



City of Encinitas

October 22, 2009

Ms. Cynthia Gorham-Test
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

**SUBJECT: COMMENTS ON THE DRAFT 2008 CLEAN WATER ACT SECTION
303(B) AND 303(D) INTEGRATED REPORT FOR THE SAN DIEGO
REGION**

Dear Ms. Gorham-Test,

On behalf of the City of Encinitas, please accept the following comments regarding the Draft 2008 Clean Water Act Section 303(b) and 303(d) Integrated Report for the San Diego Region (Draft Report).

The Draft Report effectively establishes surface water quality priorities throughout the San Diego Region by identifying water body-pollutant combinations that are causing or contributing to beneficial use impairments. Further, this sets the stage for future actions to address identified water body-pollutant combinations through such processes as Total Maximum Daily Load (TMDL) development. While the *Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing / De-Listing Policy)* establishes a standardized approach to assessing available data in support of the 303(d) listings, it is critical to take into consideration all factors surrounding proposed as well as existing listings such as data integrity, quality assurance and quality control (QA/QC) measures, and historic, existing and future site conditions.

Thank you for providing the opportunity to comment on the Draft Report and for your consideration of the comments prepared for your review.

Sincerely,

Erik Steenblock
Clean Water Program Manager, City of Encinitas

CC: Phil Cotton, City Manager
Peter Cota-Robles, Director of Engineering Services

1. The City of Encinitas supports the De-Listing decision for the following water-body pollutant combinations:
 - a. San Elijo Lagoon, Cardiff Outlet – Enterococcus
 - b. San Elijo Lagoon, Cardiff Outlet – Fecal Coliform
2. The following comments are specific to water body-pollutant combinations that are proposed for listing or are currently listed on the 303(d) list of impaired water bodies.

Water Body Name:	Pacific Ocean Shoreline, San Elijo Lagoon HAS, at Cardiff State Beach at San Elijo
Pollutant:	Total Coliform
Beneficial Use Impairment:	Shellfish Harvesting (SHELL)
Decision ID:	17561
Listing Decision:	Do Not De-List (Existing)

Comments:

It is recommended that the water body-pollutant combination of Cardiff State Beach at San Elijo-Total Coliform, be REMOVED or DELAYED from the Draft 2008 Clean Water Act Section 303(b) and 303(d) Integrated Report for the San Diego Region (Draft Report).

In the Draft Report Fact Sheet specific to this water-body pollutant combination, it is stated that *“...RWQCB staff concludes that the water body-pollutant combination should not be removed from the Section 303(d) list because applicable water quality standards for the pollutant are being exceeded.”*

As presented in the Fact Sheet of the Draft Report, a total of 6 Lines of Evidence (LOE) were used to assess this water body-pollutant combination. Of those, it is only LOE’s 27417 and 27406 that are identified as those supporting the impairment of the Shellfish Harvesting (SHELL) beneficial use due to Total Coliform exceedances. Notably, LOE 27417 is identified as informational only, and not considered in determination of a listing decision. LOE 27406 identifies 117 of 302 samples exceeding Total Coliform standards for the Shellfish Harvesting.

It is important to note that the conclusions made in the Draft Report are not supported by the Water Quality Control Plan for the San Diego Basin (9) (Basin Plan), as the Shellfish Harvesting Beneficial Use does NOT apply to this water body. In table 2-3 of the Basin Plan, San Elijo Lagoon does not have SHELL identified as a Beneficial Use. Further, the San Elijo Lagoon Ecological Preserve is adjacent to this location, where shellfish harvesting activities are prohibited by State law. As such, it is arguably inappropriate to apply shellfish harvesting total coliform water quality standards to this water body.

Additionally, there is currently a significant effort by a diverse group of stakeholders to address a variety of concerns regarding the San Elijo Lagoon including circulation, hydrodynamics, habitat, and water quality through the San Elijo Lagoon Restoration Project. As this multi-agency

(including participation by the RWQCB) process develops, it is anticipated that significant improvements will be realized in all of these areas, including water quality within and out letting from the lagoon at Cardiff State Beach. Further, much of the water quality concern will be elucidated by vast amounts of data collected by responsible parties associated with Investigative Order No. R9-2006-076 (Carlsbad Hydrologic Unit Lagoon Monitoring Order). A final data report related to this comprehensive lagoon monitoring effort was provided to the RWQCB in June of 2009, therefore should be considered in future 303(d) list development.

Water Body Name:	Cottonwood Creek (San Marcos Creek Watershed)
Pollutant:	DDT
Beneficial Use Impairment:	Warm Freshwater Habitat
Decision ID:	5345
Listing Decision:	Add to 303(d) List (NEW)

Comments:

It is recommended that the water body-pollutant combination of Cottonwood Creek-DDT be RE-EVALUATED or REMOVED from the Draft Report List.

As presented in the Fact Sheet of the Draft Report, a single (one) LOE was evaluated to assess the water body-pollutant combination of Cottonwood Creek-DDT. LOE 3199 identifies 2 of 4 total samples as exceeding applicable water quality criteria for DDT.

In a review of referenced SWAMP, 2004 data, there is NO result information provided and each (4) sample evaluated includes a QAQC Description of "*Estimated; non-compliant with associated QAPP*". Based upon the identified discrepancies, the proposed water body-pollutant listing of Cottonwood Creek-DDT should be RE-EVALUATED or REMOVED from the Draft Report List.

Water Body Name:	Cottonwood Creek (San Marcos Creek Watershed)
Pollutant:	Selenium
Beneficial Use Impairment:	Warm Freshwater Habitat
Decision ID:	16389
Listing Decision:	Add to 303(d) List (NEW)

Comments:

It is recommended that the water body-pollutant combination of Cottonwood Creek-Selenium be RE-EVALUATED for the Draft Report.

As presented in the Fact Sheet of the Draft Report, a single (one) LOE was evaluated to assess the water body-pollutant combination of Cottonwood Creek-Selenium. LOE 8517 identifies 4 of 4 samples exceeding applicable water quality criteria for Selenium.

In a review of referenced SWAMP, 2007 data, it appears that two (2) of four (4) samples include a QAQC Description of "*Estimated; non-compliant with associated QAPP*", effectively adding some uncertainty to the data supporting the listing. Based upon the identified uncertainties, the

proposed water body-pollutant listing of Cottonwood Creek – Selenium should be RE-EVALUATED for the Draft Report.

Water Body Name:	Escondido Creek
Pollutant:	DDT
Beneficial Use Impairment:	Warm Freshwater Habitat
Decision ID:	5414
Listing Decision:	Add to 303(d) List (NEW)

Comments:

It is recommended that the water body-pollutant combination of Escondido Creek-DDT be RE-EVALUATED for the Draft Report List.

As presented in the Fact Sheet of the Draft Report, two (2) LOE's were evaluated to assess the water body-pollutant combination of Escondido Creek-DDT. LOE 5414 does not identify any exceedances for DDT, and LOE 3247 identifies 5 of 8 total samples as exceeding applicable water quality criteria for DDT.

In a review of referenced SWAMP, 2004 data, there is NO result information provided and most samples, and a number of samples appear to be duplicative. Based upon the identified discrepancies, the proposed water body-pollutant listing of Escondido Creek-DDT should be RE-EVALUATED for the Draft Report List.