



City of San Clemente Engineering Division

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Transmitted via email to:
sandiego@waterboards.ca.gov

Xueyuan Yu
California Regional Water Quality Control Board
San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Subject: Comment – CWA Section 305(b)/303(d) Integrated Report

Dear Ms. Yu:

The City of San Clemente (City) appreciates the opportunity to provide comments on the Draft 2014 Clean Water Act Section 303(d)/305(b) Integrated Report and 303(d) List for San Diego Region. The 303(d) list affects the City's water quality programs and the City has several main comments and concerns with the 303(d) list as described in this letter.

It appears that the Regional Water Board did not include all the available data as required by the Listing Policy, which states, "In developing the list, the state shall evaluate all existing readily available water quality-related data and information." All available data should be considered to ensure the 303(d) list reflects the current condition of our receiving waters. As stated in the Draft Integrated Report, a "significant amount of (available) data collected between August 2010 and July 2016" was not included in the analysis since only the data submitted as part of the 2010 solicitation was evaluated as part of this listing cycle.

The City requests Board staff to provide more details on the Regional Water Board's process to trigger an off cycle review and hopes that the process will be scheduled in a timely manner. We also have concerns that the 2014 listings are not representative of current condition and that the receiving water changes observed between August 2010 and July 2016 could result in a different listing decision had the Board considered all of the available information.

Secondly, the State Water Board is in the process of developing guidelines for using biological information in the assessment of aquatic life uses, however these guidelines have not yet been reviewed and adopted by the State Board. As such, it is the City's position that it is premature and not appropriate to apply these potential biological guidelines to the current evaluation of possible impaired waters listings. The City requests that any listings which have relied upon guidance not yet adopted by the State Board be removed until the

biological objectives are finalized and San Diego specific reference conditions can be better reflected in the assessment.

Lastly, we are concerned about several of the other listings as follows:

- The List decision for nickel in Cristianitos Creek and cadmium, nickel, and copper in Segunda Deshecha, and the number of exceedances determined, as presented in the Fact Sheets, needs to be re-evaluated. Our review of the calculated exceedances following the California Toxics Rule (CTR) provisions for the dissolved fraction, indicates that these four pollutant listings did not exceed the CTR water quality criteria.

We request the listing decisions for Cristianitos Creek and Segunda Deshecha Creeks be removed based on the absence of dissolved metals exceedances meeting the listing policy requirements.

- We request the Board to clarify the decision to list Mercury in Prima Deshecha and Segunda Deshecha based on the number of exceedances shown in the Fact Sheet. The data files listed in the “Data Used to Assess Water Quality” only include one (1) dissolved mercury result for both streams, and both results are below the threshold used to establish the new List decision.

We request the Mercury listings be removed for Prima Deshecha and Segunda Deshecha Creeks should the Board not be able to produce additional data to support the listing decision and based on the current administrative record not meeting the listing policy requirements.

- We are concerned with the Board’s interpretation that an elevated level of nitrogen and phosphorus during an episodic wet weather event contributes to biostimulatory-based beneficial use impairment. We do not agree that a short-lived wet weather pulse of water can contribute to aquatic plant growth or the creation of a nuisance condition in Prima Deshecha and Segunda Deshecha Creeks during dry weather conditions.

We believe that the appropriate integrate report category for the Phosphorus and Nitrogen listings should be to place the listing decisions in Category 3, since there is insufficient data to indicate impairments for these constituents.

- We disagree with the Board’s interpretation that a pollutant’s exceedance of a water quality objective and the presence of toxicity in ambient waters are directly associated. We believe that the appropriate process for considering toxicity within the context of a pollutant listing decision is through the use of permit mandated and statewide toxicity policy requirements for Toxicity Identification Evaluations (TIE). The TIE process is a scientifically documented and regulatory agency supported approach for identifying the pollutant(s) contributing to ambient water toxicity.

We request that the Lines of Evidence referencing toxicity and toxicity exceedances within the individual pollutant listing decisions be removed from the Integrated Report. We would support the Board's decision to list Toxicity on the Integrated Report and look forward to working the Board to resolve the issues contributing to toxicity in ambient waters.

- We do not agree with the Board's decision to use non-Basin Plan or California promulgated (e.g., CTR) based criteria to establish the listing decisions. Specifically, the application of scientific research journal based values for cadmium and nickel in sediment or national aquatic life benchmarks for malathion, is not appropriate since these are not adopted objectives for the San Diego Region and thus not reflective of limits that would appropriately protect water quality in the San Diego Region.

More specifically, we believe that established approaches following the toxicity identification evaluation process and managing the pollutants contributing to toxicity is a more appropriate process for addressing water quality.

Thank you for providing an opportunity to comment on the 2014 Clean Water Act Section 305(b)/303(d) Integrated Report. I appreciate your consideration of the City's comments. Please contact me if you have any questions.

Sincerely,



Tom Bonigut, P.E.
Deputy Public Works Director