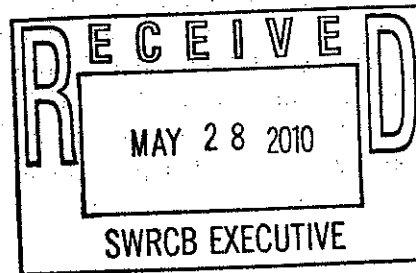


Environmental Services Department

DIRECTOR'S OFFICE

May 28, 2010

Ms. Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Subject: City of San José Comments – Draft 2010 Integrated Report / Section 303(d) List

Dear Ms. Townsend,

The City of San José (City) appreciates the opportunity to comment on the Draft 2010 Integrated Report for changes to the 2006 Clean Water Act Section 303(d) list of impaired water bodies.

In a letter to the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) dated December 4, 2008, the City submitted focused comments on some of the proposed additions to the 303(d) list related to trash impairment of creeks within the City's jurisdiction. The City remains concerned with the biased nature of the data used to assess Coyote Creek, Guadalupe River, Lower Silver Creek, and Saratoga Creek as impaired by trash. Specifically, the photographs and trash assessments used as lines of evidence for the proposed listings were targeted specifically at trash hot spots or particular land use types in urbanized areas. This focus on hotspots incorrectly and inappropriately implies that the entire length of creek is impaired when the great majority is not. Large, heterogeneous watersheds such as Coyote Creek and the Guadalupe River do not merit a listing for the entire watershed area. Listings should be limited to those reaches where impairment is chronic. Localized impairment of creeks by trash should prompt listing of the impaired reaches only. More comprehensive, unbiased assessments should be required for listing entire watersheds.

Attached for your convenience is the City's December 4, 2008, comment letter to the Regional Water Board. The concerns and the issues raised in that letter remain. The Regional Water Board's response to comments regarding the spatial representation of data states, "The fact that we reviewed data from dozens of creeks in the Bay Region and found problem areas on more than two dozen suggests that the trash problem is not restricted to just a few isolated areas. It is a widespread problem." We agree that the problem of trash in creeks is widespread. However the data reviewed was overwhelmingly from heavily urbanized areas and is usually not reflective of the entire water body. Very little of the data comes from less densely urbanized areas. Some of the creeks proposed for listing include large reaches where drainage land use characteristics do not match those in which the pictures were taken and assessments were done. Based on the

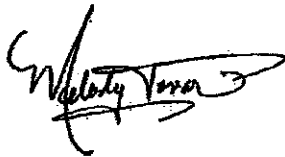
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available data and the spatial representation described in the Regional Water Board's fact sheets for trash listings, listing entire water bodies for trash is not consistent with the State's Water Quality Control Policy For Developing California's Clean Water Act Section 303(d) List. Specifically, section 6.1.2.2 states that the Regional Water Board fact sheet shall summarize the spatial representation of the area where beneficial use is affected, including site specific information and reference conditions. The listing of all reaches of creeks based on limited observations that were focused on problem urbanized areas is therefore inconsistent with the listing policy since it does not "aggregate the data by appropriate reach or area," and lists segments with insufficient supporting data.

The City considers trash a high priority and we are committed to reducing its prevalence and impacts in our waterways. The City has a well-developed, continuously improving program for trash reduction. It would be unfortunate for an error in the listing process to inadvertently divert scarce municipal resources away from priority areas where corrective actions are already underway.

San José also supports and incorporates by reference the comments submitted by the Santa Clara Valley Urban Runoff Pollution Prevention Program. If you have any questions, please contact Melody Tovar, Deputy Director, at 408-277-3892.

Sincerely,



for
John Stufflebean
Director

Attachment

December 4, 2008

Ms. Barbara Baginska
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: City of San José Comments on the Draft Staff Report for the Evaluation of Water Quality Conditions of the San Francisco Bay Region - Proposed Revisions to Section 303(d) List

Dear Ms. Baginska,

The City appreciates the opportunity to comment on the Draft Staff Report for the Evaluation of Water Quality Conditions for the San Francisco Bay Region Proposed Revisions to Section 303(d) List dated October 2008.

San José is the tenth largest city in the United States with a land area of 175 square miles and an estimated population of 945,000. The City has approximately 28,500 storm drain inlets, 1,250 miles of storm drain lines, and more than 1,250 outfalls throughout its urban service area. The core purpose of the City's Urban Runoff Program is to prevent pollution from entering the storm sewer system and waterways to protect the health of the South San Francisco Bay watershed. San José is also a co-permittee of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) and has had a proactive stormwater pollution prevention and control program since the first countywide municipal stormwater permit was adopted in 1990.

Many of the proposed additions to the 303(d) list of impaired water bodies center on possible impairment due to trash. San José has already begun addressing trash impacts to creeks through a wide array of activities including site assessments, sponsorship of creek clean-up events, community outreach, and piloting the use of trash capture devices in storm inlets. San José is also fortunate to have over 136 miles of naturally-vegetated riparian corridor within 35 distinct streams, rivers, and their tributaries. Because the City has protected these valuable natural environments from channelization and hardening (paving), the natural riparian trees and shrubs along San Jose's creeks and rivers provide critical riparian habitat, reduce erosion, and protect against flooding. However, these natural features also have a tendency to trap trash. The City recognizes the importance of trash prevention and removal and spends significant resources annually to clean up trash in its creeks, much of which accumulates behind fallen branches or is held on the stream bank by vegetation.

Ms. Barbara Baginska

City of San José Comments on the Draft Staff Report Evaluation of Water Quality Conditions of the San Francisco Bay Region – Proposed Revisions to Section 303(d) List

December 4, 2008

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As a municipal program that may be impacted by the proposed regulatory actions, and with limited future State and local resources available to address perceived water quality impacts, the City takes the listing process very seriously and is focusing its comments on important issues we feel must be reconciled before adopting the proposed 303(d) revisions.

San José echoes the comments expressed by SCVURPPP and wishes to emphasize the following:

- The City feels that existing methods and data are of insufficient quality and quantity, per the Guidance Policy for placing waters on the 303(d) list, to list entire watersheds in Santa Clara Valley as impaired due to trash.
- The City feels that listings based on Parameter #3 should be removed until a scientifically-based link between the RTA/URTA assessment scores and impairment of aquatic life beneficial uses can be established.
- Due to spatial and temporal heterogeneity in the physical, chemical, and biological characteristics of creeks, the City requests that the proposed listings be specific to the sites or reaches of the water body where water quality data were collected, rather than assuming that all reaches within creeks are impacted and not supporting beneficial uses.

In addition, San José feels that data used as lines of evidence for proposing several 303(d) listings for entire watersheds were taken on too few occasions and from too few locations within several of the large watersheds, including the Coyote Creek and Guadalupe River watersheds, which flow miles through changing habitats and land uses. Also, assessments and photographs used to list Coyote Creek, Guadalupe River, Lower Silver Creek, and Saratoga Creek were targeted at trash hot spots or specific land use types in urbanized areas; therefore, they do not represent an unbiased assessment of all reaches or even all urbanized reaches within those water bodies. We request that listings be made only when sufficiently comprehensive and unbiased data are available, and that listings be limited to those sites or reaches documented to be chronically impacted by trash.

The proposed 303(d) listings penalize municipalities for preserving natural stream conditions. Trash tends to be retained by natural vegetation in creeks and so is disproportionately visible, while trash reaching concrete channels is efficiently transported directly to the Bay. It is therefore an expected outcome that RTA/URTA scores and photographic evidence would be lower in natural creeks, even though the rates of trash loading might be no different or even less than in concrete channels. While we acknowledge that the beneficial uses of concrete-lined channels are usually not the same as those in more natural creeks, municipalities should not be disadvantaged for preserving the riparian habitat of rivers and streams within their jurisdictions.

Sources and pathways of trash in creeks are diverse and difficult to quantify. Our experience with assessments and cleanups shows that windblown trash from roads and surrounding land uses, illegal direct dumping to the creek, and creekside homeless encampments can be of equal

Ms. Barbara Baginska

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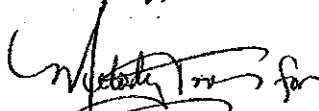
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or greater importance to overall trash loading than the municipal separate storm sewer system. Each creek site where trash accumulates has its own unique set of sources and pathways which should be recognized during this listing process to ensure successful strategies to reduce trash in creeks are identified. We believe the 303(d) listing needs to appropriately acknowledge the varied and complex contributions to trash in creeks.

The City considers trash an important priority. The problem of trash in waterways is much broader than the municipal separate storm sewer system, and includes diverse issues such as homelessness, highway maintenance, illegal dumping, and ultimately societal behavior change. The City is actively working with stakeholders, for example through the Santa Clara Basin Watershed Management Initiative, to identify strategies and secure the funding needed for programming to reach across jurisdictional boundaries to address the structural, social, and economic issues so important to reducing trash in our State's waterways. We believe that efforts to control trash should move forward logically, cost-effectively, and with adequate funding and resources to ensure their success.

We hope you find our comments and suggested improvements to the proposed revision to the 303(d) list helpful. San José is a proud and active steward of the environment, including our local creeks and the San Francisco Bay. San José's City Council has adopted a Green Vision, which encompasses a bold set of specific goals for advancements in environmental protection in our community. In keeping with that Green Vision, the City of San José looks forward to working with its citizens, local and regional stakeholders, and the Regional Water Board to find meaningful and feasible solutions to water quality impairments. We appreciate your consideration of our comments and look forward to working cooperatively to address water quality issues within our jurisdiction and throughout the San Francisco Bay. San José also supports and incorporates by reference the comments submitted by the Santa Clara Valley Urban Runoff Pollution Prevention Program. If you have any questions, please contact Melody Tovar, Deputy Director, at 408-277-3892.

Sincerely,



John Stufflebean

Director