

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

CHOLLAS CREEK DIAZINON TOTAL MAXIMUM DAILY LOAD

“RESPONSES TO COMMENTS #2”

Responses to Comments Submitted During the Extended Comment Period

August 14, 2002

1. Change Two Dates in Monitoring Program

Comment: Karen Henry, City of San Diego

The City requests that the reporting period of the TMDL's monitoring program and the report submittal date be changed to be fully consistent with the corresponding reporting period and submittal date in the MS4 permit.¹

RWQCB Response:

The Regional Board strongly agrees and has made the requested changes. In general, the TMDL requirements have been deliberately structured to be consistent with the MS4 permit.

Consistency is essential to ensure that the results of Copermittee monitoring in the Chollas Creek watershed can be used to fully or partially satisfy the monitoring requirements of both the MS4 permit as well as the TMDL.

2. Add "Inventory" to the Title "Best Management Practices"

Comment: Karen Henry, City of San Diego

The City requests that the title of Attachment F be changed to "Best Management Practices Inventory." This will better reflect the intent of the Attachment to serve as a resource of actions that may be taken.

RWQCB Response:

The Regional Board agrees and has made this change. Attachment F was not intended to be a list of required best management practices that must be implemented. Rather, it is to serve as a resource or inventory of possible best management practices that may be implemented. Some of the practices described are currently being implemented effectively elsewhere in the State.

3. Clarify/Exchange Text in Best Management Practices Inventory

Comment: Karen Henry, City of San Diego

The City requests that text be added to the first paragraph of the first page of Attachment F to avoid confusion regarding how an integrated pest management (IPM) framework can "minimize hazards" by adding the following seven words "to the environment associated with the application." The City also requests that the last 3 words of the first paragraph be changed from "diazinon return center" to "hazardous waste collection center."

RWQCB Response:

The Regional Board agrees and has made the requested changes. The Regional Board did not intend to infer that an IPM framework could serve to minimize the inherent hazards of a pesticide. Rather, the intention was to illustrate that an IPM approach can reduce the hazard to the environment through educating people about the proper use, storage and disposal of pesticides. The changes provide the needed clarity.

¹ The City's letter also requests that the reporting period dates be changed to "August 21 to August 20." However, this is inconsistent with the reporting period dates in the MS4 permit. Phone messages between Regional Board and Ruth Kolb of the City of San Diego (16 July 02) has determined that the City had incorrectly listed the August dates, and does indeed want the reporting period for the Chollas Creek TMDL to be consistent with that of the MS4 permit.

4. Approve City's Proposed Monitoring Program

Comment: Karen Henry, City of San Diego

The City states that there are several other programs that will continue to monitor for diazinon in Chollas Creek and will provide information towards meeting the TMDL monitoring objective “to measure and document the reduction of diazinon concentrations in storm runoff in the watershed through time as diazinon is phased-out and BMPs are implemented.” The City states that it will develop a matrix of all monitoring locations and forward the information to the Regional Board. The City further states that it has already created a proposed monitoring plan for the Diazinon TMDL (See City's Attachment 4) and notes that Regional Board staff has stated the plan “fits within the requirements stipulated in the Technical Report and would be considered for approval in the future”. The City's Attachment 4 specifically requests that sections 11.30 to 11.36 of the Monitoring Plan in the draft TMDL be replaced with it's proposed Monitoring Plan. The City requests approval of its proposed monitoring plan now.

RWQCB Response:

The Regional Board disagrees that the proposed monitoring program should be approved at this time. The requested changes have not been made. The appropriate time to negotiate and finalize the specifics of the monitoring plan is at the time the MS4 permit is formally revised to incorporate the numeric load reductions required by the TMDL. Locking in the specifics of the monitoring plan at this time is not only unnecessary, it is undesirable as it would serve to eliminate the potential use of new information which may become available between adoption of the TMDL and revision of the MS4 permit. (Since the permit cannot be revised until the TMDL undergoes three additional agency approvals, the onset of monitoring under the TMDL will likely be at least a year or more away.) Such new information could serve to significantly influence the ultimate design of the monitoring program. Examples of such potentially influencing new information may include the early effects of USEPA's diazinon ban, the results of the Copermittee's own ongoing monitoring in the Chollas Creek watershed, or the findings of diazinon research projects with state or national significance.

Furthermore, concurrent approval of the monitoring plan with the revision of the MS4 permit, also ensures that the proposed monitoring plan will benefit from an additional full public “airing” when the Regional Board formally considers adoption of the revised permit.

The Regional Board agrees that monitoring efforts already underway in Chollas Creek for diazinon will be important in meeting the monitoring requirements of the TMDL. Virtually all of the requirements in the TMDL (such as the requirements to monitor and to implement a diazinon reduction and public education program) are already existing requirements under the MS4 permit. This means the Copermittees will save significant resources since they will not have to develop “new” programs to meet TMDL requirements. We look forward to the receipt of the monitoring matrix and request that the matrix include information on monitoring frequency.

5. Replace “Shoulds” with “Mays” in Monitoring Requirements

Comment: Karen Henry, City of San Diego

The City requests that the word “should” in the monitoring requirements be replaced with the word “may.” The City believes “should” is as restrictive as “shall” when considered from a scope of work standpoint.

RWQCB Response:

The RWQCB disagrees and has not made the requested changes. However a minor language change has been made to increase clarity regarding the flexibility of the monitoring program.

In recent months, the Regional Board has made significant changes to the monitoring requirements to increase Copermittee flexibility and decrease Copermittee costs. Specifically several provisions which were requirements are now recommendations. The April 26, 2002 draft of the TMDL specified the minimum required number and location of monitoring stations as well as sampling frequency. The operative word in the April draft was “shall” (e.g., the Copermittees shall include, at a minimum, the following eight stations).

In direct response to Copermittee comments that the monitoring requirements were too expensive, the Regional Board replaced many of the “shalls” with “shoulds” in the June 12 draft. The Copermittees are now asking the Board to replace the “shoulds” with “mays”. The Regional Board believes that the word “may” is not appropriate in this context as it expresses possibility, opportunity, or permission (the granting of a right or privilege). In contrast, the word “should” expresses a recommendation and is precisely the appropriate word in this context because it is the Regional Board’s intent to provide its recommendation to the Copermittees regarding station number and location as well as sampling frequency. It is important also to point out that this recommendation is accompanied by a statement of flexibility which the Regional Board has modified in the August 14, 2002 draft to improve clarity. The Copermittees are given a great deal of flexibility to design and propose the monitoring program they believe makes the most effective use of their dollars while meeting the stated monitoring objective. The stated objective of the TMDL monitoring program is “to assess the effectiveness of this TMDL, its implementation measures, and progress towards the attainment of applicable water quality standards in the Chollas Creek watershed.”

In summary the TMDL dictates a specific monitoring program objective, but provides substantial flexibility to the Copermittees in determining how that stated objective will be achieved. It should also be noted that to further reduce Copermittee costs, the requirement to conduct a Diazinon Source Analysis has been completely eliminated from the TMDL as requested by the Copermittees.

6. New Monitoring Requirements Text

Comment: Karen Henry, City of San Diego

The City now understands that the text added to the Monitoring Requirements of the TMDL in Section 11.30 was merely relocated from another section of the document.

RWQCB Response:

The Regional Board did not move this text from another section of the document. The text was new (as of the June 12 draft). Its purpose is to summarize and provide context for subsequent sections. No changes were requested. As of August 14, the Regional Board has modified the subject text slightly to add clarity and emphasize flexibility.

7. Encourage “Think Blue”

Comment: Karen Henry, City of San Diego

The City points out that the “Think Blue Survey” has been replaced by the City of San Diego’s Storm Water Pollution Prevention Program’s “Annual Survey of Residential Behaviors.” The newer survey was begun in 2001 and includes questions about the use and disposal of pesticides.

RWQCB Response:

Comment noted. The text as written is still appropriate. The purpose of this language is to support and encourage expansion of the Think Blue campaign, and also to increase public awareness of how to improve water quality and prevent storm water pollution. No changes were requested or made.

8. Port Supports City’s Comments

Comment: Richard Gilb, Port of San Diego

The Port of San Diego is in support of the position of the City of San Diego as outlined in the City’s letter dated 26 June 2002.

RWQCB Response:

Comment noted.

9. BayKeeper Supports TMDL

Comment: Bruce Reznik, San Diego BayKeeper

BayKeeper supports the TMDL and urges the Regional Board to adopt it. BayKeeper believes that the proposed TMDL provides an important framework for restoring Chollas Creek, while giving the City sufficient leeway to formulate its own action plans. BayKeeper stresses importance of implementing the TMDL following adoption.

RWQCB Response:

Comment noted. The Regional Board agrees that implementation of the TMDL is essential if the water quality standards of Chollas Creek are to be restored.