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August 19, 2014

VIA EMAIL: commentletters@waterboards.ca.gov

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Statewide National Pollutant Discharge Elimination System (NPDES) Permit for Drinking Water Discharges to Surface Waters

Dear Ms. Townsend,

The Water Authority is a wholesale water agency serving 24 member retail water agencies. The Water Authority and its member agencies serve a population of 3.1 million people and a $188 billion dollar economy. As water suppliers, we recognize the importance of protecting water quality in our region and the need for implementation of best management practices associated with drinking water discharges. Water suppliers in the San Diego region currently operate under General Waste Discharge Requirements for Discharges of Hydrostatic Test Water and Potable Water to Surface Waters and Storm Drains or Other Conveyance Systems within the San Diego Region (Order No. R9-2010-003, NPDES No. CAG679001). This permit has worked well for our region, but will expire on October 31, 2015.

We support the development of a statewide permit provided the permit is clear and understandable and we can reasonably implement the provisions in the permit. We have a number of concerns about the current draft of the permit that we would like to see addressed in the final permit. We appreciate the staff presentations and discussion at statewide workshops. The staff explanation at the workshops was helpful to provide an understanding of the intent of the permit provisions and a good opportunity for the regulated community to provide feedback to staff. Based on the number of comments and the discussion at the workshops, we expect to see significant revisions in the next draft. Substantive changes require the State Board to release the permit for a second thirty-day public comment permit and, based on the extent of the changes, we encourage you to consider releasing the permit for a second comment period. Our recommendations for changes to the permit are listed in detail in Attachment No. 1 to this letter. Our most serious concerns are described below.

Fees

Fees applied should not exceed the fee for other low threat discharges. The permit, as currently drafted, states that for the purposes of establishing fees, this is considered a low

threat discharge. Low threat discharges currently have a fee of $2,062 per year. It is our understanding that the State Board has developed a proposed fee schedule that will change the fees to a sliding scale based on size of water system. The proposed fee schedule would reduce the fees for small water systems and raise the fees on large water systems. While the current low threat fees are not affordable for small systems, the large water suppliers' fees must be commensurate with the actual cost of regulation and should not be increased to subsidize the State Board's costs of the small water system permitting effort.

One approach may be for the State Board to reduce the cost of regulating small water systems. As written, the current permit is too complex for implementation by small water systems down to 15 service connections. It will be difficult, time consuming, and costly for the State Board to obtain compliance from these small systems. The end result is likely to provide minimal water quality benefit. We recommend that this permit be optional for small systems with less than 1,000 service connections. The State Board may want to consider a phased approach with a separate simplified permit, to be proposed at a later date, to address discharges from smaller systems. We encourage you to work with the California Rural Water Association, Rural Community Assistance Corporation or other entities that work with small systems before embarking on small water system permitting. This will minimize your costs of regulatory oversight.

Permit Clarity

A lack of clarity in the permit puts water suppliers at risk for third party lawsuits. The permit, as currently drafted, can have a wide range of interpretations, which can result in third party lawsuits. As an example, the definitions for raw water, potable water, and treated water are ambiguous, confusing, and inconsistent with common definitions used in the water industry. These definitions should be changed to potable and raw water, and should include a clear statement that the permit does not apply to water that is exempt from the Clean Water Act under the water transfers rule. Other language that is confusing includes the attempt in the permit to use primary and secondary drinking water standards as a basis for compliance. This is inconsistent with basin plan objectives, which set standards based on protection of beneficial uses. We support the exclusion of the California Toxics Rule for purposes of compliance. Further, we recommend that compliance standards be established based on basin plan objectives, but that data collected for Safe Drinking Water Act compliance be allowed, where appropriate, to avoid duplicate monitoring. In addition, better clarity is needed on monitoring where all

monitoring requirements associated with compliance are included in the monitoring section of the permit.

Implementation

Permit provisions should be reasonable to implement by water suppliers. Currently, the permit requires implementation of BMPs and monitoring for all direct flows, regardless of the amount of flow. For continuous or automatic flows, this could require the installation of continuous chlorine and turbidity monitors for each continuous water quality analyzer or well pump to waste discharge. We recommend a minimum flow threshold for monitoring of 50,000 gallons/event/day. In addition the permit should allow for representative monitoring for automated flows.

There are several concerns related to the application requirements:

1. The current application requires submittal of a map showing the general location of water supply infrastructure, the location of Waters of the United States and location of the storm drain system. Currently, there are many areas where no one knows the actual locations of Waters of the United States, including the regulatory agencies that oversee the protection of those waters. The locations could change further upon adoption of the proposed new definition of Waters of the United States by the Corps of Engineers and the Environmental Protection Agency. In addition, water suppliers that are not storm water agencies may not have access to storm drain maps. In some cases, accurate storm drain maps may not be available. At the workshop, State Board staff indicated that an extensive mapping exercise is not intended to be required by this permit. We recommend that the permit require the application to include a map showing the boundaries of the water supplier's service area and maps of Waters of the United States to the extent that the information is reasonably available. Annual reports to the state could describe the actual discharges during the past year and their approximate location to Waters of the U.S.

2. The deadline to submit a notice of intent is not feasible for many water systems. We ask that you extend that deadline to allow for at least 100 working days.

3. Some of the information on expected locations of planned discharges may not be available at the time to the NOI is submitted, particularly for the entire five year period of the permit. It may be more appropriate to provide the planned discharge information annually to the State Board as part of the annual report.

Algae Control

The provisions requiring additional BMPs for water suppliers who use copper based products for algae control are inappropriate since this activity is covered under a separate NPDES Permit. Algae control is a high priority for water suppliers. Recently, the city of Toledo, Ohio, issued an order to its customers to avoid showering and drinking water, due to the presence of algae toxins in the water. These toxins are released by blue green algae, which can be common in waters containing excessive nutrients. The State Board issued Statewide General National Pollutant Discharge Elimination System (NPDES) permit for residual aquatic weed control Order No. 2013-0002 DWQ, NPDES NO. CAG990005 which allows water suppliers to add copper based products to Waters of the United States for the control of algae. Use of these products in conformance with the permit is expected to protect the environment. Moreover, these products are only used in the event of an algae bloom. We do not anticipate significant increases in copper in the treated water supply as a result of the use of algae control products. We ask that the provisions in this permit relating to algae control products be deleted from the permit. In addition, we ask for State and Regional Board support in controlling nutrient loading to municipal water supplies where algae is a problem to minimize the need for use of copper products.

TMDLS

The TMDL language in Appendix F, Section K, as currently written, establishes a prohibition on Discharges in the San Diego Region. The references to TMDLs in this permit are not appropriate, because drinking water discharges were not assigned waste load allocations basin planning. They are being included as part of an "other" waste load category of unidentified sources. If waste load allocations are to be assigned to drinking water supplies, they should be specifically assigned as part of a basin plan update.

In addition, the permit includes significant provisions relating to TMDLs that are contradictory. The permit states:

> *"Based on the data that is currently available, and due to the high quality and intermittent and short-term nature of the discharges from drinking water systems authorized under this Order, it is unlikely that these discharges contribute to the impairment of the TMDL-related water bodies. Therefore, it is consistent with the assumptions and requirements of the WLAs in these TMDLs for this Order to not include any TMDL-specific requirements."*

The permit then contains no specific TMDL requirements in Appendix G. Appendix F section K, to the contrary, includes specific TMDL descriptions, which state that the TMDL has a zero waste load allocation for unnamed discharges, including drinking water discharges. In another case, it appears to reinstate the requirements to meet the California

Toxics Rule for lead, copper and zinc, which was waived in another section of the permit. For the San Diego region, a zero waste load allocation or a requirement to meet the numeric standards under California Toxics Rule, are equivalent to a discharge prohibition. Appendix F, Section K also has a number of inconsistencies with the TMDLS as described in the basin plan. We request that the reference to TMDLs be removed from the permit. In the alternative, we ask that clarifying language be included in Appendix F, section K to make it clear that agencies in San Diego that meet the requirements of the permit will not be in violation with requirements of the TMDL. The recommended clarifying language changes are included in Attachment No. 2 to this letter.

We appreciate the opportunity to comment on this permit. If you have any questions regarding this letter or the attached comments, please contact Toby Roy, Water Resources Manager, at (858) 522-6743.

Sincerely,

Ken Weinberg
Direct of Water Resources
San Diego County Water Authority

Allen Carlisle
CEO/General Manager
Padre Dam Municipal Water District

Dennis O. Lamb
General Manager
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Michael J. Bardin
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Cari Dale
Water Utilities Director
City of Oceanside

Leah Browder
Director of Public Works
City of Poway

Attachment No. 1
San Diego County Water Authority, Comment Table for Tentative Order No. 2014-XXXX-DWQ/NPDES No. CAGXXXXXX
Statewide general NPDES Permit for Drinking Water System Discharges

#	Page	Section	Topic	Comments
1	3	Table of Contents	Water Definitions "Raw Water"	The page number where the "Raw Water" definition resides is on page 6
2	General		References to CDPH	**The transition of CDPH's Division of Drinking Water to the State Water Resources Control Board is Complete. Please change all references to "CDPH" to either "SWRCB" or State Water Resources Control Board Division of Drinking Water (SWRCB DDW).**
3	8, 11	II. B., II.F.	Fees	The current permit sets annual fees at levels associated with low threat discharges. It is our understanding that a new fee schedule is being proposed to reduce fees to small water systems. While we support establishment of reasonable fees for small water systems, the costs of regulating the small water systems should not be borne by the larger water systems. Recommendation: Large water system fees should not exceed the current fee schedule de minimus discharges currently set at $2062 per year. Large water system fees should not be increased to subsidize small water system oversight. Do not include small water systems serving less than 3000 connections in this complex permit. Due to the de-minimus nature of the discharges, and the challenges associated with small system compliance, delay permitting of small systems to a later date under a simplified permit.

#	Page	Section	Topic	Comments
4	General	Section K of Fact Sheet	Applicability of TMDLs	Due to the intermittent and unplanned nature of drinking water systems discharges, quantifying a contribution, assigning a wasteload allocation and the associated margin of safety would be nearly impossible. Assignment of a zero wasteload allocation is effectively a prohibition on all drinking water discharges and will interfere with the water suppliers' ability to manage their systems and protect public health. Presence of coliform in raw water or in water flushed from the distribution system during a water quality emergency is not controllable to a zero WLA. In addition, there are no effective field BMPs for removal of copper, zinc, lead and nitrogen in drinking water discharges. In order to assign and enforce a WLA of zero to drinking water discharges, the TMDL must be reopened for reconsideration. The fact sheet in the permit details the nature of these discharges as such on page F-19, of the Fact Sheet, section K, paragraph 2: *"Based on the data that is currently available, and due to the high quality and intermittent and short-term nature of the discharges from drinking water systems authorized under this Order, it is unlikely that these discharges contribute to the impairment of the TMDL-related water bodies. Therefore, it is consistent with the assumptions and requirements of the WLAs in these TMDLs for this Order to not include any TMDL-specific requirements."* Therefore, where appropriate the TMDL descriptions in this permit should clearly state that drinking water discharges do not contribute significantly to the impairment of the TMDL listed body, that drinking water discharges cannot reasonably be controlled to meet a zero discharge or the designated WLA and therefore by complying with this permit the agencies are in compliance with the TMDL. **Recommendation: Revise Section K of the Fact sheet**

Attachment No. 1
San Diego County Water Authority, Comment Table for Tentative Order No. 2014-XXXX-DWQ/NPDES No. CAGXXXXXX
Statewide general NPDES Permit for Drinking Water System Discharges

#	Page	Section	Topic	Comments
5	General	A-H	Use of Term "Water Purveyor"	The terms "Water Purveyor", "Discharger" and "Permittee" are used interchangeably throughout the permit. Recommendation: Use the term "water purveyor" early in the permit for description and fact finding and "permittee" when talking about permit compliance.
6	5	Section I	Submittal date for NOI	This section sets a date to submit an application for coverage under the permit of December 1, 2014. This gives 46 working days from the proposed adoption date to submit an NOI. This is not an adequate time frame to complete the NOI. The permit is not effective until 100 days after adoption or December 21, 2014. It is not clear why these are two different dates. **Recommendation: Provide a minimum of 120 working days from adoption to submit an NOI**
7	6	Section I.C.1	List of planned discharges	List should include hydrostatic discharges following disinfection. In addition, the list currently includes automated water quality analyzers as a planned discharge. Flows from water quality analyzers are negligible due to the low flows associated with this use and should not be considered regulated discharges **Recommendation: Add hydrostatic discharges after disinfection to the list of planned discharges**

#	Page	Section	Topic	Comments
8	6	I.B.2 Definitions	Water Definitions Remove references to "Treated Drinking Water" and "Raw Water" from this permit	The July 3rd updated version of the draft permit language does provide some clarity on this subject. However, the water definitions section remains confusing and requires some additional clarity as to the subset of discharges allowed. We recommend only permitting potable water discharges and raw water discharges to the extent they are subject to NPDES requirements. For instance, it stands to reason that "potable" water could be used interchangeably with "treated drinking water" or vice-versa outside of the definitions provided in this permit. Ultimately, having all of these specific categories is confusing and ambiguous when it comes to the thousands of water systems that are expected to be covered under this permit and does not provide a more consistent and streamline regulation. Additionally, most "raw water" discharges (as defined in the permit) from community water systems are excluded from NPDES permitting under the "NPDES Water Transfers Rule". The "NPDES Water Transfers Rule" added additional exclusions under 40 CFR Part 122.3 for ''an activity that conveys waters of the United States to another water of the United States without subjecting the water to intervening industrial, municipal, or commercial use.'' . Requiring receiving waters to meet primary and secondary drinking water standards is not always consistent with basin plan objectives. Furthermore the requirement for additional monitoring for determining compliance with drinking water standards is redundant and unnecessary. **Recommendation**: **For general simplicity and clarity, the permit should apply to potable and raw discharges, but exclude raw water discharges that are exempt under the NPDES Water Transfers Rule. Potable water should be defined as "Water suitable for human consumption as may be demonstrated by compliance with primary drinking water standards under Safe Drinking Water Act. Raw water should be defined as "water that is taken from the environment with the intent to subsequently treat it or purify it to produce potable drinking water"**

#	Page	Section	Topic	Comments
9	7	II A.2) Permit Coverage	"Permit Coverage" Exceptions	This section excepts coverage for activities that water purveyors regularly participate in. For example, water purveyors often coordinate with their local fire department on combined flushing and fire flow testing. In addition, it is not clear what "construction" is not covered. When water systems construct or replace water lines they must conduct hydrostatic testing, flushing, and disinfection of the lines. Adding construction as it appears here is confusing given that in the previous paragraph coverage is granted to "work conducted by contractors on behalf of the water purveyor". **Recommendation: Remove Fire Departments and Construction from the list of exceptions as long as they are coordinated with a local water purveyor as follows:** 2) From other entities or individuals ~~such as fire departments, construction and insurance companies~~ that test potable water systems, street cleaners, or other users of a municipal storm water system that discharge to waters of the U.S. unless coordinated with the local water purveyor or regulated entity. **Alternatively, specify which construction activities are not covered (i.e. dust control).**

#	Page	Section	Topic	Comments
10	7	II A.1	Community Water Systems	Coverage of small water systems under this permit will be confusing to those systems and may not be practical. A simplified permit should be proposed for water systems service less than 1,000 service connections. Complex permit requirements for small water systems will result in a high level of non-compliance taking significant State Board staff time to obtain compliance. Costs of this oversight should not be borne by the large water systems. The State Board should consult with Drinking Water Program staff to determine the best approach and appropriate thresholds for coverage under this permit. State parks, campgrounds and rest areas are typically non-community water systems should not be covered under this permit. See Decision tree for classification of Community Water Systems from CDPH here: http://www.cdph.ca.gov/certlic/drinkingwater/Documents/PublicWaterSystems/DecisionTreeforClassifyingWaterSystems_Detailed_08-2012.pdf The coverage as proposed does not include wholesale water agencies **Recommendation: Add coverage of wholesale water agencies. Remove small systems with less than 3000 service connections from the permit**

#	Page	Section	Topic	Comments
11	8	II.B.1.c	Site Information	It is not clear what specific details are included in an "undetailed" layout of system facilities and alignment of receiving water means. Furthermore, it is unclear what format the SWRCB would like this information submitted. We recommend that the site map requirement be limited to a map of the system boundaries for the following reasons: 1.) It could be costly for some agencies to prepare a map of all facilities and receiving waters. 2.) The map and information requested would not provide a lot of benefit to the SWRCB. 3.) Providing system layouts and alignments could result in potential security issues.. 4.) Small water systems may not have the capacity to provide this information to the SWRCB. 5.) Subsection v: This subsection should be removed because this information is already requested in NOI Section F. 6.) Subsection vi: This subsection will be difficult to comply with because the scale of a one-page map or schematic will not provide sufficient resolution to delineate a 300-ft discharge conveyance distance from the receiving waters. In addition, it is not clear what should be mapped as receiving waters. This is even more problematic in Southern California where most streams are ephemeral. The State Board may want to consider identifying receiving waters as the blue line streams as shown on the USGS topographical maps. In the alternative, the State Board or Regional Boards could provide GIS map layers identifying the Waters of the U.S., hydrologic units, and/or hydrologic areas. This information will also help water agencies identify the impaired water bodies. In addition, consideration should be given to allow drinking water to be discharged, with proper BMPs, into dry Waters of the U.S as long as it percolates prior to reaching a receiving water. **Recommendation: Require water suppliers to provide a map that delineates their service area. Maps of the receiving waters should be provided to the extent that they are reasonably available.**

#	Page	Section	Topic	Comments
12	9	II B 1. d	TMDL Monitoring	When applicable this section should require submittal of existing data already collected by water suppliers for compliance with the Safe Drinking Water Act to avoid establishing inconsistent or redundant monitoring requirements. The proposed test methodology under 40 CFR 136 is consistent with methods applied to wastewater. Since these are drinking water supplies, water suppliers use methods that are more appropriately applied to drinking water supplies. The analyses in this section applies to all TMDLS listed in the Section K fact sheet even though the drinking water discharges are not significant as stated on page 13, Section III H. The State Board should consider whether monitoring requirements for Section K discharges are even necessary and describe the intended purpose. **Recommendation: Where TMDL monitoring is applicable, the permit should allow for use of existing data collected under the Safe Drinking Water Act and the use of approved test methods for drinking water. Delete Section K monitoring requirements or define the intended purpose.**
13	10	II.B.d	TMDL Constituent-Specific Application	**Recommendation: Before establishing site specific controls, the State Board should ensure that reasonable BMPs are available to address concentrations required in attachment G**

#	Page	Section	Topic	Comments
14	10	II.D.1	Termination of Existing Permits	Water Purveyors should be allowed to continue operating under current Regional Board permits until they expire. The State Water Board does not have the authority to terminate current permits made in agreement with Regional Boards as stated. The existing Regional Board permits require that a permittee file a "Notice of Termination" before they can be released from a regional permit. Until that time, a water purveyor could be facing "double jeopardy" in the case of regulatory oversight. The permit does not include clear direction on these authorities. Additionally, these permittees would unfairly be paying additional permitting fees prior to their current permits having fully ended their tenure. **Recommendation: State that "The effective date for a water supplier to act under the State Board's Drinking Water Discharge Permit shall be the expiration date of their current discharge permit or the date of State Board's NOA whichever is later."**
15	13	II.H	TMDL Implementation	The reasoning for including TMDLs in the permit is largely unfounded and arbitrary. Until a specific wasteload application has been determined for these types of discharges they should not be prospectively included in this permit.
16	17	VII.C.	Receiving water limitations	Delete reference to trash. Water supplies do not contain trash. Water agencies should not be held responsible for removing other people's trash.

#	Page	Section	Topic	Comments
17	18	VIII.C.2.b.	Operating Personnel Training	The statement to train all personnel operating the system is broad. While training is important, the need and scope of training should be left to the agency. **Recommendation: Remove reference <u>all personnel</u> as follows:** The Discharger shall assure that quality assurance and quality control protocols <u>are</u> implemented to assure best management practices, monitoring and reporting are effective, valid and in compliance with this Order. The Discharger shall <u>be responsible for</u> training all <u>appropriate</u> personnel ~~operating the drinking water system and responding to emergency discharges~~ to assure the quality assurance and quality control protocol is properly implemented.
18	18	VIII.C.2.c	Planned discharges	The BMPs requested here are somewhat unclear and could lead to confusion as to implementation. **We suggest the following clarifying language:** **c. For planned discharges, the BMPs shall be implemented prior to and during any discharge. For planned but unscheduled or automated discharges from pressure relief valves, unchlorinated pump to waste wells, or <u>automatic continuous analyzers</u>, BMPs shall be implemented unless infeasible (e.g. inaccessible, inadequate space<u>) or unnecessary to protect water quality</u>. For emergency discharges, the BMPs shall be implemented as soon as feasible following assurance that <u>public health and</u> safety, property and infrastructure are protected.**
19	19	VIII.C.2.e	TMDL	In the event that the State specifically allocated TMDL waste loads to a permitee, the appropriate BMPs for TMDL waste load allocations would be assigned to a permittee. The impetus should not be placed on the permittee to determine the appropriate BMPS for the TMDL; there also may be no such BMP available. **Recommendation: Delete the provisions in subsection VIII.c.2.e**

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20	20	IX.B	Chlorine residual standards	There is a lack of clarity with regard to how compliance is determined where the effluent limits are set at levels lower than the Maximum Detection Limit (MDL) in the permit. This section attempts to provide clarity for compliance for this specific occurrence. This lack of clarity leaves a permittee exposed to being out of compliance regardless of the good intent of staff to clarify this existing potential for excursion from effluent limits. **Recommendation:** Provide compliance clarification in section IX.B as follows: **B. Total Residual Chlorine** Handheld chlorine measuring devices that are U.S. EPA-approved are appropriate to measure residual chlorine in the field for compliance determination. The MDL of a hand-held chlorine meter used to determine compliance with the total chlorine residual effluent limitations is 0.10 mg/L or lower. In some instances, effluent limitations in this permit are recognized to be lower than the available field equipment MDLs and permittees are not expected to demonstrate compliance with levels below the MDLs. Therefore, for total residual chlorine compliance determinations where the effluent limitations are set below the MDLs of available field equipment MDLs, the exceedance of maximum concentration limit would be a discharge monitoring result with a ~~total residual chlorine~~ concentration greater or equal to 0.10 mg/L ~~shall be deemed out of compliance with a chlorine effluent limitation~~. Due to other possible interferences of these handheld devices, if readings are false positives, these will not be evaluated for compliance if explanation of cause is provided.

#	Page	Section	Topic	Comments
21	B-2, B-3	B	NOI	NOI assumes that agencies will know what all or most of the planned discharges will be for the next five years. This is highly unlikely The notice of intent requires mapping of storm water alignments. Most water suppliers subject to this permit are not storm water agencies and do not have access to this information Agencies are not likely to have accurate information on locations of all receiving waters The NOI requires agencies to report whether they were able to have planned discharges to land. Planned discharges to land and other beneficial uses are not regulated by this permit, so the discharges remaining in the NOI will all be discharges to waters of US. Agencies will not know all of the planned discharges for the next five years at the time of the NOI The NOI requires estimated volume of discharge after treatment controls are implemented for Section K TMDLS. Special treatment controls are not required for TMDLS listed in Section K. **Recommendations:** **1. Request a list of planned discharges for next year as part of the annual report.** **2. Request a report on beneficial uses of drinking water discharges as part of the annual report instead of the NOI** **3. Delete reference to storm water mapping in the notice of intent** **4. Map should identify receiving waters to the extent that the information is reasonably available.** **5. Revise: a. Laboratory Analysis and estimated volume of your discharge. ~~after appropriate treatment or controls are implement for the constituent associated with the applicable waste load allocations(s) and/or TMDL related requirements~~**

#	Page	Section	Topic	Comments
22	C-1		BMPs	In Southern California many wells are located in river beds which are typically dry except in large storm events. The wells are designed to automatically flush to waste for a short period of time prior to the water entering the drinking water distribution system. Other flows may also discharge to ephemeral streams. The discharge then percolates back into the groundwater with no significant impact to the receiving water. The currently proposed BMP procedure is not practical or necessary to implement in this situation. The BMPs proposed do not remove salt and minerals from the water. Furthermore, it is not practical to remove these constituents in the field. **Recommendations: The following provision should be included in the permit:** **<u>Municipal groundwater wells or other flows that flush to an ephemeral stream may use natural percolation as an acceptable BMP</u>** **<u>The reference to salt and minerals should be removed from this section</u>**

#	Page	Section	Topic	Comments
23	C-2	Section C, II. A.iii.	Erosion Controls	…"Such controls shall minimize the energy of discharges by managing flow velocities and volumes, and shall be appropriately designed so that the discharge does not exceed the hydraulic capacity of the receiving water (emphasis added) at the point of discharge and areas downstream of the discharge point. This statement is confusing and arbitrary. The statement does not clearly define how a permittee would best design erosion control measures. **Recommended Revision:** **Such controls shall minimize the energy of discharges by managing flow velocities and volumes, and shall be appropriately designed so that the discharge does not exceed the hydraulic capacity of to the receiving water at the point of discharge and areas downstream of the discharge point**.
24	C-3	II C	Copper and Zinc Management	Copper is typically applied to raw waters in response to algae blooms and would be regulated under the State Board's *Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications*. Due to the intermittent nature of this treatment, it does not result in significant increases in copper concentrations in the treated water distribution system. This appears to try and address a problem that does not exist. Further regulation under this permit is not necessary. Copper is not added to the treated water system. **Recommendation: The reference to copper should be deleted from this section.**

#	Page	Section	Topic	Comments
25	C-3	F	Training and certification	The training requirement and certification requirements lack clarity. Operator certification is required and regulated under the Safe Drinking Water Act and should not be regulated as a discharge requirement. Contractors are typically required through their contract to comply with the terms of the permit. It is up to the contractor to ensure that their employees are trained. Water agencies will have inspectors on site to ensure conformance with the contract **Recommendation: Delete reference to certification requirements and limit training requirements to agency personnel only in this section**
26	D-1	D, Section 1.B.	Need to halt activity not a defense	The statement as written is not compatible and is actually counter to the referenced 40 Code of Federal Regulations Part 122.41(c) which is as follows: c)Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. Recommended Revision: B. Need to Halt or Reduce Activity Not a Defense It shall not be a violation of this Order for a Discharger in noncompliance to immediately halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order. (40 CFR 122.41(c).) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

#	Page	Section	Topic	Comments
27	E-3	II A	Monitoring of direct discharges to receiving waters	All direct discharges to receiving waters must be monitored regardless of flow. Some discharges may be so insignificant that no monitoring is needed. Other discharges, such as well flushing, may occur as a part of automatic operations where no one is present to sample. Continuous analyzers and other proper water quality sampling are critical to ensure high quality of water for customers. Monitoring of these discharges should be waived under this permit. **Recommendation: A minimum flow of 50,000 gallon/event/day should be established for required monitoring direct or indirect discharges. Routine direct discharges should be allowed based on representative monitoring. However, all discharges should require the use of appropriate BMPs.** **Representative monitoring should be allowed for automated discharges** **Monitoring should not be required for continuous discharges from analyzers and other water quality sampling**
28	E-3	II.B.1	Monitoring locations and sampling	**Recommendation: Clarify that the monitoring in this section applies to planned discharges**
29	E-4	Table E-1	Monitoring in last 10 minutes	Slow draining of large reservoirs may last many hours. Staff will set up the BMP, but may not be present during the entire draining of the reservoir and may not be able to collect a sample during the last ten minutes of the draining **Recommendation: Require a sample to be collected after sixty minutes, but as close to the end of the discharge to the extent feasible**

#	Page	Section	Topic	Comments
30	E-4	II E	Increased Monitoring	This allows the State Board or Executive Officer of the Regional Board to increase monitoring at any time to ensure the protection of the beneficial uses of the receiving water. This section provides no standard and establishes no criteria for increasing the monitoring. This could lead to arbitrary increases in monitoring, and inconsistency of approach throughout the state which would be contrary to the purpose of the permit. **Recommendation: Include criteria for determining when increased monitoring could be required such as changed circumstances, changes in standards, new information that was not available at the time the permit was adopted, or demonstrated threat to water quality.**
31	E-4	III, Table E-2	Monitoring frequency	**Recommendation: Clarify when 1/event monitoring is required and when 1/year monitoring is required**
32	E-4	III, Table E-2	pH and Turbidity Monitoring	The permit should take advantage of existing monitoring for compliance with the Safe Drinking Water Act and avoid duplicate monitoring. **Recommendation: Add a footnote to Table E-2 that would allow water systems the option of using existing WTP effluent monitoring data in lieu performing field measurements for pH and turbidity for situations where the pH is not expected to be changed significantly by the dechlorination agent or when field measurements for turbidity are not feasible or practical.**
33	E-4	III, Table E-2, Footnote 3	Turbidity Monitoring	**Recommendation: Clarify what "feasible" means in the context of monitoring for turbidity.**
34	E-4	III, Table E-2, Footnote 4	Monitoring Frequency	**Recommendation: Delete or clarify the statement "Each discharge event that requires monitoring shall be monitored once per year".**

#	Page	Section	Topic	Comments
35	E-5	IV	Documentation of receiving water conditions	It is not clear what would be gained by using telephoto lenses and binoculars or if this approach would be practical. In addition operators may be challenged to complete the necessary repairs and at the same time stop their work to take photographs. The actual water quality data and documentation of observations should be adequate. This level of documentation is excessive considering that the discharge is water supply and not sewage.
36	E-5	V	Notification	This section requires post-notification of the Office of Emergency Services (OES) for any discharge that **may** adversely impact beneficial uses. The notification of OES should be reserved for serious emergencies which require follow-up action and should be limited to any discharge that has an actual immediate impact on beneficial uses. This notification is described on page E-6, Section VII **Recommendation: Delete requirement to notify OES for any violation that may impact beneficial uses. Retain the requirement to notify the Regional Board within five days**
37	E-6	VII	Notification	Any toxic chemical release data must be reported to the State Emergency Response Commission. It is not clear how this requirement relates to relates to this discharge permit. **Recommendation: Delete this requirement**
38	F-4	II	Permit coverage	**Recommendation: Delete reference to algaecides since this is covered under a separate permit. Revise drinking water, potable and raw water definitions.**
39	F-5	II B.3	Definition of superchlorination	**Recommendation: The description of super chlorinated water should be consistent with AWWA standards for disinfection of water mains**
40	F-9	Table F-1	Discharge categories	**Recommendation: Delete reference to monitoring wells since these are not a part of a public water system.**

#	Page	Section	Topic	Comments
41	F-49 - 52	30	TMDL Descriptions for the San Diego Region	The language in the permit is inconsistent with the TMDLs in the San Diego Region. It is also inaccurate to state that unidentified point sources have a waste load allocation of zero and that discharges are not allowed. A zero waste load allocation for bacteria or nitrogen is effectively a prohibition on all raw water discharges and flushing that may be required to maintain water quality in the potable water distribution system for the San Diego Region and any discharge to Rainbow Creek. In addition, the copper, zine and lead standards for discharges to Chollas Creek cannot be met in the potable water supply and will act as a prohibition of discharges to Chollas Creek. These discharge prohibitions will interfere with water agencies ability to provide safe drinking water to customers. **Recommendation: See attached recommended edits to Section K to address inconsistencies with the San Diego TMDLs, acknowledge the lack of significant impact of drinking water discharges on water quality and the inability to meet zero discharge allocations, and allow water suppliers to maintain health and safety without violating TMDLs**
42	A-3	Section A	NPDES Definition	**National Pollutant Discharge Elimination System (NPDES)** The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act (CWA) Sections ~~§~~307, 402, 318, and 405.

Attachment No. 2-Revisions to Appendix F, Section K

San Diego Regional Board TMDLs

The following is a listing of TMDLs in the San Diego region that have waste load allocation for general NPDES discharge categories, followed by a general description. Further information on the listed TMDLs can be found at the following website:

http://www.waterboards.ca.gov/sandiego/water_issues/programs/tmdls/index.shtml

28. Total Maximum Daily Load for Metals in Chollas Creek

Chollas Creek was placed on the Clean Water Act (CWA) section 303(d) List of Water Quality Limited Segments (List of Water Quality Limited Segments) in 1996 for the metals copper, lead, and zinc. Storm water samples from Chollas Creek collected between 1994 and 2003 periodically exceeded California Toxics Rule (CTR) water quality criteria for copper, lead, and zinc, dissolved copper, lead and zinc concentrations in Chollas Creek violate numeric water quality criteria for copper, lead, and zinc promulgated in the California Toxics Rule, and the narrative objective for toxicity. Concentrations of these metals in Chollas Creek threaten and impair the designated beneficial uses of warm freshwater habitat (WARM), and wildlife habitat (WILD). For Chollas Creek, essentially all metals sources (point and nonpoint) are discharged through municipal separate storm sewer systems (MS4) that are regulated under waste discharge requirements (WDRs), NPDES Permit. The point source discharges that could affect Chollas Creek are the MS4 discharges, storm water discharges from industrial sites, and discharges of extracted groundwater. All point source discharges to Chollas Creek will be required to achieve this WLA.

This TMDL establishes concentration-based WLAs set equal to 90 percent of the numeric water quality objectives for copper, lead, and zinc, as defined in the California Toxics Rule. Because the concentration of these metals resulting in toxic effects varies significantly with hardness, the resulting WLAs are hardness dependent.

Drinking water discharges may contain low levels of copper, lead or zinc. If implemented in compliance with this permit, these discharges are not expected to significantly impact TMDL compliance. There are currently no effective BMPs to reasonably remove lead, copper and zinc in the field. Drinking water discharges are necessary to protect public health and safety and are allowed subject to the conditions in this permit.

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TMDL Water body	Pollutant
Chollas Creek	Copper
Chollas Creek	Lead
Chollas Creek	Zinc

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29. Total Maximum Daily Load for Total Nitrogen and Total Phosphorus in Rainbow Creek

Nitrate, total nitrogen, and total phosphorus concentrations in Rainbow Creekexceed the inorganic chemicals nitrate and biostimulatory substances water quality objectives. These exceedances threaten to unreasonably impair the municipal supply (MUN), warm freshwater habitat (WARM), cold freshwater habitat (COLD), and wildlife habitat (WILD) beneficial uses of Rainbow Creek. Excessive nutrient levels in Rainbow Creek promote the growth of algae in localized areas, creating a nuisance condition, that unreasonably interferes with aesthetics and contact and non-contact water recreation (REC1, REC2) and threatens to impair WARM, COLD and WILD beneficial uses. State highways, agricultural fields and orchards,

commercial nurseries, residential and urban areas, and septic tank disposal systems contribute to increased nutrient levels in Rainbow Creek as a result of storm water runoff, irrigation return flows, and ground water contributions to the creek.

WLAs for the discharge of total nitrogen and total phosphorus into Rainbow Creek were established. Identified dischargers of total nitrogen and total phosphorus loading include Caltrans, County of San Diego, commercial nurseries, agricultural fields, orchards, parts, residential areas, urban areas, septic tank disposal systems, air deposition and ~~nonpoint sources~~caltrans highway runoff. The TMDL ~~provides~~reserves WLAs of 2 percent of the total annual TMDL for both total nitrogen and total phosphorus for ~~additional~~unidentiifed and future point sources. This includes 33 Kg/year of nitrogen and 3 Kg/year of phosphorus.~~, however t~~The current TMDL Implementation Action Plan does not provide for the assignment of WLAs to unidentified point source discharges.~~, effectively resulting in the prohibition of discharges of total nitrogen and total phosphorus into Rainbow Creek~~ Drinking water discharges are expected to contain nitrogen and phosphorus. If implemented in compliance with this permit, these discharges are not expected to significantly impact TMDL compliance. There are currently no effective BMPs to reasonably remove nitrogen and phosphorus in the field. Drinking water discharges are necessary to protect public health and safety and allowed subject to the conditions in this permit.

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TMDL Waterbody

Rainbow Creek Rainbow Creek

Type of Pollutant

Total Nitrogen

Total Phosphorus

30. Total Maximum Daily Load Indicator Bacteria in Twenty Beaches and Creeks in the San Diego Region for Direct Discharges Only

Bacteria densities in the Pacific Ocean at various beach and coastal creek mouth segments (referred to hereafter as “beaches”) exceed water quality objectives (WQOs) for indicator bacteria. Bacteria densities in ocean water at these beaches unreason ably impair and threaten to impair the water quality needed to support the contact water recreation (REC-1) designated beneficial use. Bacteria densities in the waters ~~of Aliso Creek, San Juan Creek, Tecolote Creek, Forrester Creek, the (lower) San Diego River, and Chollas Creek exceed WQOs~~shown in the table below for indicator bacteria (Total Coliform). ~~B~~Bacteria densities in these creeks have unreasonably impaired and threatened to impair the water quality needed to support REC-1. The federal Clean Water Act requires the establishment of Total Maximum Daily Loads (TMDLs) for pollutants that exceed the WQOs needed to support designated beneficial uses, i.e., that cause or contribute to exceedances of state “water quality standards”.

Waste load allocations were assigned to identified significant and controllable discharges from MS4s, Caltrans, agriculture. A waste load allocation was assigned to open space that was considered uncontrollable. Although drinking water discharges were permitted by the Regional Board at the time the TMDL was adopted, no waste load allocation was assigned to drinking water discharges. Unidentified point sources have not been assigned WLAs, which is equivalent to being assigned a WLA of zero. No discharges of bacteria are expected or allowed from unidentified point sources under the dry or wet weather TMDLs. Although potable water would not normally contain coliform bacteria, drinking water discharges may contain coliform bacteria when flushing or when discharging from raw water sources. The presence of coliform bacteria in these discharges is not reasonably controllable. When implemented in compliance with this permit, these discharges are not expected to have a significant impact on compliance with the TMDL. These discharges are critical to protect health and safety and to properly operate the drinking water system and are allowed subject to the conditions of this permit.

~~TMDL Water Body~~	~~Pollutant~~
~~San Joaquin Hills Hydrologic Subarea & Laguna Hills Hydrologic Subarea~~	~~Total Coliform~~
~~Aliso Hydrologic Subarea~~	~~Total Coliform~~
~~Dana Point Hydrologic Subarea~~	~~Total Coliform~~
~~Lower San Juan Hydrologic Subarea~~	~~Total Coliform~~
~~San Clemente Hydrologic Subarea~~	~~Total Coliform~~
~~San Luis Rey Hydrologic Unit~~	~~Total Coliform~~
~~San Marcos Hydrologic Area~~	~~Total Coliform~~
~~San Deiguito Hydrologic Unit~~	~~Total Coliform~~
~~Miramar Reservoir Hydrologic Area~~	~~Total Coliform~~
~~Scripps Hydrologic Area~~	~~Total Coliform~~
~~Tecolote Hydrologic Area~~	~~Total Coliform~~
~~Mission San Diego Hydrologic Subarea & Santee Hydrologic Subarea~~	~~Total Coliform~~
~~Chollas Hydrologic Subarea~~	~~Total Coliform~~

Water Bodies Subject to the Total Coliform TMDL

Watershed	Type of Listing	Waterbody Name [a,c]	Number of Listings
San Joaquin Hills HSA (901.11)/ Laguna Beach HSA (901.12)	Shoreline	Pacific Ocean Shoreline, San Joaquin Hills HSA [b]	2
	Shoreline	Pacific Ocean Shoreline, Laguna Beach HSA [b]	
Aliso HSA (901.13)	Creek	Aliso Creek	3
	Estuary	Aliso Creek (mouth)	
	Shoreline	Pacific Ocean Shoreline, Aliso HSA [b]	
Dana Point HSA (901.14)	Shoreline	Pacific Ocean Shoreline, Dana Point HSA [b]	1
Lower San Juan HSA (901.27)	Creek	San Juan Creek	3
	Estuary	San Juan Creek (mouth)	
	Shoreline	Pacific Ocean Shoreline, Lower San Juan HSA [b]	
San Clemente HA (901.30)	Shoreline	Pacific Ocean Shoreline, San Clemente HA [b]	1
San Luis Rey HU (903.00)	Shoreline	Pacific Ocean Shoreline, San Luis Rey HU [b]	1
San Marcos HA (904.50)	Shoreline	Pacific Ocean Shoreline, San Marcos HA [b]	1
San Dieguito HU (905.00)	Shoreline	Pacific Ocean Shoreline, San Dieguito HU [b]	1
Miramar Reservoir HA (906.10)	Shoreline	Pacific Ocean Shoreline, Miramar Reservoir HA [b]	1
Scripps HA (906.30)	Shoreline	Pacific Ocean Shoreline, Scripps HA [b]	1
Tecolote HA (906.50)	Creek	Tecolote Creek	1
Mission San Diego HSA (907.11)/ Santee HSA (907.12)	Creek	Forester Creek	3
	Creek	San Diego River (Lower)	
	Shoreline	Pacific Ocean Shoreline, San Diego HU [b]	
Chollas HSA (908.22)	Creek	Chollas Creek.	1
Total Number of Listings on 2002 303(d) List in Revised Bacteria TMDLs Project I			20