



August 11, 2016

San Diego Regional Water Quality Control Board
2375 Northside Drive
San Diego, CA 92108
Attention: Ms. Xueyuan Yu
Submitted via email to sandiego@waterboards.ca.gov

Comments – CWA Section 305(b)/303(d) Integrated Report

The City of Escondido respectfully submits the following comments on the draft Clean Water Act Sections 305(b) and 303(d) Integrated Report for the San Diego Region (draft Integrated Report) and the San Diego Regional Water Quality Control Board's (RWQCB's) interpretation and application of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy).

- 1. The category assignment process should be transparent and updated with each new Integrated Report, and reflect the RWQCB's regulatory approach to restoring beneficial uses.** The RWQCB should establish a defined procedure for assigning and/or reassigning 303(d) listings of Category 4b or 4c (where no TMDL is required), instead of defaulting to Category 5 (TMDL required). Specifically, when pollutants are being addressed through regulatory measures aside from TMDLs, including Water Quality Improvement Plans (WQIPs) as appropriate, the Regional Board should ensure this is reflected in the assigned category, and the categories should be assessed and updated with each new Integrated Report. This will support the Water Quality Improvement Planning process.
- 2. Total Maximum Daily Load (TMDL) scheduling should be transparent and updated with each new Integrated Report, and reflect the RWQCB's regulatory approach to restoring beneficial uses.** The results of assessment of criteria for TMDL scheduling (Section 5 of the Listing Policy) should be transparent in the draft Integrated Report, and updated with each new Integrated Report to reflect the true realities of state resources and priorities, including the availability of data; this will reduce uncertainty for municipalities like the City of Escondido and support the Water Quality Improvement Planning process.
- 3. RWQCB staff should re-assess the decision to list Escondido Creek for Diazinon (Decision ID 47734; LOE ID 73584).** Diazinon was banned from sale in 2005, and since that time significant decreases in concentrations of this pesticide have been observed in receiving water bodies in San Diego County, including Escondido Creek. Due to the ban on

sales of Diazinon in the past 11 years, evaluation of the data should be limited to data collected since the time of the ban. It is not clear why the RWQCB is choosing to list Diazinon now, when the sample data was available during previous list updates.

In Escondido Creek, the data used for listing indicates that five of 35 samples exceeded the criterion for Diazinon at ESC-MLS and ESC-TWAS-1 between 2001 and 2008. Re-analysis of available data (Transitional Monitoring and Assessment Program Report for the Carlsbad Watershed Management Area (2014-2015)) shows that there have been zero exceedances of the criterion for Diazinon since 2003 at these two monitoring locations (zero of 35 samples during wet and dry weather). Based on the age of the exceedances (pre-dating the ban on Diazinon) and significantly decreasing trend results (step six of section 3.10 of the Listing Policy) this pollutant is not likely to exceed the criterion in the future.

If the RWQCB determines that this listing is still required at this point in time, the City of Escondido requests to work with RWQCB staff to re-assess this decision in between listing cycles. Furthermore, staff should consider listing this and similar listings as Category 4b (“another regulatory program is reasonably expected to result in attainment of the water quality standard within a reasonable, specified timeframe”). Since source control is the best approach for reducing pesticides in receiving waters, and regulation of pesticides is outside of the jurisdiction of the City of Escondido or the State or Regional Water Quality Control Boards, this is not an appropriate application of the 303(d) list/TMDL process.

4. **Remove Escondido Creek from the draft Integrated Report for surfactants (MBAS) (Decision ID 47747; LOE 78020);** the total number of exceedances for Escondido Creek (ESC-MLS and ESC-TWAS-1) was zero of 29. The Integrated Report states that nine of 12 samples collected by the Copermittees between 2001 and 2008 exceeded the criteria for surfactants (MBAS) (0.5 mg/L) at ESC-MLS and ESC-TWAS-1. According to the latest Copermittee monitoring report (Transitional Monitoring and Assessment Program Report for the Carlsbad Watershed Management Area (2014-2015)), zero of two samples exceeded the criterion during dry weather and zero of two samples exceeded the criterion during wet weather at ESC-TWAS-1 between 2001 and October 2010. Additionally, between 2001 and October 2010, zero of three samples exceeded the criterion during dry weather and zero of 22 samples exceeded criteria during wet weather at ESC-MLS. A total of 29 samples were collected between 2001 and October 2010 in the Escondido subwatershed (904.6) and none of those samples exceeded the criteria for surfactants (MBAS). It is not clear how the RWQCB has concluded from the data that exceedances occurred. Table 3.2 of the Listing Policy states that a minimum of five exceedances are needed to list a waterbody for a

conventional or other pollutant. These data do not meet the listing criteria for listing Escondido Creek for surfactants (MBAS).

5. **The City of Escondido supports the County of San Diego’s efforts to delist Escondido Creek and San Marcos Creek for selenium, as data collected in each creek support de-listing based on the Listing Policy.** In May 2014, the County of San Diego submitted five comment letters related to the 2010 §303d listings for selenium in five creeks; the letters and data are referenced and included in the County of San Diego’s comment letter for this decision. Additional data were collected by the County of San Diego for use in the de-listing evaluation and compared to the California Toxics Rule (CTR) Freshwater Criterion of 0.005 mg/L. In Escondido Creek, 0 of 32 samples exceeded the criterion; in San Marcos Creek, 0 of 31 samples exceeded the criterion. Based on the age of the exceedances (each major Line of Evidence was based on samples collected in 2002) and significantly decreasing trend results (step six of section 3.10 of the Listing Policy) this pollutant is not likely to exceed the criterion in the future.
6. **Remove new §303(d) listings for Benthic Community Effects (Escondido Creek - Decision ID 46213, San Marcos Creek – Decision ID 43723) and clarify expectation for TMDLs for this “pollutant”.** Although we appreciate the reasons for assessing biological criteria, listing waterbodies in the San Diego region for Benthic Community Effects before establishing Biological Objectives in the Basin Plan (a currently ongoing process) is premature. The Biological Objective would be the standard against which data would be assessed to establish whether there a listing required. Furthermore, based on information communicated in the RWQCB workshop on July 19, 2016, Benthic Community Effects listings are “co-listed” as Category 4C and therefore TMDLs are not required, but all appendices and related information of the new Benthic Community Effects listings state a TMDL date of 2025. It is unclear how a TMDL could even be established for Benthic Community Effects. These listings should be removed.
7. **The State Board’s Water Quality Control Policy for Developing California’s Clean Water Act Section 303(d) List (Listing Policy) that is used to evaluate waterbody/pollutant combinations needs to be updated.** The Listing Policy was adopted in 2004, and since then there have been numerous changes to the way regulated parties address pollutants, as well as improved science and methods. It would be beneficial for the State and Regional Boards to collaborate and seek comments from interested parties to update the Listing Policy to reflect current science and methods, and provide up-to-date guidance. Recommended updates include re-assessed definitions for toxicants and conventional pollutants, changes to the criteria tables and policies for listing and delisting,

more transparent decisions for categories and TMDL development dates, and updates to the types of pollutants and/or conditions that are addressed by the Listing Policy.

The City of Escondido recognizes the significant effort required to process thousands of lines of evidence and data sets and is grateful for the opportunity to submit comments. Please contact Helen Davies at (760) 839-6315 or hdavies@escondido.org with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Helen M. Davies". The signature is written in a cursive style and is underlined with a blue line.

Helen Davies, M.S., CPSWQ
Environmental Programs Manager, Utilities Department
City of Escondido