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RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

February 27, 2012

Mr. Kurt Berchtold, Executive Officer
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Dear Mr. Berchtold:

Re: Basin Plan Amendments to Revise
Recreation Standards for Inland Fresh
Surface Waters in the Santa Ana Region
(Basin Plan Amendment)

The Riverside County Flood Control and Water Conservation District (District) is the Principal Permittee on the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit (Order No. R8-2010-0033, NPDES No. CAS 618033). In addition to the District, the Permittees to the MS4 Permit are the County of Riverside (County) and the Cities in Riverside County within the Santa Ana Region (collectively referred to herein as "Permittees").

On behalf of the Permittees, the District would like to submit the following comments in support of the Basin Plan Amendment. This Basin Plan Amendment represents a carefully negotiated plan that has been agreed to by all parties, including the Regional Board, various dischargers, non-governmental entities and other interested stakeholders. The Basin Plan Amendment is a comprehensive package of requirements that necessarily includes the recommended clarifications to the definition of REC-1, the application of a temporary high flow suspension, the exclusion of uncontrollable natural sources of bacteria, the suggested changes to designated uses in certain streams, deletion of the obsolete total coliform objective for MUN waters, deletion of the obsolete and scientifically-invalid fecal coliform objectives for REC-2 waters, etc. The provisions of the proposed Basin Plan amendments are not generally severable from the other Basin Plan amendments that are being proposed as part of a comprehensive Program of implementation package.

The Permittees recommend adopting the proposal as is. If substantial amendments are proposed by Board staff, or are considered for approval by the Board at the hearing, the Permittees would recommend that such amendments be taken back to the Storm Water Quality Standards Task Force for careful consideration rather than be acted upon at the hearing. The full ramifications of such modifications may not be understood otherwise.

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The Permittees would further note that adoption of this Basin Plan Amendment, as is, is presumed in the CBRP for the Middle Santa Ana River Bacterial Indicator TMDL. As noted in the CBRP, without this Basin Plan Amendment, the plan of action contained within the CBRP would need to be substantially modified as it depends on the exclusion of uncontrollable sources of bacteria, deletion of obsolete coliform bacteria indicators, the high flow suspension (for wet season compliance) and other elements of this Basin Plan Amendment. Further, it is expected that the cost of implementing the CBRP would greatly increase as a result of a failure to adopt this Basin Plan Amendment due to the loss of flexibility to prioritize and focus on high-priority human sourced pathogen indicators. The Permittees would likely have to default to flow capture and diversion techniques, as opposed to source control, as the primary BMP to address the TMDL. This alternative could have significant impacts on water resource management activities along the Santa Ana River and its tributaries. There would also be a potential for impacts to other beneficial uses due to flow diversion and capture activities that would need to be considered by the Board.

Finally, the Permittees have summarized their understanding of several of the key provisions of the Basin Plan Amendment below. No response is required unless our understanding of any of the issues summarized below is incorrect.

Beneficial Uses Designations

1. The proposed revisions to REC-1 definition are intended to clarify, not modify, the meaning of the original text. The new language is intended to ensure that the original meaning is not accidentally misinterpreted or misapplied.
2. The proposed changes are necessary to ensure that the new E. coli objectives are applied in a manner consistent with EPA's recommended water quality criteria and the related federal guidance. Similar language has been approved by U.S. EPA in numerous other states.
3. The proposed clarifications will continue to protect wading and fishing as REC-1 activities when immersion and ingestion is likely to occur as a result of those activities. Incidental water contact to the extremities (hands and feet) will continue to be considered REC-2 activities (e.g., beach-combing, tide-pool study) just as it is now.

Pathogen Indicator Bacteria Objectives

4. A narrative objective is necessary to address true water quality concerns as E. coli is only a surrogate indicator. Not all species of E. coli are pathogenic to humans.
5. Deletion of fecal coliform objectives is consistent with federal guidance stating that the best available scientific data no longer supports this standard.

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6. There is insufficient scientific data available to establish an appropriate numeric pathogen indicator bacteria objective for *E. coli* to protect secondary contact recreation. This is why the EPA did not recommend or establish such water quality objectives in the Great Lakes states.
7. The proposed approach is consistent with other Regions in California because most other Regional Boards have not yet established any numeric pathogen indicator bacteria objectives (fecal coliform or *E. coli*) in their Basin Plans to protect REC-2 uses.
8. The narrative pathogen objective will continue to apply to REC-2 and the Regional Board can rely on any new pathogen indicator criteria if and when EPA recommends new standards to protect secondary contact recreation.
9. The existing total coliform objective previously established to protect surface waters designated MUN is obsolete and unnecessary. Such waters are already protected through the Enhanced Surface Water Treatment Rule and antidegradation policies continue to apply as well.
10. Where there is sufficient reliable data to demonstrate compliance with the geometric mean *E. coli* objectives, single sample data will not be needed or used to assess compliance. In addition, where available, site-specific data will be used to calculate the appropriate SSM using EPA's recommended equations.

High Flow Suspension

11. Unsafe flows temporarily preclude recreational use regardless of water quality. Elevated bacteria concentrations that sometimes occur during wet weather events do not impair the designated use because no such use is occurring, or can occur, at these times.
12. The High Flow Suspension is consistent with EPA guidance because:
 - a) The *E. coli* criteria were developed during low-flow, warm weather conditions. No epidemiological studies have ever been performed on stormwater runoff during wet weather conditions where high flows preclude safe recreational access.
 - b) Temporary suspensions due to adverse weather conditions are analogous to the seasonal exemptions that EPA has already approved in other states.
 - c) EPA and the SWRCB have also approved a temporary high flow suspension in the Los Angeles Region.

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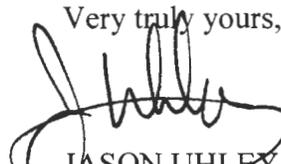
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CEQA, §13241 and §13242

13. Consistent with CWC §13241, the proposed narrative pathogen objective and related numeric pathogen indicator bacteria objectives are not intended to apply to bacteria generated by birds, wildlife, sediment or other uncontrollable natural sources.
14. The §13241 analysis performed by the Regional Board is based on the entire program of implementation proposed pursuant to §13242 of the CWC. That proposed program of implementation is a comprehensive package of requirements that necessarily includes the recommended clarifications to the definition of REC-1, the application of a temporary high flow suspension, the exclusion of uncontrollable natural sources of bacteria, the suggested changes to designated uses in certain streams, deletion of the obsolete total coliform objective for MUN waters, deletion of the obsolete and scientifically-invalid fecal coliform objectives for REC-2 waters, etc. Were any of these or other significant provisions to be subsequently disapproved by the SWRCB, OAL or EPA, it will be necessary to perform a new §13241 analysis based on the revised program of implementation that may result from such disapprovals. The provisions of the proposed Basin Plan amendments are not generally severable from the other Basin Plan amendments that are being proposed as part of a comprehensive Program of implementation package.
15. Attainment of the proposed E. coli objectives is expected to be quite complex and require a considerable amount of time to identify and control all potential sources of bacteria. It is the Regional Board's intent that such activities be implemented using a risk-based resource allocation strategy like that enacted in the recently approved Comprehensive Bacteria Reduction Plans (CBRP) to prioritize monitoring efforts and remediation projects.

In conclusion, the Permittees would like to thank the Board and its staff for their substantial commitment to this effort. This model effort has established a firm scientific foundation for future effective management and protection of receiving waters and has done so in an open, inclusive and transparent manner. The Permittees look forward to continuing to work with Regional Board staff in the implementing this Basin Plan Amendment. Please feel free to contact me (951.955.1273; juhley@rcflood.org) if you have any questions.

Very truly yours,



JASON UHLEY

Chief of Watershed Protection

ec: Santa Ana MS4 Permittees

JU:bjp