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May 28, 2009

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
By e-mail: commentletters@waterboards.ca.gov

Re: Comment Letter – Richardson Bay Pathogens TMDL

Dear Ms. Townsend:

The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the Total Maximum Daily Load (TMDL) technical documentation for pathogens in Richardson Bay. Caltrans strongly supports efforts to protect human health, and achieve the best water quality possible. Caltrans agrees with the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) that the source of coliform bacterial indicators in highway runoff is wildlife, and requests that the proposed Basin Plan Amendment (BPA) clarify that Caltrans will not be held responsible for loads from natural background sources.

In the discussion of the planned actions, the SFBRWQCB staff report at page 49 states:

“we do not anticipate that Caltrans’ stormwater management plan will need to be revised because we believe that the source of bacteria in highway runoff is wildlife.”

In addition, the SFBRWQCB staff report at page 48 states:

“The Water Board will not hold discharging entities responsible for uncontrollable coliform discharges originating from wildlife/natural background sources.”

The BPA, in Table 7-3 assigns stormwater runoff the following load allocation:

Categorical Pollutant Source	For Direct Discharges to the Bay Fecal Coliform (MPN/100 mL)	
	Median	90th Percentile
Municipal Runoff	<14	< 43

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We understand that it is not the intent of the SFBRWQCB to apply these allocations to Caltrans. However, if the allocations are adopted, they will become enforceable water quality standards. The Amendment contains no statements indicating that the allocations would not apply to Caltrans. The table 7-4 of the BPA, trackable implementation measures identifies Caltrans as an implementing party along with the Marin County and other local agencies to reduce pathogens loading under the TMDL. This leaves Caltrans subject to potential third-party citizen suits where we may have uncontrolled coliform discharges due to wildlife and natural background sources.

We request that the State Water Resources Control Board remand this BPA back to SFBRWQCB to modify as follows:

- Footnote (d) under Table 7-3 of the BPA: Remove the reference to NPDES Permit No. CAS000003.
- Footnote (e) under Table 7-3 of the BPA: Modify the statement as follows: Wildlife is not believed to be readily controllable source of pathogens; therefore no management measures are required for situations, such as highway runoff including Caltrans, where the loading is likely due to wildlife.
- Table 7-4 of the BPA trackable implementation measures: Remove Caltrans as an implementing party.

Thank you for the opportunity to comment. Caltrans strongly supports the goals of the pathogen TMDL for the Richardson Bay Watershed, and we hope that our concerns will be addressed in the BPA. If you have any questions, please contact Joyce Brenner of my staff at (916) 653-2512.

Sincerely,



G. SCOTT MCGOWEN
Chief Environmental Engineer

c: Joyce Brenner, Office Chief, Program Implementation
Jaggiwan Grewal, SFBRWQCB Liaison