



THE CITY OF SAN DIEGO

October 23, 2009

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Cynthia Gorham-Test, Environmental Scientist
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Dear Ms. Gorham-Test:

Subject: Review and Comment of the Draft Clean Water Act Sections 305(b)/303(d) Integrated Report for the San Diego Region

The City of San Diego (City), Storm Water Department is pleased to provide the San Diego Regional Water Quality Control Board (Regional Board) with comments regarding the Draft Clean Water Act Sections 305(b)/303(d) Integrated Report for the San Diego Region. We support the listing program with the goal of protecting and restoring water quality through sound science. A sound science approach is needed to assure that available City resources are used cost effectively and timely to achieve these common goals. The following general comments are based on using sound science approaches in the review of the proposed Impaired Water Body Segment Listing. Additionally, specific comments are included on the attached table titled "City of San Diego Comments on the Draft Clean Water Act Sections 305(b)/303(d) Integrated Report for the San Diego Region."

Review of Section 6.1.4 of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Policy) states: "Data supported by a Quality Assurance Project Plan (QAPP) pursuant to the requirements of 40 CFR 31.45 are acceptable for use in developing the section 303(d) list" for impaired water body segments. Many of the individual sample results included in the listing assessment contained the following note: "Estimated; non-compliant with associated QAPP." These data should not be included in any listing assessments because the validity of the sample results is in question. The water segments to which this comment applies are detailed in the attached table.

There are several of the Pacific Coastline proposed listings that are located within the La Jolla Area of Special Biological Significance (ASBS) numbers 29 and 31. The listings of concern include Pacific Ocean Shoreline, Scripps HA at Avenida de la Playa at La Jolla Shores Beach, Pacific Ocean Shoreline, Scripps HA at La Jolla Cove, and Pacific Ocean Shoreline, at Vallecitos Court at La Jolla Shores Beach. These ASBS were designated on April 18, 1974 (Resolution No. 74-32) and June 19, 1975 (Resolution No. 75-61). Respectively, the ASBS designation was made prior to the original November 28, 1975 San Diego Basin Plan Shellfish



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beneficial use designation. Additionally, the collection or harvesting of shellfish is strictly prohibited and enforced within the ASBS. Therefore, the Shellfish beneficial use is not applicable to the shorelines within the ASBS which has an enforceable institutional control that was in-place prior to the original Basin Plan Shellfish designation. The City recommends that the Shellfish beneficial use standards not be applied to the listed waterbodies within the ASBS.

Quality control data for sample results are important for validation of individual test results. Information about individual toxicity sample controls was not included in the online Surface Water Ambient Monitoring Program (SWAMP) database. For example, the percent minimum significant difference (pMSD) bounds cannot be calculated because the replicate control results have not been made available in the online SWAMP database. The City requests that the quality control data specific to individual toxicity sample results be made available on the SWAMP database for public review.

In many of the proposed toxicity listings, sediment and water toxicity samples were combined to determine the final exceedance count and listing determination. The toxicants found in water and sediment are likely to be different. Additionally, the species used to test toxicity are different for water and sediment. The Policy states: "A water segment shall be placed on the section 303(d) list if the water segment exhibits statistically significant water or sediment toxicity using the binomial distribution..." The Policy does not state that water and sediment toxicity data can be combined.

The total selenium criteria used for comparison of the dissolved selenium sample data was based on the chronic water quality criteria from the California Toxics Rule (CTR) (40 CFR Part 131). The total selenium criterion from the CTR is 5.0 ug/L. There is no acute criterion for total or dissolved selenium included in the CTR. However, the dissolved selenium grab samples collected through the SWAMP program were compared to chronic total selenium criterion for assessment purposes, which is inappropriate and is not a scientifically sound methodology.

The San Diego County Municipal Copermittees have collected recent data that were not included in the listing criteria for dissolved selenium. The majority of the selenium listings were based on dissolved selenium grab sample results collected under the SWAMP and the Copermittees Regional Monitoring. These data were not included in the Lines of Evidence (LOE) in the fact sheets. Water bodies to which this applies are indicated in the attached table. The Copermittees collected ambient condition total and dissolved selenium samples as directed under Regional Water Quality Control Board Order R9-2007-0001 (Permit). These samples were representative of ambient conditions and are comparable to the chronic criterion. Results collected during ambient conditions were collected over a 24 hour period. The samples were collected during fall 2007 and spring 2008 at many locations in northern San Diego County and Chollas Creek. The samples, when compared to the chronic criteria of 5.0 ug/L for selenium, do not indicate any issues with total selenium levels during ambient conditions. This is in direct opposition to the results of the SWAMP monitoring results and listing assessments. Based on Municipal Copermittees current data and the misapplication of chronic criteria on acute grab samples, the City is recommending that the proposed listings be reevaluated or moved to the Category 3 list.

It is not clear from the Fact Sheets how samples were assessed to determine total nitrogen levels. The listing evaluations for total nitrogen incorporated data from the San Diego Copermittees Regional Monitoring data, as applicable. However, the sampling program does not analyze for total nitrogen. Additionally, the term total nitrogen and total nitrogen as N are used interchangeably. The City recommends that the method for determining total nitrogen be included in the Fact Sheets, and the definition of total nitrogen be explicitly defined.

The San Diego Basin plan criterion for un-ionized ammonia of 0.025 mg/L was used for the listing evaluations of ammonia as N in Miramar Reservoir, Lake Hodges, Murray Reservoir, and San Vicente Reservoir. The United States Environmental Protection Agency (USEPA) provides guidance on the criteria for ionized ammonia in its 1999 Update of Ambient Water Quality Criteria for Ammonia, EPA-822-R-99-014. These criteria incorporate temperature, conductivity, and pH into the calculation to determine appropriate ammonia criteria. The USEPA approved method should be used to assess acute ambient levels of ammonia as nitrogen in these water bodies. The un-ionized ammonia criteria should not be used for listing assessments of ammonia as N, and the City recommends that these proposed listings be moved to the Category 3 list.

The Storm Water Department supports the listing program with the goal of protecting and restoring water quality using sound science. In order to assure the City's resources are used cost effectively to reduce identified impairments, we have provided these comments based on sound science approaches. The ultimate management of these listings will require significant City resources. The City will be required to first identify the source of toxicity, and then identify the specific sources of the constituents before management actions can be implemented. When the listing process does not have a sound science approach, significant resources and time will most likely be needed before specific actions can be implemented to address the impairment. For example, where listings are based on the combined water and sediment toxicity results for a single listing, the data should be reevaluated and moved to a Category 3 list. This modification will allow for further studies using data from a combination of regional efforts (e.g. Bight08, Regional Harbor Management Program, Regional Monitoring Program, etc.) and the City's planned special studies to verify potential water quality impairments. These studies will use sound science approaches in addition to obtaining input from the Regional Board. This recommended approach will allow the City to direct its limited resources to higher priority water quality issues and address them in a timely manner.

Sincerely,


Kris McFadden
Deputy Director

KM/rk

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Enclosure: Table: City of San Diego Draft Clean Water Act Sections 305(b)/303(d)
Integrated Report for the San Diego Region

cc: Tony Heinrichs
Ruth Kolb
Drew Kleis
Cathy Pieroni