



Inland Empire Waterkeeper

Advocacy • Education • Restoration • Enforcement

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September 20, 2012

Sent via Electronic Mail: hsmythe@waterboards.ca.gov

Regional Water Quality Control Board – Santa Ana Region
ATTN: Hope Smythe, Chief, Inland Basin Planning
3737 Main Street, Suite 500
Riverside, CA 92501

RE: Riverside County Final Comprehensive Nutrient Reduction Plan (CNRP) - Comments

Dear Chief Smythe,

Inland Empire Waterkeeper (Waterkeeper) is an environmental non-profit organization dedicated towards advocacy, education, restoration, and enforcement in the Santa Ana River watershed. For approximately two years, Waterkeeper has focused our attention on water quality issues in and around the city of Lake Elsinore. The public release of the Final Comprehensive Nutrient Reduction Plan (CNRP) for compliance with the Municipal Separate Storm Sewer System (MS4) Permit and the Lake Elsinore and Canyon Lake Nutrient Total Maximum Daily Load (TMDL) provides Waterkeeper with a valuable opportunity to gauge the commitment of the Co-Permittees and the obligations each are required to satisfy over the next decade.

After a thorough reading of the Final CNRP, Waterkeeper commends the Co-Permittees and CDM Smith on a well-reasoned and professional proposal. Waterkeeper, however, directs the Santa Ana Regional Water Quality Control Board (Regional Board) to outstanding issues with the CNRP.

The Regional Board Must Clarify the Applicability of the CNRP to Specific Municipalities

As written, the CNRP appears to ignore some municipalities as MS4 Co-Permittees bound by the document. For example, Section 1.4.2. of the CNRP states, “[T]he applicability of the CNRP is limited to...:County of Riverside and the Cities of Beaumont, Canyon Lake, Hemet, Menifee, Moreno Valley, Murrieta, Perris, Riverside, San Jacinto, and Wildomar.” The Regional Board ignores the applicability of the CNRP to the City of Lake Elsinore. The City of Lake Elsinore contributes significantly to the impairment of the lake and the applicability of the CNRP must be clearly stated.

The Regional Board Should Clarify its Jurisdiction to Order Compliance with the CNRP if MS4 Co-Permittees Covered by the Santa Margarita Region MS4 Permit Fail to Satisfy their Obligations

The CNRP requires MS4 Co-Permittees to satisfy certain obligations by date certain in order to remain in compliance. For example, Section 2.2.1.1 of the CNRP requires Co-Permittees to identify “specific ordinances that when implemented will reduce nutrient loads from various urban sources in the watershed.” Ordinances reasonably designed to address nutrient load reduction would include mandates requiring the management of pet waste, fertilizer application and yard waste.

Waterkeeper strongly encourages the Regional Board to clarify its jurisdictional boundaries as well as the boundaries of the San Diego Regional Water Quality Control Board (SD Regional Board) and how the cities whose boundaries fall within each boundary will be treated if they fail to comply with CNRP mandates.

The CNRP states in footnote 4 for Section 1.4.2, that the cities of Wildomar and Murrieta are controlled by the SD Regional Board. The footnote continues to state that the Santa Ana Regional Board TMDL requirements would continue to apply to those cities. Waterkeeper encourages the Regional Board to cite to the documentation that established that jurisdictional agreement so that the public has a clear line of authority to voice our concerns if CNRP obligations, such as the adoption of municipal ordinances addressing nutrient load reduction, fail to become law prior to the December 31, 2013 deadline.

The Regional Board Must Require a Modification to Canyon Lake's In-Lake Remediation Activities Section to Further Analyze Mitigation for Phoslock Application

Section 2.2.2 of the CNRP details In-Lake Remediation Activities for Canyon Lake including Hypolimnetic Oxygenation System (HOS) and Phoslock Application. Phoslock is a bentonite clay product that has been shown to treat excessive nutrient levels in lakes, ponds and reservoirs. Known to be relatively non-toxic, Phoslock retains some areas of concern for Waterkeeper we believe require additional study and/or discussion.

The CNRP estimates approximately 200-300 metric tons of Phoslock would be required for the first application to Canyon Lake, with additional, albeit smaller, applications over time. In order to operate properly, a blanket no less than 0.5 mm thick of Phoslock is necessary at the bottom of Canyon Lake in order to reduce bioavailable phosphorus. The settling of Phoslock in Canyon Lake is estimated to take up to several days.

Waterkeeper is concerned that the CNRP has not conducted an analysis of mitigation necessary to counter the impacts of a Phoslock layer on the aquatic habitat and species. For example, the city of Los Angeles is currently restoring and enhancing Echo Park Lake. One aspect of the improvement is the mixing of "existing low permeability soil [with] bentonite."¹ The city of Los Angeles, with assistance from the California Department of Fish and Game is installing "fish attractors" that will serve as underwater habitat to fish species in Echo Park Lake. As such, Waterkeeper encourages the Regional Board to require an expanded discussion of the potential impacts of Phoslock on Canyon Lake's aquatic environment and fish stocks. An analysis of the potential impacts will likely lessen our concerns over the addition of up to 300 metric tons of Phoslock to the lake with regular reapplications in perpetuity.

Conclusion

Finally, Waterkeeper encourages collaboration with the SD Regional Board to effectively and timely incorporate CNRP requirements into the existing applicable MS4 permit. Waterkeeper and Orange County Coastkeeper have been intimately involved in the negotiations for a unified MS4 permit covering parts of Orange County and Riverside County as well as all of San Diego County. This regional MS4 permit will be adopted by the SD Regional Board sometime in 2013. TMDL implementation in Riverside County is a significant issue during the negotiations and resolution prior to the adoption of the permit would provide clarity and regulatory certainty.

Lake Elsinore and Canyon Lake are known by many in the Inland Empire and greater southern California to host some of the region's most disappointing water quality. Fortunately, this region and the people who call this part of Riverside County home should expect measurable improvement in water quality over the next

¹ The Eastsider LA, Judy Raskin, <http://www.theeastsiderla.com/2012/09/the-new-underwater-landscape-taking-shape-at-echo-park-lake/> (Last Accessed: Sept. 20, 2012)

decade and a continued commitment towards maintaining fishable, swimmable and drinkable water year round.

On behalf of Waterkeeper, I look forward to working with you on ensuring compliance with the TMDL and the CNRP. If you require any information or if you have any questions relating to our position, then please do not hesitate to contact our office. Thank you very much for your assistance in this matter.

Regards,

Colin Kelly
Staff Attorney
Inland Empire Waterkeeper