From: "breznik" <breznik@sdbaykeeper.org>
To: "Kyle Olewnik" <olewk@rb9.swrcb.ca.gov>
Date: 7/3/01 8:46AM
Subject: RE: 303 d listing

Kyle - attached is avrything I have in my files from Ray. I believe he made presentations to the RB that included these (and possibly other) photos, but I may be wrong. I have cc'd him here in case he has any additional information to add.

br

-----Original Message-----
From: Kyle Olewnik [mailto:olewk@rb9.swrcb.ca.gov]
Sent: Monday, July 02, 2001 1:44 PM
To: breznik@sdbaykeeper.org
Subject: 303 d listing

Bruce,

I was reviewing your letter to our Board dated May 15, 2001 on the subject of CWA Section 303(d) listing. On the last page of the letter, you reference letters submitted to us by Ray Ymzon on the 401 cert. of SR 125 toll road. I have located the letters we have from him, one from December 2000 and one from April 2001. I reviewed both letters, and neither provided photos or info on specific pollution problems for Otay or Sweetwater Rivers.

I am interested in finding the letters and/or photos that you are referencing. If you could provide me with more detail, I would appreciate it.

Thank you,

Kyle Elizabeth Olewnik
Water Resources Control Engineer
San Diego Regional Water Quality Control Board
olewk@rb9.swrcb.ca.gov
858-627-3933
858-571-6972 (fax)

CC: "Ray Ymzon" <ymzon@home.com>

From: ray ymzon [ymzon@home.com]
Sent: Sunday, April 29, 2001 1:11 PM
To: breznik@sdbaykeeper.org
Subject: Re: RWQCB 401 Certification of tollway

Here are a few of the correspondences generated on the subject. The photos represent different events. The first ones were before the rain. The numbers can be broken down by the date in year(01 for 2001), month,April (04) and day 03 before the rain, and 21 April following the rain. (the last 2) The water in the shopping cart scene was absolutely dead of animal life form even though it was clear. The last two following the rain, was brown run-off which obviously pushed the dead water into the bay via Sweetwater River. It was a total shock to me and many present last Monday, April 23, when the RWQCB granted 401 certification to CalTrans after viewing 8 of the worst possible examples of BMPs by CT on storm drains they just completed. You are seeing just a few of the photos I have taken. If you want more, let me know. I may not remember which ones I already sent you. Give me your opinion and how important this information is to you and your organization. I may forward you some of our correspondence on this matter, reflecting our dismay.
ray

----- Original Message -----
From: breznik
To: ray ymzon
Sent: Sunday, April 29, 2001 11:14 AM
Subject: RE: RWQCB 401 Certification of tollway

Yes, I would love that information. You can email me photos and testimony at this account (I assume in .jpg?).

Bruce

-----Original Message-----
From: ray ymzon [mailto:ymzon@home.com]
Sent: Saturday, April 28, 2001 3:21 PM
To: breznik@sdbaykeeper.org
Subject: RWQCB 401 Certification of tollway

I would like to know if you would like to have a few photos of the kind of storm drain conditions that flows into our bay from the Spring Valley outfall that feeds into Sweetwater River. I have a few of these which I can try to mail or email to you for your records, as well as letters on the subject and oral testimony given April 23 2001, where the RWQCB granted 401 water quality certification for the project.
ray

April 19, 2001

Mr. Paul Michel
USEPA, Region 9
75 Hawthorne
San Francisco, CA 94105-3901

RE: Construction of SR-125 South Tollway PN # 952024200-TCD

Encl: a. Letter to RWQCB dtd April 11, 2001
b. Spring Valley, CA outfall photos (4) taken April 3, 2001
c. Draft Final Report SMR by Chula Vista dtd Aug. 10, 1998

Dear Mr. Michel:

I wish to express my deep concern about the impending catastrophe that shall befall my family, friends, neighbors, community and myself in the event subject tollway is built. Most of these were expressed in Encl: a. Additional concerns include but are not limited to the following:

1. CalTrans have been liberal in issuing verbal assurances about the BMP that shall be applied throughout the length of the tollway, implying that earlier mistakes further north shall not be repeated here. Yet, Encl. b. (4 of 9 I have taken) indicates we may be in for a far worse fate. Please note the slick, debris and absolute stillness of the water surface that lacks any form of animal life. What would the core sample test like under this surface?
2. Pristine Otay River watershed shall join the ranks of impaired watersheds in the region. The likes of Encl: b. shall become part of the landscape.
3. Sweetwater river watershed shall become seriously impaired, from development sprawl and from the storm drain in Encl. b., which runs into Sweetwater River. The Sweetwater Reservoir shall be subject to pollution from the highway. CalTrans in earlier testimony declared that there will be little or no impact on the reservoir from the nearby tollway, yet, it would not commit to fund the additional costs of purifying the water in the event it was proven wrong (as it has been in the past).
4. CalTrans along with SANDAG and Chula Vista, mislead the region by repeatedly stating that the tollway was meant to relieve congestion, when in fact it was meant to open tracts for development, Encl: c. Consequently, all prepared EIRs were limited to the footprint of the tollway, rather than the intended end result. During the recent RWQCB 401 permit application, CalTrans specifically applied for a permit for 4-lane highway, not the 8 to 10 lanes it has mentioned in the past many years.
5. This Highway shall wipe out of existence a treasure trove of pristine habitats and several endangered and protected species. The varieties, uniqueness and richness of this ecosystem has no equivalent anywhere else in this continent.

RE THEY PLYING OTAY IS THREATENED?

Please help reverse the environmental deterioration of our region. Please help conserve the remaining natural treasures, environment and habitats that are of no concern to other government agencies. We depend on agencies like yours to recognize and discourage destructive developments and projects.

Yours truly,

Ray Ymzon
5732 Sweetwater Rd.
Bonita, CA 91902

Board Member, Sweetwater Valley Civic Association P.O.Box 232, Bonita CA 91908
Board Member, Preserve South Bay P.O. Box 1271, Bonita, CA 91908

Cc: list

April 11, 2001

Mr. John Robertus
RWQCB, San Diego Region
9771 Clairemont Mesa Blvd., Suite A
San Diego, CA 92124-1324

Subject: April 11, 2001 Board Meeting Re: Federal Water Pollution Control Act Section 401 Water Quality Certification For State Route 125 South Toll Road.

Dear Mr. Robertus:

Please deny 401 Water Quality Certification for State Route 125 South Tollway to insure that the region's water quality problems would diminish rather than grow, for the following reasons:

1. Caltrans converted a natural channel into a concrete lined channel, which will dump storm water through my community at a rate that was never seen before. The flood plain has been altered downstream with no mitigation. Water quality from the Spring Valley outfall is questionable as evidenced by photos taken April 3, 2001. Except for some plant growth, I did not observe the presence of any animal life such as fishes, snails, crawdads or water bugs in the storm drain water. Much debris and trash was evident. Visual pollution abounded. These conditions are a threat to my home and community if Caltrans gets to spread this kind of environmental mistreatment with subject project.

2. As we speak, Chula Vista is circulating notice of Supplemental EIRs for developments it had previously approved, in East Lake and in Otay Ranch. The new densities and changes merit a full EIR (not just a supplemental) because of significant, adverse environmental effects and potentially significant indirect, and direct and cumulative environmental effects. Storm drains never runs dry from these developments around Bonita. It is anticipated that more of the same will come from these new developments, degrading the regional water quality, watersheds and the environment. SR-125 South tollway shall trigger an explosive growth of sprawl in the South Bay area, causing traffic congestion beyond what any highway or surface streets could handle. RWQCB is conspicuously absent in the list of agencies that have interests in all these proposed changes that will impact water quality and the environment in our region.

3. I am afraid for my health and that of my family, friends and neighbors. The SR-125 tollway shall rise high above my neighborhood. We will drink, bath and wash with water from a polluted reservoir. We shall be showered day and night with emissions and pollutants that shall settle down from this tollway. We shall breath these and what we don't shall blanket our rooftops, grounds and gardens. Any runoff shall increase the pollution load of ground water and bodies of water. Our health shall be degraded, lives shortened. The region's remaining legacy of pristine and healthy watersheds shall become history.

4. Granting such certification is tantamount to rewarding the region's copermittees with another major project, after it has failed to show a willingness to combine resources and work together in support of the RWQCB's mandates. These are the same bureaucracies and vested interests that has brought us our current and future crises in obscene electricity rates, traffic congestion, sewer spills, water shortages, fuel shortages, impaired water bodies, threatened watersheds, etc. No major projects or developments should be approved until the region places its house in order.

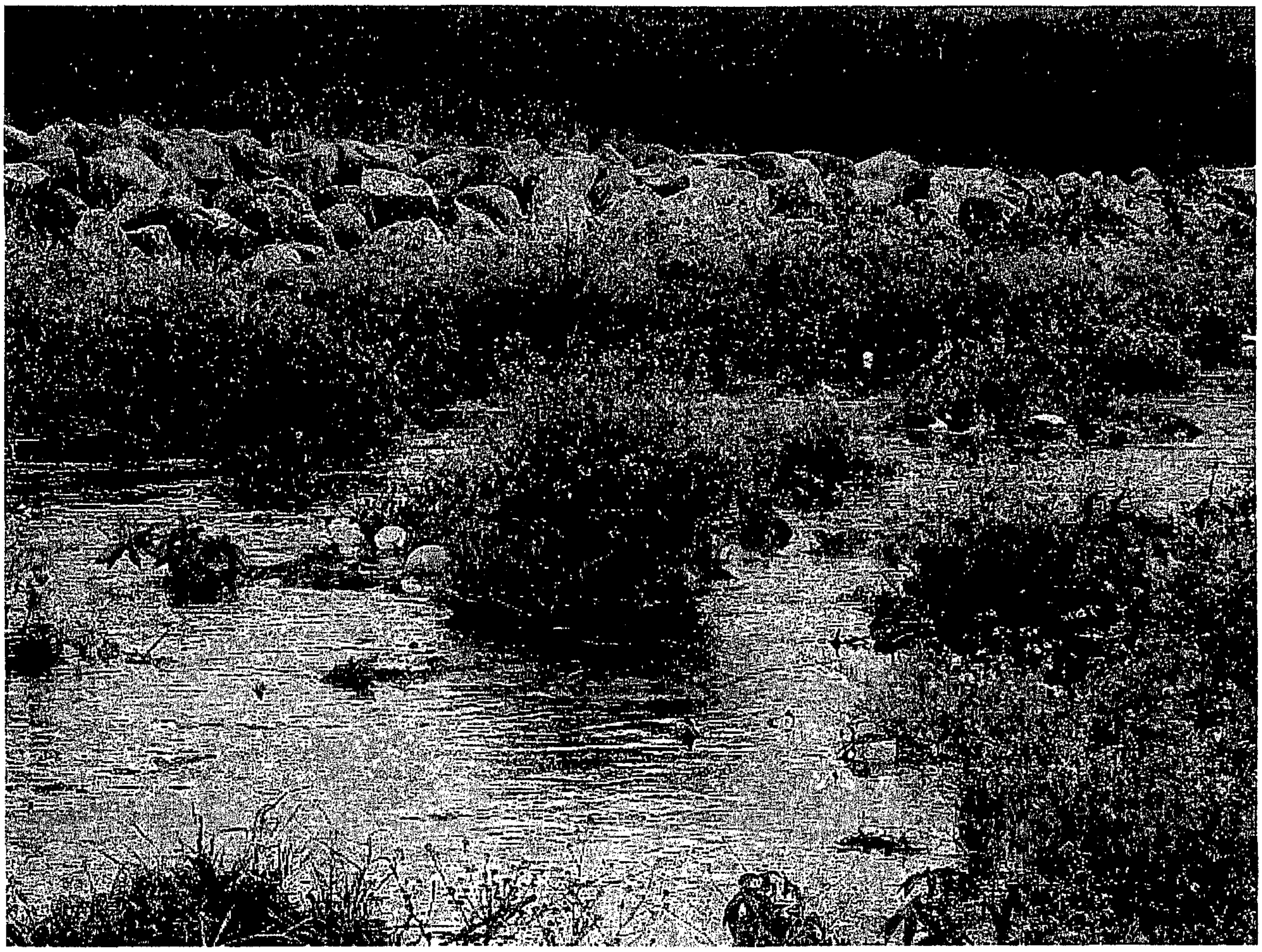
I kindly urge you not to march in step with the bureaucracies and vested interests that have brought this region in such a poor environmental state. Please deny 401 Certification for this project.

Yours truly,

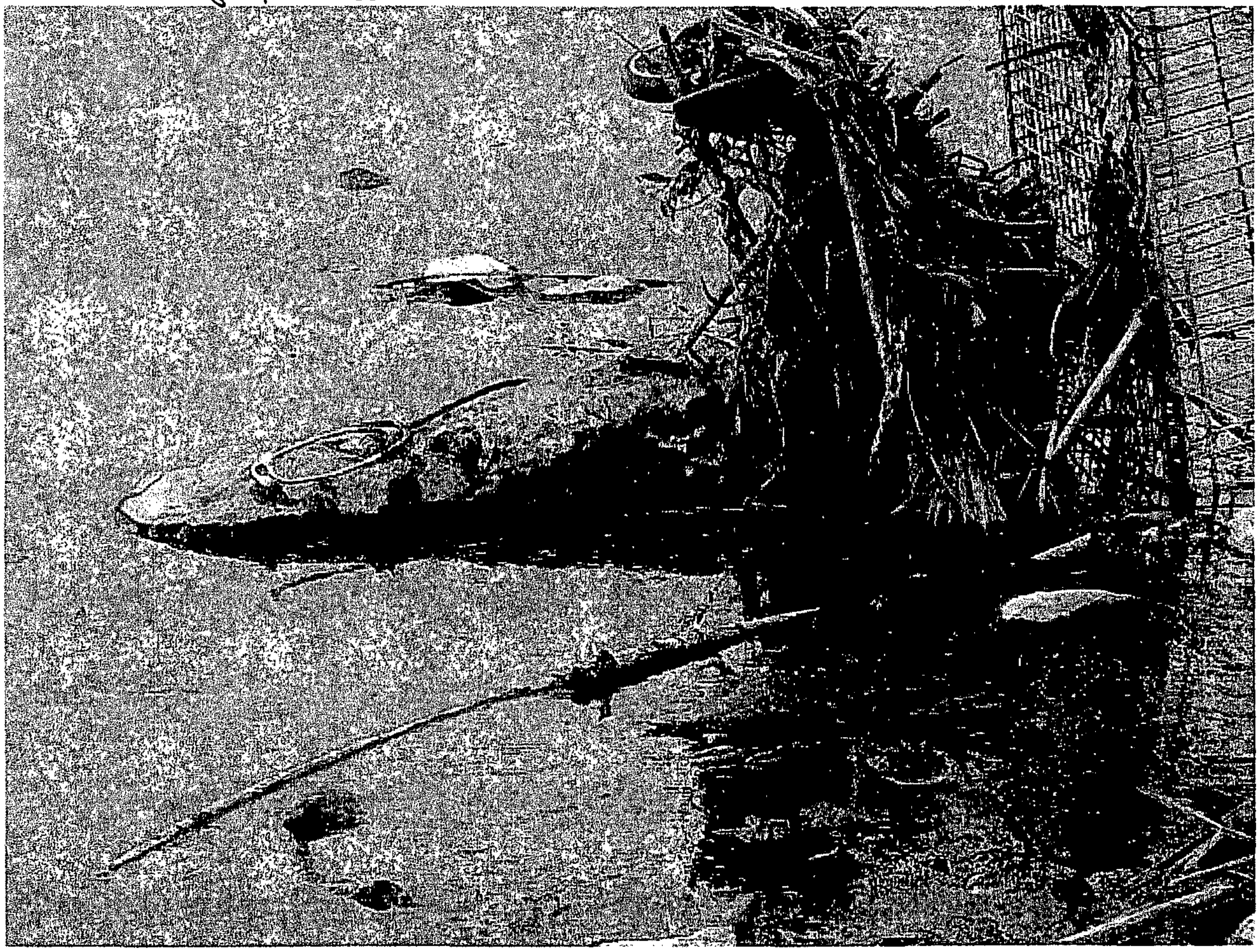
Ray Ymzon
5732 Sweetwater Road
Bonita, CA 91902

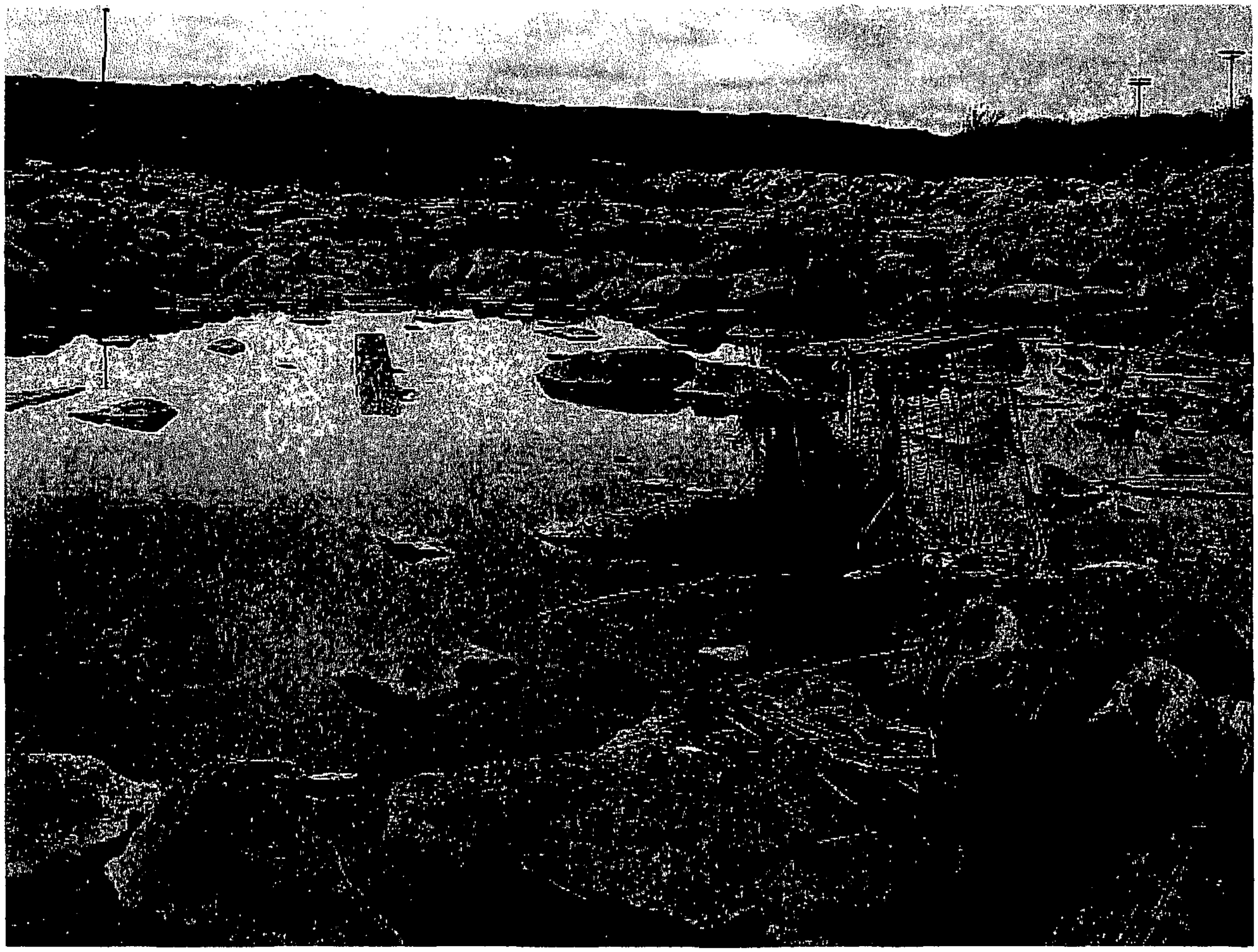
Also: Preserve South Bay Board Member
P.O. Box 1271 Bonita, CA 91908

010421sprly# 135.jpg



010403 SgVly #116.jpg





010403SgVly#115.jpg

010403S₆VI₇#112.jpg

010421 SpVly#138.jpg

Table 1
Toxic Substances Monitoring Program
Preliminary Summary of 1997 Data (ppm)

801.11.89	Lower Newport Bay/Rhine Ch	CM	L	07/11/97	1.080	0.0520	0.394	4.3800	0.0770	NA	0.0160
3.260	0.0020	22.20									
801.11.96	Peters Canyon Channel	PRS	W	06/19/97	0.057	0.0480	0.029	0.4100	0.0100	0.015	<0.0002
0.850	0.0010	23.70									
801.11.96	Peters Canyon Channel	PRS	W	06/19/97	0.063	0.0470	0.034	0.4300	0.0150	0.012	<0.0002
0.880	0.0010	23.30									
801.11.99	Upper Newport Bay/Newport Dunes	DT	F	06/20/97	1.480	<0.0001	<0.001	0.1100	<0.0001	0.028	0.0004
0.700	0.0010	3.83									
801.11.99	Upper Newport Bay/Newport Dunes	DT	L	06/20/97	5.180	0.1850	0.677	22.1000	0.0090	NA	0.0290
2.540	0.0340	73.00									
902.11.01	Santa Margarita R/Stuart Mesa Rd	GAM	W	06/24/97	0.058	0.0030	0.006	0.4700	0.0020	0.018	<0.0002
0.160	0.0060	16.40									
906.40.01	Rose Cr/d/s Mission Bay Dr	GAM	W	06/23/97	0.065	0.0020	0.023	0.5800	0.0560	0.012	<0.0002
0.210	0.0030	16.90									
906.40.01	Rose Cr/d/s Mission Bay Dr	GAM	W	06/23/97	0.057	0.0020	0.024	0.6400	0.0620	0.012	<0.0002
0.220	0.0030	16.40									
907.11.03	San Diego R/u/s Taylor St	BG	F	06/23/97	0.023	<0.0001	0.004	0.1200	<0.0001	0.015	<0.0002
0.340	<0.0003	2.69									
907.11.03	San Diego R/u/s Taylor St	BG	L	06/23/97	0.221	0.0160	0.502	1.0800	<0.0001	NA	0.0100
2.060	0.0010	16.30									
909.12.03	Sweetwater R/Interstate 805	LMB	W	06/22/97	0.012	0.0010	0.004	0.1800	0.0090	0.022	<0.0002
0.130	0.0005	10.80				As Cd	Cr	Cu	Pb	Hg	Ni
910.20.05	Otay R/Apache Service Pond	BG	F	06/22/97	0.031	<0.0001	<0.001	0.0700	0.0003	0.053	<0.0002
0.360	<0.0003	3.29									
910.20.05	Otay R/Apache Service Pond	BG	L	06/22/97	0.237	0.0140	0.576	1.5600	<0.0001	NA	0.0220
2.220	0.0010	20.90									
911.11.04	Tijuana R/Dairy Mart Rd	GAM	W	06/22/97	0.052	0.0010	0.017	0.4100	0.0190	0.012	<0.0002
0.330	0.0110	12.80									

L = Liver. F = Filet. W = Whole Body. < = Below Indicated Detection Limit. NA = Not Analyzed.
Species codes are listed in Table 3.

	MLS	NAS	FDA	EDL 95	EDL 95 lower
As	1.5			.21	.68
Hg	.5	.5	1		

Liver	EDL 95	EDL 95 lower	MLS	NAS	NATELS
As	.237	.21	.68	1.5 wet bb	—
Cr	.576	.03	.07	1 wet bb	—
Se	2.22	3.32	4.74	2 wet bb	—

TABLE 2

Toxic Substances Monitoring Program

Preliminary Summary of 1997 Data: Organic Chemicals in Fish (ppb, wet weight)

Station Number	Station Name	Species Code	Tissue Type	Sample Date	Aldrin	alpha-Chlordene	cis-Chlordane	gamma-Chlordene	trans-Chlordane	cis-Nonachlor	trans-Nonachlor	Oxychlordane
728.00.92	Salton Sea/North	ORC	F	11/18/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0
801.11.05	Delhi Channel	PRS	W	06/18/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	8.9	<5.0
801.11.07	San Diego Cr/Michelson Dr	PRS	W	06/19/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0
801.11.09	San Diego Cr/Barranca Pkwy	PRS	W	06/19/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0
801.11.89	Lower Newport Bay/Rhine Ch	CM	F	07/11/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0
801.11.96	Peters Canyon Channel	PRS	W	06/19/97	<5.0	<5.0	9.4	<5.0	5.9	<5.0	11.0	<5.0
801.11.96	Peters Canyon Channel	PRS	W	06/19/97	<5.0	<5.0	11.0	<5.0	6.9	5.0	13.0	5.0
801.11.99	Upper Newport Bay/Newport Dunes	DT	F	06/20/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0
902.11.01	Santa Margarita R/Stuart Mesa Rd	GAM	W	06/24/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0
906.40.01	Rose Cr/d/s Mission Bay Dr	GAM	W	06/23/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	11.0	5.5

Station Number	Total Chlordane	Chlorpyrifos	Dacthal	Dieldrin	Endrin	Ethion	o,p' DDD	p,p' DDD	o,p' DDE	p,p' DDE	o,p' DDT	p,p' DDT	p,p' DDMU	p,p' DDMS	Total DDT	Dicofol	Diazinon	Endosulfan I	Endosulfan II	Endosulfan Sulfate
728.00.92	ND	<10.0	25.3	<5.0	<10.0	<10.0	<10.0	<10.0	<10.0	190.0	<10.0	<10.0	<15.0	NA	190.0	NA	<50.0	<5.0	NA	NA
801.11.05	8.9	<10.0	<5.0	5.5	<10.0	<10.0	30.0	<10.0	160.0	<10.0	<10.0	<15.0	NA	190.0	NA	<50.0	<5.0	NA	NA	
801.11.07	ND	<10.0	<5.0	11.0	<10.0	<10.0	29.0	<10.0	160.0	<10.0	<10.0	<15.0	NA	189.0	NA	<50.0	<5.0	<70.0	<85.0	
801.11.09	ND	<10.0	<5.0	<5.0	<10.0	<10.0	11.0	<10.0	85.0	<10.0	<10.0	<15.0	NA	96.0	NA	<50.0	<5.0	NA	NA	
801.11.89	ND	<10.0	<5.0	<5.0	<10.0	<10.0	11.0	<10.0	130.0	<10.0	<10.0	<15.0	NA	141.0	NA	<50.0	<5.0	<70.0	<85.0	
801.11.96	26.3	71.0	<5.0	9.6	<10.0	<10.0	47.0	<10.0	740.0	22.0	38.0	35.0	NA	882.0	NA	<50.0	<5.0	NA	NA	
801.11.96	40.9	83.0	<5.0	11.0	<10.0	<10.0	54.0	<10.0	800.0	24.0	52.0	37.0	NA	967.0	NA	<50.0	<5.0	NA	NA	
801.11.99	ND	<10.0	<5.0	<5.0	<10.0	<10.0	12.0	<10.0	140.0	<10.0	<10.0	<15.0	NA	152.0	NA	<50.0	<5.0	<70.0	<85.0	
902.11.01	ND	<10.0	<5.0	<5.0	<10.0	<10.0	17.0	<10.0	74.0	<10.0	<10.0	<15.0	NA	91.0	NA	<50.0	<5.0	NA	NA	
906.40.01	16.5	<10.0	<5.0	5.8	<10.0	<10.0	<10.0	<10.0	8.7	<10.0	<10.0	<15.0	NA	8.7	NA	<50.0	<5.0	<70.0	<85.0	

Table 2
1997

Toxaphene Station Group Number A	alpha-Chemical HCH	beta-HCH	delta-HCH	gamma-HCH (Lindane)	Total HCH	Hepta-chlor	Hepta-chlor-epoxide	Hexa-chloro-benzene	Methoxy-chlor	Oxa-diazon	Ethyl Para-thion	Methyl Para-thion	PCB 1248	PCB 1254	PCB 1260	Total PCB
728.00.92	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	<5.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND
<100.0	ND															
801.11.05	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	8.7	<10.0	<10.0	<50.0	89.7	<50.0	89.7
495.0	509.4															
801.11.07	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	76.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND
121.0	132.0															
801.11.09	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	100.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND
<100.0	ND															
801.11.89	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	<5.0	<10.0	<10.0	<50.0	272.0	74.9	346.9
<100.0	ND															
801.11.96	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	42.0	<10.0	<10.0	<50.0	57.5	<50.0	57.5
405.0	440.9															
801.11.96	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	48.0	<10.0	<10.0	<50.0	67.6	<50.0	67.6
447.0	498.9															
801.11.99	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	<5.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND
<100.0	ND															
902.11.01	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	<5.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND
<100.0	ND															
906.40.01	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	68.0	<10.0	<10.0	<50.0	74.2	<50.0	74.2
<100.0	22.3															

NA Means that the sample was not analyzed for the chemical.
ND Means that the chemical was not detected.
< Means that the chemical was not detected above the indicated limit of detection.

F = Filet.
W = Whole Body.
Species codes are listed in Table 3.

TABLE 2

Toxic Substances Monitoring Program

Preliminary Summary of 1997 Data: Organic Chemicals in Fish (ppb, wet weight)

Station Number	Station Name	Species Code	Tissue Type	Sample Date	Aldrin	alpha-Chlordene	cis-Chlordane	gamma-Chlordene	trans-Chlordane	cis-Nonachlor	trans-Nonachlor	Oxychlordane	Total Chlordane	Chlorpyrifos	Dacthal	Dieldrin	Endrin	Ethion	Total Endosulfan
906.40.01	Rose Cr/d/s Mission Bay Dr	GAM	W	06/23/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	11.0	5.2	16.2	<10.0	<5.0				
907.11.03	San Diego R/u/s Taylor St	BG	F	06/23/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	ND	<10.0	<5.0				
909.12.03	Sweetwater R/Interstate 805	LMB	W	06/22/97	<5.0	<5.0	5.8	<5.0	<5.0	10.0	31.0	5.8	52.6	<10.0	<5.0				
910.20.05	Otay R/Apache Service Pond	BG	F	06/22/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	ND	<10.0	<5.0				
911.11.04	Tijuana R/Dairy Mart Rd	GAM	W	06/22/97	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	ND	<10.0	<5.0				

Station Number	o,p' DDD	p,p' DDD	o,p' DDE	p,p' DDE	o,p' DDT	p,p' DDT	p,p' DDMU	p,p' DDMS	Total DDT	Dicofol	Diazinon	Endosulfan I	Endosulfan II	Endosulfan Sulfate
906.40.01	<10.0	<10.0	<10.0	8.6	<10.0	<10.0	<15.0	NA	8.6	NA	<50.0	<5.0	<70.0	<85.0
907.11.03	<10.0	<10.0	<10.0	<5.0	<10.0	<10.0	<15.0	NA	ND	NA	<50.0	<5.0	NA	NA
909.12.03	<10.0	<10.0	<10.0	39.0	<10.0	<10.0	<15.0	NA	39.0	NA	<50.0	<5.0	NA	NA
910.20.05	<10.0	<10.0	<10.0	50.0	<10.0	<10.0	<15.0	NA	50.0	NA	<50.0	<5.0	NA	NA
911.11.04	<10.0	14.0	<10.0	40.0	<10.0	<10.0	<15.0	NA	54.0	NA	<50.0	<5.0	<70.0	<85.0

Station Number	Chemical A	alpha-HCH	beta-HCH	delta-HCH	gamma-HCH (Lindane)	Total HCH	Heptachlor	Heptachlor epoxide	Hexachlorobenzene	Methoxychlor	Oxadiazon	Ethyl Parathion	Methyl Parathion	PCB 1248	PCB 1254	PCB 1260	Total PCB	Toxaphene
906.40.01	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	67.0	<10.0	<10.0	<50.0	83.3	<50.0	83.3	<100.0	22.0
907.11.03	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	<5.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND	<100.0	ND
909.12.03	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	11.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND	<100.0	52.6
910.20.05	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	<5.0	<10.0	<10.0	<50.0	<50.0	<50.0	ND	<100.0	ND
911.11.04	<2.0	<10.0	<5.0	<2.0	ND	<5.0	<5.0	<2.0	<15.0	<5.0	<10.0	<10.0	55.1	61.7	<50.0	116.8	<100.0	ND

TABLE 3

Toxic Substances Monitoring Program

1997 Freshwater Fish Code List *

Species Code	Common Name	Species Name	Family Name
BG	Blue gill	*Lepomis macrochirus*	Centrarchidae
BK	Brook Trout	*Salvelinus fontinalis*	Salmonidae
BN	Brown Trout	*Salmo trutta*	Salmonidae
CCF	Channel Catfish	*Ictalurus punctatus*	Ictaluridae
CP	Carp	*Cyprinus carpio*	Cyprinidae
FHM	Fathead Minnow	*Pimephales promelas*	Cyprinidae
GAM	Mosquitofish	*Gambusia affinis*	Poeciliidae
LMB	Largemouth Bass	*Micropterus salmoides*	Centrarchidae
PRS	Red Shiner	*Cyprinella lutrensis*	Cyprinidae
RBT	Rainbow Trout	*Oncorhynchus mykiss*	Salmonidae
RCH	California Roach	*Hesperoleucus symmetricus*	Cyprinidae
SCP	Sculpin	*Cottus sp.*	Cottidae
SKR	Sucker	*Catostomus sp.*	Catostomidae
SMB	Smallmouth Bass	*Micropterus dolomieu*	Centrarchidae
STB	Threespine Stickleback	*Gasterosteus aculeatus*	Gasterosteidae
TL	Tilapia	*Tilapia sp.*	Cichlidae

1997 Marine Fish Code List *

Species Code	Common Name	Species Name	Family Name
CM	Chub Mackerel	*Scomber japonicus*	Scombridae
DT	Diamond Turbot	*Hypsopsetta guttulata*	Pleuronectidae
GSS	Gray Smoothhound Shark	*Mustelus californicus*	Carcharhinidae
LJM	Longjaw Mudsucker	*Gillichthys mirabilis*	Gobiidae
ORC	Orangemouth Corvina	*Cynoscion xanthulus*	Sciaenidae

* Common and scientific fish names were obtained from Robins, C.R., R.M. Bailey, C.E. Bond, J.R. Brooker, E.A. Lachner, R.N. Lea, and W.B. Scott. 1991. Common and Scientific Names of Fishes from the United States and Canada. American Fisheries Society Special Publication 20, Bethesda, Maryland.

May 15, 2001

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

2001 MAY 15 P 4:58

SAN DIEGO BAYKEEPER

Chairman John Minan and Boardmembers
Regional Water Quality Control Board, San Diego Region
9771 Clairemont Mesa Blvd., Suite A
San Diego, CA 92124

Re: CWA Section 303(d) Listing

Dear Chairman Minan and Boardmembers:

San Diego BayKeeper, a community-based 501(c)(3) non-profit organization dedicated to protecting and restoring the region's bays, coastal waters and watersheds, submits these comments on the 2002 Clean Water Act (CWA) section 303(d) listing. San Diego BayKeeper has serious concerns with the adequacy of the current 303(d) list for the region, and we are equally concerned about the direction staff may be taking in compiling the April 2002 listing.

First, we remain concerned that Region 9's proposed 303(d) list is not based on a comprehensive assembly and review of information and data on water quality and other impairments regarding all water bodies in Region 9, as the Clean Water Act and its implementing regulations require. *See, e.g., 40 C.F.R. Section 130.7.* Indeed, wholly apart from the Section 303(d) scheme, under Clean Water Act Section 305(b) and accompanying regulations, each regional board must conduct a regional water quality assessment (WQA) of all water bodies in its region. It is clear from an even cursory review of the most recent 1998 California Water Quality Assessment Report, prepared in August 1999 by the Division of Water Quality, State Water Resources Control Board, that such a comprehensive review has yet to be performed in the San Diego region. After a brief review of data in the 1998 WQA, BayKeeper has concluded that, more then twenty years after these requirements were established, at least 80% of San Diego's waters have not yet been fully assessed. Moreover, much of the data that has been gathered may not be easily accessed or understandable. In other words, this data is never fully reviewed or analyzed.

BayKeeper is also concerned about the requirements placed upon organizations wishing to submit information to support the upcoming 2002 CWA section 303(d) listing. The 305(b) and 303(d) lists are essential steps in first understanding and then addressing the overall health of our waters. Not only will the development of comprehensive and accurate 303(d) and 305(b) reports ensure that waters receive the appropriate level of protection through development of Total Maximum Daily Loads or antidegradation policies, but accurate lists will help ensure resources will be allocated wisely. Proper listings will also allow the region to tap into state and federal dollars earmarked for protecting impaired waters (e.g. SWRCB's 319(h) program or Proposition 13). Despite the importance of the 303(d) list, though, those local residents most knowledgeable about their local waters and most impacted by pollution will have a difficult time complying with the submittal requirements established by this Board even though they may have vital and reliable data. Some of our specific concerns relate to:

Timeframe – Region 9, like other regions, is requiring all information to be submitted by May 15, 2001, a full 11 months prior to the final 2002 303(d) listing. We believe this deadline is not only arbitrary, but also extremely difficult to comply with due to the amount of information being requested in a short timeframe. The San Diego Regional Board did not issue their solicitation for information until March 2001, and a formal workshop to discuss the Board's submission requirements was not held until April 4, 2001. This has left interested parties with a scant six weeks to gather and process information. Considering the more than twenty years the regional board has had to develop sufficient 303(d) and

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305(b) reports (which we are still waiting for), less than six weeks to provide needed data is wholly insufficient. BayKeeper intends to continue providing information to regional board staff through the two remaining public comment periods – August 2001 (when RWQCBs solicit input on draft 303(d) list recommendations) and Winter/Spring 2002 (when the SWRCB conducts formal public hearings on the draft 303(d) list). It is our expectation that the data provided in this timeframe will be reviewed and assessed by regional and state board staff for the 2002 listing.

Required Documentation – The regional board has indicated they will consider information and data generated since July 1997 that is provided both in hard copy as well as electronic formats, and that includes 'bibliographic citations, identification of software used, model outputs with calibration and quality assurance information and description and interpretation of information provided.' In separate meetings with regional board staff, BayKeeper has been told that data that can demonstrate trend analysis, that has been replicated and that covers physical, chemical *and* biological parameters will be most useful in helping to establish an accurate 303(d) list.

BayKeeper appreciates that the more comprehensive the data we are able to provide, the better. We are nonetheless concerned that these requirements are far beyond the criteria of 'reliability' which we believe is appropriate. In fact, it is our assertion that the Regional Board must use *all* relevant, reasonably available data (e.g. water quality, sediment, fish tissue, photos, narrative standards, land use plans, videotapes media coverage) to list waters. Listing should occur if evidence under reasonably foreseeable conditions indicates that a standard (e.g., California Toxics Rule, National Toxics Rule, Basin Plans, beneficial uses) is, or will be, violated. Where judgment calls are required, BayKeeper believes the Regional Board must err on the side of environmental and human health protection.

We assert such an interpretation is embodied in the requirement that "Each State shall identify those waters within is boundaries for which the effluent limitations…are not stringent enough to implement *any* water quality standard applicable to such waters." (CWA, section 303(d)(1)(A), *emphasis added*) Furthermore, the Clean Water Act and its implementing regulations also distinguish between those existing uses that are actually being attained and designated beneficial uses that *must still be protected* whether or not they are currently being attained.

Yet, the submittal requirements of the regional board require a rigor that is both unrealistic and unnecessary for listing. First, it is extremely costly to undertake much of the scientific analysis being requested by the Board, particularly if multiple replicates are being requested, as is trend analysis. It is unreasonable to expect small, grassroots organizations or concerned citizens to incur these types of expenses. In fact, to undertake some of the water quality analysis being requested by the regional board is costing BayKeeper thousands of dollars, and these costs would be substantially higher if we rushed our orders to meet the May 15 deadline. With limited resources, we decided not to rush these orders, meaning certified lab testing of metals, pesticides and herbicides along the San Diego River will be submitted after May 15, but as soon as is practicable.

It is also often impossible for local residents to gain access to some heavily polluted waters to conduct the types of analysis being requested, particularly as these residents often fear reprisals from local businesses that may be impacted by a demonstration that they are polluting these waters. This is a real and serious problem BayKeeper has faced in trying to gather data for this listing from local residents, particularly along certain areas of the San Diego River.

BayKeeper is also uncertain about the requirement that data be generated since July 1997. Again, we understand the need for reliable data, and more current data would be preferable. We also recognize that it is not necessary to provide pre-1997 data that has already led to a listing in 1998 or before (other than possibly using data to ensure that inappropriate delisting does not occur). However, we believe that valid

pre-1997 data (particularly that data that the Board already possess) that demonstrates impairment, but which has not yet led to a listing, must be considered by this Board. If fact, as is discussed in greater detail below, the 1998 WQA report includes listings of several water bodies that show some level of impairment but which have not yet been listed. Listing those waters for which information already exists must be the first step in the 2002 listing.

Finally, while BayKeeper – through its ever-expanding Citizen Water Quality Monitoring taskforce – looks forward to working closely with regional board staff to undertake a more comprehensive assessment of local waters, the ultimate burden of listing lies with your agency. Because of the importance of the 2002 list in terms of water quality protections as well as access to resources to help restore waters, we will do everything within our power to point regional board staff in the direction of identifying impaired waters. However, we believe it is the duty of this Board – a duty that has not yet been met – to prepare complete and accurate 305(b) and 303(d) lists. The following information on waters we believe should be listed will need follow-up from regional board staff, and in no way is meant to represent a comprehensive listing of all of San Diego's waters which may be impaired..

303(d) List

BayKeeper believes the first step in preparing an accurate 2002 303(d) list is necessarily to review the most recent 1998 Water Quality Assessment. In that report, a matrix is provided which lists east separate hydrological unit in San Diego, and indicates whether each unit has or has not been assessed. For those that have been assessed, the matrix indicates whether these waters are supporting designated beneficial uses fully, partially, not at all, or whether beneficial uses are threatened. For the reasoning highlighted above, BayKeeper believes it is incumbent on the regional board to err on the side of environmental and human health protection, meaning that listing should occur for every assessed water body that is not meeting designated beneficial uses. This is not the case with the 1998 WQA report, and some examples follow:

Dana Point Harbor (Hydrological Unit 901.140) – listed as 215 acres fully supporting designated beneficial uses. Yet, the assessment comments column indicates that Dana Point Harbor and Baby Beach were closed from 8/96 to 7/97 to water contact recreation. As Dana Point Harbor is listed as meeting Recreation 1 and 2 standards, it should be listed as impaired if it was indeed closed for nearly a year to water contact.

San Diego Bay (Hydrological Unit 900.00) – While 222 acres of San Diego bay are listed as impaired due to benthic community effects, sediment toxicity and copper, 11772 acres are threatened, but not listed as impaired. The WQA assessment indicates that the entire bay (12000 acres) is posted with warnings for pregnant women and young children against consumption of fish due to elevated levels of PCB's, mercury and PAH's. By the Regional Board's own findings and by definition, BayKeeper believes the entire Bay should be listed as impaired.

Escondido Creek - (Hydrological Unit 904.600) – 23 miles of Escondido Creek are considered 'threatened' due to excessive sediment and nutrients, and should thus be listed as impaired.

Forester Creek - (Hydrological Unit 907.130) – 1 mile of Forester Creek is considered 'threatened' due to elevated fish tissue levels, and should thus be listed as impaired.

Otay River - (Hydrological Unit 910.200) – 5 miles of the Otay River are listed as only partially supporting designated beneficial uses, and should thus be listed as impaired

Salt Creek - (Hydrological Unit 901.140) – Salt Creek was closed regularly in 1996 and 1997 due to elevated coliform levels from sewage spills, and should thus be listed as impaired.

San Diego River, Lower - (Hydrological Unit 907.110) – 6 miles of the Lower San Diego River is considered 'threatened' due to elevated coliform levels and exotic plant species, and should thus be listed as impaired. (Discussed in greater detail below.)

San Juan Creek, Upper Middle - (Hydrological Unit 901.260) – 3.2 miles of the Upper Middle San Juan Creek is considered 'threatened' due to elevated coliform levels, and should thus be listed as impaired.

San Luis Rey River, Lower - (Hydrological Units 903.100) – 18.7 miles of the Lower San Luis Rey River is considered 'threatened' due to elevated coliform levels and exotic plant species, and should thus be listed as impaired.

San Diego River

BayKeeper is submitting a separate letter and supporting materials detailing portions of the San Diego River for which sufficient information exists to require a 303(d) listing.

Otay/Sweetwater Rivers

BayKeeper is aware of several comment letters and photographs submitted by Ray Ymzon, Board Member of the Sweetwater Valley Civic Association to the San Diego Regional Water Quality Control relating to 401 certification for the proposed SR-125 toll road. These letters and photos demonstrate increasing trash, and apparent oil and grease problems, at a minimum, along stretches of the rivers, particularly the Sweetwater. We believe further investigation and likely listing is warranted based on the information provided. BayKeeper has not provided copies of these materials, as they should already be in your files.

On behalf of San Diego BayKeeper, I appreciate the opportunity to provide comments on the 2002 CWA section 303(d) listing, and hope they are helpful. A great deal of work is needed to ensure a complete and accurate listing in 2002 and beyond, and BayKeeper looks forward to working with the regional board to ensure such listings. Please do not hesitate to contact me should you have any questions need additional information.

Sincerely,

Bruce Reznik
Executive Director