



**CITY OF FILLMORE**  
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June 4, 2010

Mr. Yanjie Chu  
California Regional Water Quality Control Board  
Los Angeles Region  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013

Subject: Draft Santa Clara River (River) Fecal Indicator Bacteria (FIB) Total Maximum Daily Load (TMDL) Comments from City of Fillmore (City)

Dear Mr. Chu:

Thank you for the opportunity to comment on the Draft Santa Clara River Fecal Indicator Bacteria Total Maximum Daily Load (FIB TMDL). Overall, the City's request is that the California Regional Water Quality Control Board (Regional Board) Interim Executive Officer contact the Environmental Protection Agency and ask for them to renegotiate a longer timeline for the Santa Clara River FIB TMDL to allow for more accurate analysis of the sources and causes of FIB impairment.

### **Watershed Based Compliance Liability**

The TMDL makes the City of Fillmore liable for penalties and violations outside of its control. If there is an exceedance 20 miles downstream of Fillmore and Fillmore's discharge is in compliance with the Waste Load Allocation (WLA) we are still liable per the following provisions in Section 8.2 (*Emphasis Added*):

Section 8.2 reads: "If the number of exceedance days is greater than the allowable number of exceedance days, the responsible jurisdictions and/or responsible agencies ***shall be considered not attaining the WLAs***. Responsible jurisdictions or agencies shall not be deemed non-attaining if the investigation described in the paragraph below demonstrates that bacterial sources originating within the jurisdiction of the responsible agency have not caused or ***contributed to the exceedance***."

One of the problems with this section is that our bacterial source could be less than the WLA but still be found to "contribute to the exceedance." Another problem is that the parties being held responsible are only the "responsible jurisdictions and/or responsible agencies." This leaves out the other dischargers such as septic system owners, equestrian parks, owners of farm animals, etc. who are more than likely, high dischargers of bacterial sources. Therefore we recommend the following revision to Section 8.2:

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Fillmore's requested revision to Section 8.2: (*revision shown in bold italics*)

If the number of exceedance days is greater than the allowable number of exceedance days, the responsible *parties*, jurisdictions and/or responsible agencies shall be considered not attaining the WLAs. Responsible jurisdictions or agencies shall not be deemed non-attaining if the investigation described in the paragraph below demonstrates that bacterial sources originating within the jurisdiction of the responsible agency have not *exceeded their WLA or LA.* ~~caused or contributed to the exceedance.~~"

The following paragraph in Section 8.2 should also be revised to read:

"If an in-stream location is non-attaining as determined in the previous aragraph, the Regional Board shall require responsible ~~ageneies~~ *parties* to initiate an investigation, which at a minimum shall include daily sampling at the existing monitoring location until all single sample events meet bacteria water quality objectives."

The City of Fillmore has no authority to control dischargers outside of our City Limits and cannot be party to investigating and monitoring exceedances outside of our City Limits.

### **Changed Conditions**

This TMDL should not be implemented for Reach 3 because of dramatically changed conditions in the reach since the data was collected upon which the draft TMDL is based. The Fillmore Waste Water Treatment Plant stopped all discharge to the Santa Clara River on August 18, 2009 and the Santa Paula Treatment Plant stopped all discharge in May of 2010. Therefore the bacteria emissions from these two major sources has been eliminated. More time should be provided for new monitoring that will reflect the changed conditions within Reach 3.

### **Delay for more study and Environmental Protection Agency (EPA) renegotiation**

While the City appreciates the efforts made, it is clear from reading the draft FIB TMDL that there is not enough evidence to link sources with receiving water data. The storm drains exiting the City of Fillmore have never been monitored for bacteria so it is unknown if the discharges are even contributing to the exceedances. In fact the data shown in Table 2-6 indicate the river flow upstream of the City have existing exceedances. It is not possible to adequately deal with FIB until such linkages are better understood. It has been clear that the settlement agreement between the Environmental Protection Agency (EPA) and the environmental community is driving the timeline, and not science. Without the science to adequately link the sources of the bacteria to any particular discharge type, the TMDL is flawed and should not move forward.

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Therefore, the City respectfully requests that you ask the EPA to renegotiate the timeline in the settlement agreement with the environmental community. Recently, the EPA has requested changes in that settlement agreement successfully. We ask that we be given the same consideration.

- Do not approve this TMDL until there are additional studies to document the source of the problem before significant resources are wasted. Recently, the EPA successfully renegotiated the TMDL schedule with the **NRDC**. Please ask for additional time, as long as studies and other work is moving forward, to accurately study the sources and causes of bacteria in mass emissions monitoring in the Santa Clara River before setting permanent waste load allocations and exceedance days.
- Request that the Regional Board ask the EPA to renegotiate this item with the **NRDC** to allow more to accurately develop Santa Clara River Watershed linkage analysis and data collection.

Should you have any questions, please do not hesitate to contact me at (805) 524-1500 x 231.

Very Truly Yours;

CITY OF FILLMORE



Bert J. Rapp, P.E. Public Works Director

CC: Yvonne Quiring, City Manager