



Heal the Bay

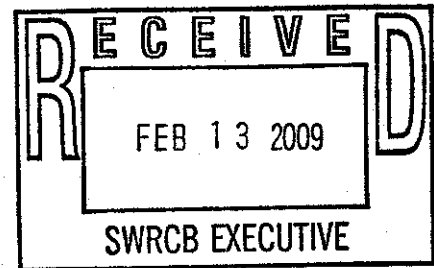
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February 13th, 2009

Chairwoman Doduc and Board Members
State Water Resources Control Board
1101 I Street, 24th Floor
Sacramento, CA 95814
Sent Via Email [commentletters@waterboard.ca.gov]



Subject: Comment Letter – San Diego – Indicator Bacteria Water Quality Objectives.

Dear Chair Doduc and Board Members;

On behalf of Heal the Bay, a non-profit organization dedicated to protecting Southern California's coastal waters, we submit the following comments on the above referenced amendment to the water quality control plan for the San Diego Region (Basin Plan). We appreciate the opportunity to comment.

Heal the Bay was intimately involved in the development and subsequent implementation of the Santa Monica Bay Beach Bacteria Dry Weather and Wet Weather TMDLs. Based on our experience with this TMDL, we are supportive of an amendment to incorporate implementation provisions for meeting indicator bacteria water quality objectives that account for loading from natural, uncontrollable sources within the context of a total maximum daily load. The Regional Board appears to have taken steps in moving away from the loading approach, which is a step in the right direction. However, Heal the Bay would like to request that the State Board include further language to clarify certain points of concern discussed below.

I. A natural sources exclusion approach is only appropriate when used in conjunction with a Reference-Based and antidegradation approach when setting waste load allocations and load allocations.

The amendment proposes a choice between a reference-based and antidegradation approach and a natural sources exclusion approach. Further it states that the Regional Board may determine to use one or both of these approaches. How will the Regional Board determine which approach will be used and when will this happen? This is the critical component of the TMDL that should not be postponed to a later date and should be available for public comment. Further, it is important for monitoring and reporting purposes that approaches remain consistent across watersheds.

Heal the Bay strongly favors the Los Angeles Water Quality Control Board's approach that was used in setting the TMDL targets for the Santa Monica Bay Beaches Bacteria TMDLs. This approach is reference-based and is established using exceedances of fecal indicator bacteria standards for both interim and final TMDL targets. The Santa Monica Bay Beaches Bacteria



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TMDL included a strict natural source exclusion provision with a strong burden of proof on the regulated community. The reference system/anti-degradation approach ensures that bacteriological water quality is at least as good as that of a reference system and that no degradation of existing bacteriological water quality is permitted where existing bacteriological water quality is better than that of the selected reference system. Heal the Bay believes that the natural sources exclusion is inappropriate for use in San Diego without a reference based approach. This approach should only be considered on its own if an appropriate reference system cannot be identified due to unique characteristics of the target water body. Flaws in the use of this approach alone include the potential inability to differentiate between natural and anthropogenic sources of bacteria. Under this implementation approach, bacterial contamination may still be occurring as a result of human input and human exacerbated inputs like dog parks, trash covered beaches and creeks that attract pigeons and gulls.

Further, when discussing the natural sources exclusion approach, the amendment states that the "requirement to control all sources of anthropogenic indicator bacteria does not mean the complete elimination of all anthropogenic sources of bacteria as this is both impractical as well as impossible." Heal the Bay believes that this statement is inaccurate. It extremely important to ensure complete control of *all* anthropogenic sources of bacteria. This comment further brings to light that the sole use of the natural source exclusion approach without the reference system approach is completely inappropriate for water quality standards attainment and specifically the San Diego TMDL. Thus, the amendment should only allow the implementation of a natural sources exclusion approach in conjunction with a reference-based antidegradation approach and only after Board review and approval through the public process.

II. The TMDLs should be based on the California Ocean Plan beach bathing water standards.

The TMDL appears to account for beach usage in determining the appropriate numeric targets. Specifically, criteria listed for E.coli and Enterococcus in the San Diego TMDL have been designated according to frequency of usage. As stated in the Draft TMDL, "...the "designated beach" category may be over-protective of water quality because of the infrequent recreational use in the impaired creeks. The recreational usage frequency in these creeks may correspond to the "moderately to lightly used areas" category. If information is obtained to justify the "moderately to lightly used area" usage frequency, TMDLs using the corresponding value to this numeric target will be used instead. This approach is inappropriate; a beach that has a lower frequency of usage should not provide less protection to swimmers than a beach with a high frequency of usage. In essence, this proposed TMDL is saying that it is okay for swimmers and surfers to get sick at certain beaches. Instead, in order to adequately protect public health, all beaches should comply with the water quality standards. This is the approach that was taken in the Santa Monica Bay Beach Bacterial TMDLs. These TMDLs were developed over a three year period with extensive scientific analysis of monitoring databases and epidemiology studies. The TMDL has been in place for nearly four years and has already resulted in dramatic improvement in beach water quality during the AB 411 months between April and October. The Santa Monica Bay Bacteria TMDL approach is as follows:



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- TMDL targets are based on allowable exceedances of all seven of the state's beach water quality standards in the California Ocean Plan:
 - Single sample
 - Total coliform 10,000 MPN
 - Fecal coliform 400 MPN
 - Enterococcus 104 MPN
 - Total/fecal ratio ≤ 10
 - Geometric mean
 - Total coliform 1,000 MPN
 - Fecal coliform 200 MPN
 - Enterococcus 35 MPN

These standards are based on California's Ocean Plan, and thus, we urge you to require all beaches in San Diego to meet these standards.

III. The TMDL amendment does not provide any implementation dates or deadlines

It is extremely important that the public be provided with dates for implementation of the San Diego TMDL. As currently drafted, it is unclear when the number of exceedance days and other information would be incorporated in the Basin Plan Amendment and when they would be enforceable. Given the current financial crisis San Diego Environmental Health has completely eliminated all beach water quality monitoring. Beachgoers in these previously monitored areas must now "swim at their own risk." This highlights the importance of the TMDL, as its implementation will provide members of the public in the designated TMDL areas protection from potential bacterial pollution.

In sum as written, the San Diego Creek and Beach Bacteria TMDL will not lead to water quality standards attainment. Instead, the State Board should follow an approach similar to that taken with the Santa Monica Bay Beaches Bacteria TMDLs and the Malibu Creek Bacteria TMDL. The approach taken in the development of these TMDLs has been accepted and approved by the State Water Resources Control Board and the US Environmental Protection Agency.

If you have any questions, please contact us at 310-451-1500.

Sincerely,

Mark Gold, D. Env.
President
Heal the Bay

Polly Barrowman
Staff Scientist
Heal the Bay