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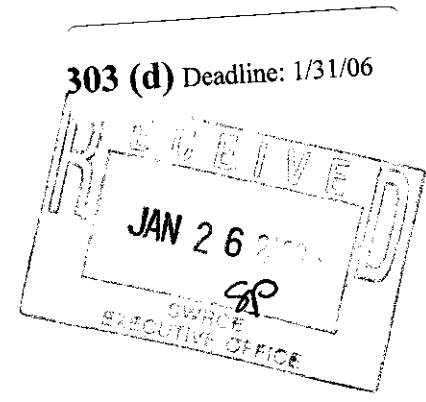
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January 24, 2006

Ms. Tam M. Doduc, Chair  
 State Water Resources Control Board  
 P.O. Box 100  
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*Comments of the Fallbrook Public Utility District on the 2006 Section 303(d) list of impaired water segments.*

Honorable Chair and Board Members:

The Fallbrook Public Utility District ("District") has reviewed the proposed listing of impaired water segments in the Santa Margarita River basin and believes that many of the segments proposed for listing or re-listing are flawed, weak and in some cases, based on very limited data and resulted from a similarly flawed process that has major public policy ramifications.

The specific segments and pollutants of concern to the District are:

<u>Segment</u>	<u>Pollutant</u>			
	<u>Iron</u>	<u>Manganese</u>	<u>Nitrogen</u>	<u>Phosphorous</u>
De Luz	X	X		
Murrieta	X	X	X	
Rainbow	X		TMDL <sup>1</sup>	TMDL <sup>1</sup>
Sandia	X	X	X	X
Temecula			X	X
Tecolote				X

The geology of the Santa Margarita basin differs markedly from the rest of San Diego County and is similar to the Santa Ana basin adjacent to the north. As a result, the groundwater, which provides the base flows to these streams, upwells from geothermically active formations with several hot and warm springs, the most well known being Murrieta Hot Springs. Additionally, iron was mined historically on Batchelor Mountain and both

<sup>1</sup> The District believes the record for the Rainbow Creek TMDL provides ample evidence that the basis of this process is flawed and requires re-examination.

iron and manganese are abundant in the local formations and groundwater. The Temecula Aquifer contains two million acre-feet of water with a background of 2.0 mg/l of phosphorous; the cookie-cutter methodology of applying the 10:1 N/P ratio arguably could result in objectives of 20 and 2. By way of comparison, the Santa Ana Basin Plan Standards of 10 and 2 are considered protective.

We believe that the critical failure in the Clean Water Act process was not acknowledging what the natural background levels in the real world were when the Basin Plan objectives were established. The Board should remand these proposals with direction to the Regional Board to study and determine accurate background levels and incorporate them into the Basin Plan. The Rainbow Creek TMDL represents a perfect completed picture of the public policy consequences. The tens of millions of dollars that the implementation of this TDML will cost will not result in "restoring" Rainbow Creek to a condition it was never in. Instead, it will result in no measurable improvement to the aesthetic uses for which this TMDL strives to "correct." The fact is that water, sunlight and air result in the growth of algae, even in areas untouched by human discharges. This background situation should be taken into account and, thus far, has not.

Some of the data sets in evidence for these listing consistent of a single grab sample.<sup>2</sup> Moreover, for many of these constituents, there are no numeric water quality objectives and no specific translation methodology as required under 40 C.F.R. §131.11.

Listings based on nutrients are particularly troubling because in addition to the limited data sets and the unrealistic "goals," no actual impairment has been observed or documented. This is flimsy scaffolding indeed to scale up to TMDLs, and brings into question the foundation of this important and costly regulatory program. What in Rainbow Creek represents an apparent mistake of a "mere" \$20-30 million, becomes orders of magnitude larger in Temecula and Murrieta Creeks.

<sup>2</sup> For example, the proposed listing of Murrieta Creek for iron, manganese, and nitrogen was one grab sample dated June 9, 1998. At this time, the only flow was from Rancho California's demonstration discharge of tertiary wastewater, which is no longer present in the watershed. It is not clear that this sample violated the objectives, which required that the values for "concentration not be exceeded more than 10% of the time during any one year period." See Basin Plan at Pg. 3-22, Table 3-2. There is not enough data to make this determination and, therefore, this listing fails to clear the regulatory hurdle required for such a listing.

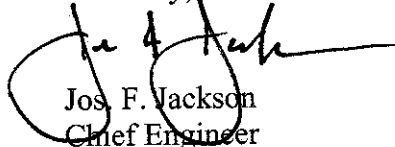
The gist of the District's objection to these segments is two-fold:

- A. The Santa Margarita Basin should have similar realistic standards for the nutrients nitrogen and phosphorous as does the adjacent Santa Ana Basin, and
- B. Naturally occurring levels of the metals iron and manganese<sup>3</sup> should not be a reason for listing as impairing the beneficial use of domestic water supply<sup>4</sup>. Water supply can and must be treated to remove these elements.

The resources needed to move forward with these segments to the TMDL stage are very large. The TMDL costs will be beyond reach. The only escape as these listings move ahead is a site-specific objective. This is all in a quest to achieve unattainable goals. These segments should be remanded to the Regional Board with specific direction to establish real background levels and reflect these levels in the Basin Plan.

Thank you for your attention to this matter.

Sincerely,



Jos. F. Jackson  
Chief Engineer

<sup>3</sup> A chronic aquatic life criterion does not exist for manganese because EPA has determined that "manganese is not considered to be a problem in fresh waters" and that "manganese is rarely seen at concentrations greater than 1 mg/L." See EPA Water Quality Criteria Guidance (1986). Since the time of the EPA criteria guidance, EPA has made a further determination that manganese need not be regulated in public drinking water systems because manganese is an essential nutrient and 2.6% of the population (at that time) were exposed to levels at or above 0.3 mg/L, which is below the average dietary intake. EPA, Health Effects Support Document at 9-11 (2003). Because EPA does not believe manganese is worthy of regulation, the District requests that the Regional Water Board remove the manganese water quality objectives from the Basin Plan as well as the corresponding 303(d) listings as unnecessary to protect beneficial uses.

<sup>4</sup> Table 3-2 of the Basin Plan contains dissolved water quality objectives for iron (0.3 mg/l) and manganese (0.05 mg/l), applicable to the waters of the Santa Margarita Watershed. These numbers reflect the secondary maximum contaminant level (MCL) values for iron (300 µg/l) and manganese (50 µg/l). These MCL values are redundant with the Basin Plan objectives, derived from the same scientific information, and intended to provide the same protection to water supply customers (i.e., avoidance of discoloration in laundry and plumbing fixtures), and are not based on human health protection.