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February 26, 2010

Ms. Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013

**Re: Comments on the Amended Tentative Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit (NPDES) – City of Burbank, Burbank Water Reclamation Plant (NPDES No. CA0055531, CI NO.4424)**

Dear Ms. Egoscue:

On behalf of Heal the Bay, we submit the following comments on the *Tentative WDRs and NPDES Permit for the Burbank Water Reclamation Plant* (“Burbank Permit” or “Revised Permit”). We appreciate the opportunity to provide these comments. We understand from the transmittal letter that comments on these revisions are limited to the changes made to the permit. To read our concerns regarding other components of this permit, please refer to our September 21, 2006 letter regarding *Tentative Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System Permit (NPDES) – City of Burbank Water Reclamation Plant (NPDES Permit No. CA0055531, CI-4424)*.

We support many aspects of the Revised Permit. For instance, we support the retention of protective provisions including Spill Reporting Requirements and requirements for an up-to-date Spill Contingency Plan. Through our work in the beach water quality arena, we have seen many instances of sewage spills impacting receiving water and beach water quality, putting both human health and aquatic life at risk. We appreciate the effort of Staff to keep track of these instances as provided in this permit. We also support the inclusion of daily maximums for effluent limitations within this permit. Monthly averages alone do not capture variability and are not protective in instances of short-term elevated concentrations of contamination in discharge as monthly averages may not reflect these spikes in concentration.

However, the Revised Permit has several issues that should be resolved. For instance, we are concerned that the Board dropped a number of effluent limits and reduced monitoring frequencies in the Revised Permit. In addition, we urge the Regional Board to include wet- and dry-weather water quality-based effluent limitations (“WQBELs”) for metals included in the Los Angeles River Metals TMDL. These comments and others are detailed below.

**The WQBEL for metals from the Los Angeles River Metals TMDL should apply in both wet and dry weather.**

The Burbank Revised Permit includes numeric effluent limits for cadmium and zinc only during wet-weather. This approach is inappropriate as the California Clean Water Act Section 303(d) List of Water Quality Limited Segments (“303(d) List”) does not distinguish between



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impairments occurring in dry-weather and wet-weather. Plainly, the effluent limits for cadmium and zinc set in the Tentative Permits should apply in both wet and dry weather, as the WRPs' discharges occur regardless of weather and flow conditions in their respective reaches and could contribute to impairments throughout the year. If monitoring efforts show that the permittee already meets the numeric targets and allocations under certain flow regimes, they will be in compliance with the Permit. Thus we urge the Regional Board to address this general deficiency by including a year-round effluent limit for cadmium and zinc in the Revised Permit.

**The Regional Board should not remove WQBELs for constituents in the Permits based on results of the calculated reasonable potential analyses ("RPA").**

The Regional Board utilized the calculated RPA approach to determine which constituents should have effluent limitations included in the Permit. As we have commented many times in the past, this approach is bad public policy for several reasons. This RPA approach never strengthens a permit. In fact, the RPA approach typically greatly reduces the number of WQBELs and the monitoring frequency of constituents in an NPDES permit. For instance, dibromochloromethane, iron, and arsenic have been dropped from the Revised Permit. This is cause for major concern. While we understand the need for adapting permits to account for changes that occur between permit cycles, we also see that the current practice of the RPA approach favors dropping constituents and weakening the monitoring programs from the current permits, creating progressively less protective permits with every permitting cycle.

Even if the Permittee does not have a problem meeting the remaining effluent limits, the Regional Board should include these limits in the Permit as a safety net to ensure that objectives are met in the future. This is particularly important because this permit lacks a hard toxicity limit, as do many permits of this kind, which would have provided a safety net capturing potential impacts from the synergistic effects of low concentration of multiple contaminants and impacts of contaminants that are not given limitations in this permit. The RPA approach should not grant dischargers "free exceedances" of the priority pollutants and other constituents without a risk of enforcement. Further, including additional WQBELs in the Tentative Permits would provide no additional burden to the Permittee, as they would only need to maintain current wastewater performance. As mentioned in the 2005 Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP), "The RWQCB shall use all available, valid, relevant, representative information ... to determine whether a discharge may: (1) cause, (2) have a reasonable potential to cause, or (3) contribute to an excursion above any applicable priority pollutant criterion or objective." (SIP at Page 6). Thus, the Regional Board should employ BPJ in prescribing WQBELs in the Tentative Permits and not the calculated RPA approach. At a minimum, no priority pollutants, such as metals, should be removed from the list of WQBELs.

In addition, the RPA for the Burbank Permit was performed using data collected between December of 2007 and December 2008. What was the reason for limiting this data to 2008? Have exceedances of the effluent limitations proposed for removal been observed since this timeframe? Is there more recent data that can be used in the RPA? While we understand from Staff the Burbank WRP has changed its treatment process within the past five years, we feel



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Staff should examine data both more recent than 2008 and dating back at least five years when feasible.

**The Regional Board should not decrease effluent sampling/monitoring frequencies.**

Staff's removal of WQBELs in the Revised Permit is even more of a reason why, at a minimum, monitoring frequencies should be maintained. The required monitoring frequency of multiple constituents in effluent has decreased from the current monitoring provisions. For instance, the monitoring frequencies of iron, arsenic, cyanide, 2,4-D, 2,4,5-TP (Silvex), and diazinon in the Tentative Monitoring and Reporting Plan have decreased. The decreases in monitoring frequency weaken the ability of the monitoring programs to account for variability and ensure that water quality standards are maintained. As many of these constituents can be highly toxic to marine life, their monitoring frequency should be maintained. For the reasons listed earlier, without sufficient monitoring to capture variability, the RPA approach will be even more detrimental when it is completed for future permits.

To summarize, we have several issues with the Revised Permit as currently written. Overall, the decrease in the number of effluent limits along with the decreased monitoring frequency of many constituents in the effluent make this permit substantially less protective than the current permits. The Revised Permit should be strengthened as outlined above.

If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500. Thank you for your consideration of these comments.

Sincerely,

Kirsten James, MESM  
Water Quality Director

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Water Quality Scientist