

RANCHO MISSION VIEJO

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

Reference: Clean Water Act Section 305(B) Integrated Report and Clean Water Act
Section 303(D) List

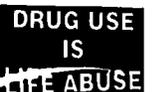
Subject: Rancho Mission Viejo Comments

Dear Ms. Gorham-Test:

Thank you for providing Rancho Mission Viejo (RMV) with the opportunity to review and comment on the Clean Water Act Section 305(B) Integrated Report and proposed changes to the Section 303(D) list of impaired waters. RMV is located in Southern Orange County, California. The Ranch is bound by the existing communities of Rancho Santa Margarita, Mission Viejo, San Juan Capistrano and the undeveloped Cleveland National Forest and MCB Camp Pendleton. Portions of San Juan Creek, Cristianitos Creek and the Arroyo Trabuco (to name just a few of our water resources) run through RMV lands. Since 1882, the O'Neill family has been a responsible steward of the Ranch. We have, and continue to actively manage the Ranch to protect the resources on it, including water quality. We intend to continue this tradition of stewardship into the future.

Background

Over the past several years, RMV in cooperation with the County, U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) has undertaken three coordinated watershed-level planning efforts to determine the future land uses for south Orange County. These planning processes have resulted in approval of the Ranch Plan by the County, the San Juan Watershed/Western San Mateo Watershed Special Area Management Plan (SAMP) by the USACE, the Southern Subregion Habitat Conservation Plan (SSHCP) by USFWS and a Master Streambed Alteration Agreement (MSAA) for the Ranch Plan by CDFG.



To support water quality, geomorphic, and habitat goals of the Ranch Plan, SAMP and SSHCP planning processes, RMV developed a comprehensive Water Quality Management Plan (WQMP) that addresses:

- pollutants and conditions of concern through consideration of the existing hydrologic/geomorphic conditions of the RMV watersheds and sub-watersheds,
- pre- and post project flow duration modeling to address hydromodification, and
- pollutant loading modeling.

This WQMP was the first of five levels of WQMP preparation. These levels include the Conceptual WQMP (the Long-Range Regional Water Quality Approach), the Draft and Final Master Area Plan WQMP (for each development Planning Area), the Sub-Area Plan WQMP (for portions of each development Planning Area), and the final Project Specific WQMP (for individual tracts). The Conceptual WQMP set the framework for the future levels of WQMP preparation and identified the site design, source control, treatment control, and hydromodification control WQMP elements that will be implemented for each sub-basin within the RMV Ranch Plan. We believe, as do the participating Federal, state and local agencies, that implementation of the Ranch Plan, SSHCP, SAMP and MSAA and the associated Conceptual WQMP is key to protection of water quality and water bodies in the San Juan Creek and San Mateo watersheds

General Comments

- (1) The Regional Board should consider existing planning programs such as the SAMP, HCP, MSAA and technical plans such as the WQMP in determining whether to make changes to the 303(d) list.
- (2) The data sets offered by the Regional Board in support of the proposed additions to the 303(d) list are not robust (i.e., too few samples) and in some cases may not represent the current conditions due to the age of the data. The Regional Board should develop more current and extensive data sets before making changes to the 303(d) list.

Specific Comments

- (1) Diazinon

The Regional Board proposes to add a 23-mile section of the Arroyo Trabuco and a 1-mile section of San Juan Creek to the 303(d) list for diazinon. As the Regional Board is undoubtedly aware, EPA banned the use of this substance in 2004. The samples taken in the Arroyo Trabuco are ten years old and thus do not represent the current conditions of the Arroyo Trabuco or the best scientific data available. Similar to the Arroyo Trabuco, the early (1999/2000) San Juan Creek data show exceedances, but samples taken in 2003/2004 do not. It is reasonable to postulate that the 2004 ban of diazinon has had some effect on the concentrations of this substance during the last five years. The Regional Board should take new samples to determine current conditions in both the

Arroyo Trabuco and San Juan Creek before acting on any proposal to add these two creek sections to the 303(d) list for diazinon. Furthermore, the Regional Board should consider the value in expending the time, money and effort to develop a TMDL for a substance that has already been banned.

(2) Phosphorus

In the Arroyo Trabuco, according to the data presented by the Regional Board, 9 of 9 wet weather samples taken Dec 2002 to March 2006 exceeded phosphorous WQO of 0.1 mg/L. Depending on the intensity of storms sampled these samples may not be representative of all wet weather events. Please comment on the likelihood of these samples being representative of all wet weather events.

In both cases only 9 samples were taken over the course of 4 years, averaging 2 samples a year. We question whether the Regional Board has collected sufficient data to accurately characterize the concentrations of phosphorous in the Arroyo Trabuco. We recommend additional samples be taken to improve the quality and quantity of available data before the Regional Board acts on any proposal to add the Arroyo Trabuco to the 303(d) list for phosphorous.

(3) Total Nitrogen as N

The data presented by the Regional Board for Total Nitrogen as N notes that eight of nine flow-weighted event mean concentrations in the Arroyo Trabuco exceeded the water quality objective of 1.0 mg/L according to results in the Orange County Stormwater Program annual progress reports. Samples were collected nine times from December 2002 to March 2006. Does the Regional Board have additional data such as evidence of problems with nutrients, like algal blooms?

We note that urban runoff is not a significant source of total nitrogen.

(4) Toxicity

Regarding toxicity, the Regional Board data notes that 6 of 14 samples taken between 1998 and 2005 exceeded toxicity standards in the Arroyo Trabuco. Has the Regional Board considered the possibility that there is a relationship between the toxicity exceedances and diazinon, i.e., that the presence of diazinon in the water column affected the toxicity results? Please comment on this possibility.

(5) Selenium

The Regional Board data for San Juan Creek shows that 2 of 4 samples taken in 2002 and 2003 showed 'excessive' Selenium concentrations. This is a very small sample size taken in a single location [San Juan Creek station (901SJSJC9)]. As the Regional Board is

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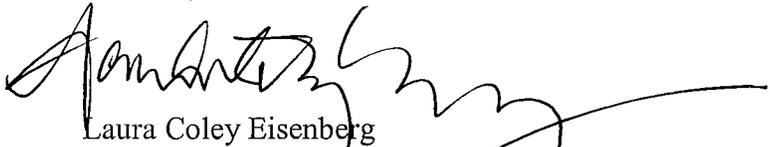
aware, selenium naturally occurs in certain geologic formations, thus it is possible that the cause of the “excessive” sampling result in San Juan Creek is from naturally occurring selenium. It is also possible that a specific hydrologic event in San Juan Creek, such as a significantly sized storm caused the “excessive” result and represents a hot spot as opposed to being representative of the section of San Juan Creek the Regional Board is proposing to add to the 303(d).

We are also aware of studies which document that the CTR level for selenium of 5 ug/L is in fact too low and there is evidence that in some geographic areas aquatic life is not harmed by higher levels of selenium than the CTR allows (see for example – Orange County Nitrogen Selenium Management Program www.ocnsmp.com)

RMV is very concerned that the Regional Board proposes to use only two sample results of “excessive” selenium to support the proposed addition of this section of San Juan to the 303(d) list. We recommend that the Regional Board: 1) develop a much more robust data set before acting to add this section of San Juan Creek to the 303(d) list for selenium, 2) define what “excessive” is and 3) provide evidence to support a causal link between levels of selenium and the existing health of aquatic life in San Juan Creek.

Thank you again for the opportunity to comment on the Integrated Report and proposed changes to the 303(d) list. Should you have any questions or wish to discuss our comments, please feel free to contact me at (949) 240-3363 Ext 297.

Sincerely,



Laura Coley Eisenberg
Vice President, Open Space & Resource Management

Cc: Richard Broming, RMV