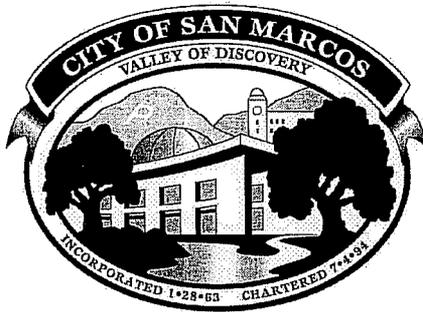

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October 26, 2009

Ms. Cynthia Gorham – Test
California Regional Water Quality Control Board
San Diego Region
9174 Sky park Court , Suite 100
San Diego, CA 92123-4340

SUBMITTED VIA E-MAIL TO: CTest@waterboards.ca.gov

RE: Recommendations for Changes to the Clean Water Act Sections 305(B) and 303(D) Integrated Report For the San Diego Region – San Marcos Creek Sediment Toxicity Listing Decision ID 6757 – Request to Delist – Impairment Listing is Flawed

Water Body Name: San Marcos Creek
Water Body ID: CAR9045100020011025132925
Water Body Type: River & Stream

Dear Ms. Gorham – Test:

The City of San Marcos has reviewed the lines of evidence for the sediment toxicity listing for San Marcos Creek. The sediment toxicity data from the San Marcos Creek SWAMP data do not support a 303(d) listing based on the sediment toxicity lines of evidence (LOE) 3208 and 3209.

- **Lines of Evidence Should Not be Combined for Entire Reach of San Marcos Creek**

These two LOEs are from two distinctly different reaches of San Marcos Creek which are geographically separate and hydrologically separate due to the impoundment of Lake San Marcos. The part of San Marcos Creek upstream of Lake San Marcos is different in character than the portion downstream of the lake due to the effect of the lake and that therefore the two segments (upstream and downstream of the lake) should be evaluated separately. LOE 3208 from SWAMP data location 904CBSAM3 is above Lake San Marcos. LOE 3209 from SWAMP data location 904CBSAM6 is below Lake San Marcos near La Costa, Carlsbad.

- **Only Two Lines of Evidence for Sediment Toxicity**

LOEs 3208 and 3209 are **the only LOEs provided for the sediment toxicity listing**. Lines of evidence (LOE) 3204 – 3207, 26446, and 27029 are all bioassessment studies that did not evaluate sediment toxicity. LOE 21385 is water toxicity data from the same SWAMP study, which is not relevant to sediment toxicity. **Since the other LOEs do not include sediment toxicity data, they do not support a sediment toxicity 303(d) listing.**

- **Lines of Evidence 3208 and 3209 – Data is Non compliant with QAPP/Fact Sheet Incorrect**

LOEs 3208 and 3209 are sediment toxicity data collected by the State's SWAMP program during 2002 at two sites: 904CBSAM3 and 904CBSAM6. The former site is located in San Marcos Creek upstream of Lake San Marcos, and the latter site is located at the downstream end of San Marcos Creek close to the La Costa development in the City of Carlsbad.

Four sediment samples were taken and analyzed for sediment toxicity at each of these sites. Sampling dates were 3/12/2002, 4/23/2002, 6/4/2002, and 9/18/2002. The data for the upper san Marcos Creel location and La Costa should NOT be combined for the single listing based on the effect of Lake San Marcos. The fact sheet for the proposed 303(d) listing states that **only one of the four samples did not meet associated QAPP standard; this appears to be incorrect.**

- **Two of the four tests at each of these sites are flagged as “non-compliant with associated QAPP”**

(see attached data file, obtained from: http://bdat.ca.gov/Php/Data_Retrieval/data_retrieval.php).

For LOE 3208: Data shows two out of the four samples were non-compliant with the QAPP and of those two QAPP compliant data, only one data sample showed toxicity. **Per the approved listing policy, one exceedance out of two samples is not sufficient evidence to list a site for toxicity.**

For LOE 3209: Data shows two out of the four samples were non-compliant with the QAPP and of those two QAPP compliant data, only one data sample showed toxicity. **Per the approved listing policy, one exceedance out of two samples is not sufficient evidence to list a site for toxicity.**

The City of San Marcos appreciates the opportunity to provide comments
Sincerely,



Erica Ryan
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Stormwater Program Manager
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