal indicator bacteria levels during dry weather from Southern California reference streams.*).

A similar comment was submitted to the Regional Board during its public comment period. The Regional Board's response to this comment was inadequate. In its *Response to Comments Part III* (page V-4), the RWQCB notes: "[we] decided to use the 0 percent dry weather exceedance frequency as an *initial* allowable exceedance frequency for the dry weather TMDLs ... Because of the uncertainty associated with using a reference system that is not specific to the San Diego Region, using the most

conservative dry weather allowable exceedance frequency (i.e., 0 percent) is warranted until a region specific dry weather allowable exceedance frequency is developed." Regional Board staff has not adequately explained why it is supportive of including a wet weather exceedance frequency that is based on a reference system in another region, but requires a region-specific study to establish a dry weather exceedance frequency. No rationale is provided for this inconsistent application of the reference system approach.

3. Regional Board staff did not accurately represent TMDL monitoring requirements in response to public comments and during the February 10, 2010 adoption hearing.

The Bacteria TMDL will require Phase I MS4 dischargers to conduct substantially increased water quality monitoring. In its response to written comments and during the February 10th adoption hearing, Regional Board staff did not accurately represent the magnitude of monitoring increases that will be required under the TMDL. For example, in its *Response to Comments Part III* (page V-50), Regional Board staff note: "Monitoring that is already required under the Phase I MS4 NPDES requirements and for AB411 beach water quality monitoring is expected to be the primary and most significant sources of data to determine whether water quality objectives and allowable exceedance frequencies are being met in the receiving waters." Similar assertions were made by Regional Board staff at the February 10th adoption hearing (see page 100 of the hearing transcript.) In reality, only limited data will be available from the NPDES and AB411 programs to assess TMDL compliance at beaches and creeks. Significant new monitoring will be required to comply with the TMDL. Unfortunately, when Regional Board members approved the Bacteria TMDL, they were not provided with accurate information with respect to potential monitoring impacts. The table below compares existing NPDES and AB 411 monitoring requirements with the minimum monitoring required under the TMDL.

Program	Beaches Wet Weather	Beaches Dry Weather	Creeks Wet Weather	Creeks Dry Weather
NPDES	None	None	2 Locations/Watershed, 2 Storms Per Year, Every Other Year	2 Locations/Watershed, 2 24-Hour Dry Weather Events, Every Other Year
AB 411	None	Weekly (April 1 – Oct 31)	None	None
Bacteria TMDL	Every Storm (Rainy Season)	At Least Monthly (Year Round)	Min. 2 Locations/Watershed, Every Storm During Rainy Season, Every Year	Min. 2 Locations/Watershed, At Least Monthly, Every Year

If you have any questions about these comments please contact Todd Snyder, Watershed Planning Manager, at (858) 694-3482 or by e-mail at todd.snyder@sdcounty.ca.gov.

Sincerely,

CID TESORO, LUEG Program Manager
Department of Public Works

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