CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Environmental Services Department
DIRECTOR'S OFFICE

Submitted via email and hard copy on April 12, 2010

April 12, 2010

Ms. Jan O'Hara
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Proposed Amendments to the Water Quality Control Plan for the San Francisco Bay Basin – *Addition of Surface Water Bodies and Beneficial Uses*

Dear Ms O'Hara:

The City of San José is submitting comments regarding the proposed amendments to the Basin Plan adding beneficial use designations for several water bodies in the San Francisco Bay Area. The City is a member agency in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) and agrees with and incorporates their comments by reference. Specifically, we support designating beneficial uses by water body segment, and oppose designating beneficial uses without sufficient supporting evidence. Moreover, there are clarifications in water body naming conventions that must be made in order for the recommended beneficial use designations to be valid.

The City is supportive of the Water Board's efforts to designate beneficial uses where appropriate and needed. However, we believe some of the recommended designations are in error or are not supported by appropriate evidence. In addition to our support of comments submitted by SCVURPPP, we would like to draw particular attention to designations proposed for Ross Creek, Canoas Creek, and "Mallard Slough."

Specific Comments and Recommendations:

Ross Creek – We support the proposed Beneficial Use Designations for the Guadalupe River; however, Ross Creek is primarily an earthen trapezoidal flood control channel, much like Canoas Creek. There is no opportunity for migration, nor is there a flow that would support a COLD beneficial use. Moreover, the report cited in the Staff Report did not state that Ross Creek would or could support cold water species. This proposed designation should be deleted.

Canoas Creek – Canoas Creek is an engineered flood control channel, similar to Ross Creek, terminated on the upstream end by a storm drain outfall. No opportunity exists in this creek for cold water habitat or migration to such habitat. Information cited in the Staff Report did not suggest that this use was supported in Canoas Creek. This proposed designation should be deleted.

Mallard Slough – There is confusion on the naming of various sloughs in the Lower South San Francisco Bay near the area of the San Jose/Santa Clara Water Pollution Control Plant (Plant). This

confusion should be rectified before designation of beneficial uses. The channel into which the Plant discharges has for many years been referred to as Artesian Slough. This has been carried through in various legal documents including NPDES permits for the Plant's discharge. Maps produced by the San Francisco Estuary Institute (SFEI) and the Oakland Museum of California refer to this slough as "Mallard Slough," and depict Artesian Slough as an historic slough occupying similar but not identical space in the marsh ("Creek and Watershed Map of Milpitas & North San Jose, 2005," and "Baylands & Creeks of South San Francisco Bay, 2005"). The map attached to the Staff Report as Appendix B depicts Mallard Slough as neither of these, but as the channel now designed as a bypass for Coyote Creek whose connection to the creek is regulated by a gate that is operated by the Santa Clara Valley Water District for management of a restoration area downstream.

The designation for "Mallard Slough" (page 266) describes it as "receiving an NPDES-permitted discharge: San Jose/Santa Clara Water Pollution Control Plant," which would imply that Artesian and Mallard are one and the same. However, it is listed as MIGR beneficial use for steelhead migration to Coyote Creek and presumptive REC-1, neither of which would be accurate or appropriate.

The Appendix B map seems to indicate that the small bypass channel along the northern edge of Pond A18 is Mallard Slough. REC-1 is still not appropriate and REC-2 is questionable for much of this slough since there is no public access and it is far too shallow for boat access from Coyote. Also, if Mallard and Artesian are not the same stretch, then the reference to the SJ/SC WPCP should be removed from the beneficial use table.

Until these discrepancies can be resolved, beneficial uses should not be designated for these tributaries to Coyote Creek.

We appreciate the opportunity to comment on these proposed designations and look forward to working with Water Board Staff to develop clear, well supported beneficial use designations.

Please contact James Downing at (408) 277-2765 if you have questions about these comments.

Sincerely,

John Stufflebean
Director, Environmental Services
City of San José

cc: Bruce Wolfe, SFB Water Board
Tom Mumley, SFB Water Board
SCVURPPP Management Committee