

June 18, 2010

VIA ELECTRONIC MAIL
AND OVERNIGHT MAIL

Mr. Man Voong
California Regional Water Quality Control Board
Los Angeles, Region 9
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: Update on CEQA Comments on Proposed Amendment to the Water Quality Control Plan to Incorporate TMDLs for Bacteria in the Los Angeles River

Dear Mr. Voong:

As you know, on June 4, 2010, we submitted Comments on behalf of the Cities of Arcadia, Bellflower, Carson, Cerritos, Claremont, Commerce, Downey, Duarte, Glendora, Hawaiian Gardens, Irwindale, Lawndale, Lynwood, Monterey Park, Paramount, Santa Fe Springs, Signal Hill, Vernon, and Whittier ("Cities"), regarding the proposed Basin Plan Amendment to Incorporate Total Maximum Daily Loads ("TMDLs") for Bacteria for the Los Angeles River Watershed ("Project").

Just as of the time of the close of comments on the Substitute Environmental Documents ("SED") for the Project, the Bay Area Air Quality Management District's ("BAAQMD") newly adopted California Environmental Quality Act ("CEQA") Guidelines for the analysis of air quality impacts ("Guidelines") became available.¹ For the first time, these Guidelines include guidance on the analysis of potentially significant impacts for greenhouse gases ("GHGs"). These Guidelines underscore the comments previously submitted by the Cities regarding the deficiencies of the SED's analysis of GHG emissions from the TMDL Project. The Cities wish to bring the Guidelines to the Regional Board's attention at this time for its consideration of the certification of the SED and approval of the Project, so that it can be informed as to how an adequate GHG analysis is to be conducted.

Specifically, the new Guidelines provide two standards for GHG emissions for development projects: (i) Overall amount of emissions emitted by a project – 1,100 metric tons carbon dioxide equivalent a year;² or (ii) An efficiency standard that measures the average

¹ The Draft Guidelines are available at http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/Draft_BAAQMD_CEQA_Guidelines_May_2010_Final.ashx.

² The SED provides that the Project will result in 4,500 metric tons of carbon dioxide equivalent a year, and this amount does not include all sources of the Project's GHGs.

Mr. Man Voong
June 18, 2010
Page 2

amount of emissions for each resident and employee from the project – 4.6 metric tons per resident/employee per year. Alternatively, at the plan level, the CEQA analysis can be based on consistency with a climate action plan or a qualified GHG Reduction Strategy. (BAAQMD Guidelines 2-2, 2-7, 2-8.)

As for regional plans, such plans must demonstrate a no net increase in emissions to satisfy the threshold of significance for operational-related GHGs. In order to meet this threshold, agencies must compare the regional plan's baseline emissions with its projected future emissions, which requires two comparative analyses: (i) Compare existing (base year) emissions with projected "future year plus project" emissions (base year/project comparison); and (ii) Compare projected future year emissions without the project with future year emissions plus the project (no project/project comparison). A regional plan is considered less than significant if each scenario demonstrates that no net increase in emissions of GHGs will occur. (*Id.* 9-8.)

The Regional Board has conducted none of the analysis suggested in the Guidelines to present an adequate GHG analysis for the Project. Although the Regional Board is not required to use the above standards, the Board has failed to provide *any* analysis or reveal *any* threshold of significance that was applied with regard to the GHG emissions of the Project. Thus, we urge the Regional Board to reevaluate the GHG impacts of the Project, along with the other issues raised in our previous Comments, and to recirculate the SED prior to considering the Project for approval. We ask that this Comment letter be included in the Administrative Record for this matter.

Thank you for your consideration of this letter, and please contact this office should you have any questions or need anything further in this regard.

Sincerely,

RUTAN & TUCKER, LLP



Richard Montevideo

RM:clc

cc: Mr. Kenneth C. Farfsing
Robert Bower, Esq.
Peter J. Howell, Esq.