

**California Regional Water Quality Control Board  
Santa Ana Region**

**August 26, 2005**

**Item:**

**Subject: Public Hearing: Consideration of Adoption of Proposed Basin Plan Amendment – Incorporation of Total Maximum Daily Loads for Bacterial Indicators in Middle Santa Ana River Watershed Waterbodies – Resolution No. R8-2005-0001**

**DISCUSSION**

At a Regional Board workshop on February 3, 2005, staff of the California Regional Water Quality Control Board, Santa Ana Region (Regional Board) discussed a staff report entitled, “Staff Report on Bacterial Indicator Total Maximum Daily Loads in the Middle Santa Ana River Watershed” (TMDL Report). The TMDL Report proposed that the Regional Board consider amendment of the Implementation Plan of the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) to incorporate the proposed TMDLs, which require actions to reduce bacterial indicators in Middle Santa Ana River (MSAR) Watershed waterbodies.

On June 24, 2005, the Regional Board conducted a second public workshop to receive further testimony on the TMDLs, which were revised in response to comments received. Based on additional comments, staff have revised the proposed Basin Plan Amendment (Attachment to Tentative Resolution No. R8-2005-0001 [Attachment A]). The recommended changes are described below. Attachment B contains Board Staff responses to comments received. Copies of the written comments are included in Attachment D.

In summary, the proposed TMDLs include:

- A. Numeric targets based on fecal coliform and *E. coli*
- B. Dry weather and wet weather TMDLs for fecal coliform and *E. coli*, with appropriate compliance schedules
- C. Wasteload Allocations (WLAs) for point source discharges and Load Allocations (LAs) for nonpoint source discharges;
- D. An explicit margin of safety applied to the TMDLs, WLAs and LAs;
- E. An implementation plan and schedules for compliance with the TMDLs, numeric targets, WLAs, and LAs; and
- F. A monitoring plan and schedule to assess the effectiveness of the TMDLs.

Based on the comments received and internal staff discussions on the proposed bacterial indicator TMDLs, Board Staff proposes the following major changes to the TMDLs/Basin Plan Amendment.

**1. Revisions to the proposed Dry Season compliance dates**

The Regional Board received comments from the Riverside County Flood Control and Water Conservation District, the San Bernardino Flood Control District and the City of Corona

indicating that the proposed Dry Season Compliance date of 2012 should be extended to at least 2015 (Attachment B, Comments #21, 22, 30 and 35). These agencies indicated that a compliance date of 2012 would not be sufficient for projects to be designed, funding to be acquired, CEQA requirements to be met and projects to be implemented. These agencies believe that a Dry Season compliance date of 2015 (or later) would allow time for the necessary projects and/or plans to be implemented.

Board staff agree that additional time is warranted to allow bacterial source studies and other investigations, such as the work of the Stormwater Quality Standards Task Force, to be completed and appropriate control measures to be implemented. Therefore, staff proposes that the Dry Season compliance date be revised to indicate that compliance is to be achieved "As soon as possible, but no later than December 31, 2015". This proposed revision is shown in the Attachment to Resolution No. R8-2005-0001, Table 5-9x.

## **2. Revision of Numeric Targets**

In the June 24, 2005 Staff Report and proposed Basin Plan amendment, staff proposed incorporating a 10% margin of safety in the Middle Santa Ana River Watershed Waterbodies TMDLs to account for unknowns associated with bacterial regrowth and die-off. However, staff incorrectly applied the margin of safety to the proposed fecal coliform and *E. coli* numeric targets. The margin of safety should only be applied to the TMDLs, WLAs and LAs. This error is corrected in Attachment to Resolution No. R8-2005-0001, 1.A Numeric Targets. The proposed fecal coliform numeric target is the existing Basin Plan objective and the proposed *E. coli* numeric target is based on USEPA *E. coli* criteria that roughly correspond with the health risk level associated with the existing Basin Plan fecal coliform objectives.

## **3. Clarification of *E. coli* Numeric Target**

In the discussion of numeric targets, Board Staff propose to clearly indicate in the Basin Plan Amendment/TMDLs that the proposed *E. coli* provisions of the TMDLs may be revised based on the efforts of the Stormwater Quality Standards Task Force and the anticipated incorporation of *E. coli* objectives into the Basin Plan. The proposed language, which is reflected in the Attachment to Resolution No. R8-2005-0001, 1.A Numeric Targets, also specifies that adoption of *E. coli* objectives will be considered through the Basin Planning process. This will necessarily entail compliance with Water Code Section 13241, which requires the consideration of a number of factors, including economics, when setting new or revised water quality objectives.

## **4. Data Report Due Dates**

Initially, Board Staff proposed that dischargers submit quarterly monitoring reports containing results of the proposed Watershed-Wide Monitoring Program. Comments received from the Riverside Flood Control and Water Conservation District and the San Bernardino County Flood Control District indicate that this reporting requirement would be burdensome (Attachment B, Comments #31 and 37). Therefore, Staff proposes that Seasonal Data reports be submitted twice a year; on May 31<sup>st</sup> of each year to report Wet Season data collected pursuant to the proposed monitoring program and December 31<sup>st</sup> of each year to report Dry Season data collected. This proposed revision is shown in Table 5-9y and Task 3 of Attachment to Resolution No. R8-2005-0001.

## **5. Monitoring Stations**

The City of Riverside commented that the proposed Basin Plan amendment did not clearly indicate how compliance with the WLAs, LAs would be determined. Specifically, evaluating

compliance with the TMDLs, WLAs and LAs, which include the 10% margin of safety, at the proposed sampling stations (Tables 5-9z and 5-9a-a) results in more stringent regulation than complying with the existing Basin Plan objective for these receiving waters (Comment #16).

The intent of the proposed the watershed-wide monitoring program is to assess compliance with the proposed TMDLs, WLAs and LAs, as well as established Basin Plan REC1 objectives. The proposed Task 3, Watershed-Wide Bacterial Indicator Water Quality Monitoring Program, identifies stations that are to be considered for inclusion in the monitoring program proposal to be submitted by the identified responsible parties. However, the responsible agencies retain the flexibility to identify and propose alternative monitoring locations. Because it may require time to develop an appropriate monitoring strategy, staff now recommends that the due date for submitting the monitoring proposals be 6 months subsequent to approval of the Basin Plan amendment, rather than 3 months, as originally proposed. This proposed revision is shown in Table 5-9y and Task 3 of Attachment to Resolution No. R8-2005-0001.

#### **6. Tasks 4 and 5: Requirements for Urban and Agricultural Dischargers**

These proposed Tasks require urban and agricultural dischargers to develop proposed plans to conduct bacterial indicator source evaluation studies. These proposed plans are to be submitted within six months from the effective date of the Basin Plan amendment. The Basin Plan amendment language proposed initially did not require that specific schedules be identified in these plans for the completion of the source evaluation studies. Staff believes that it is appropriate to do so. However, staff also recognizes that the schedules may be contingent on the progress or outcome of other investigations, such as those sponsored by the Stormwater Quality Standards Task Force. Accordingly, language has been added to the proposed amendment that requires the inclusion of proposed schedules for completion of the source evaluation work. However, it is also explicitly stated that these schedules can include contingency provisions to account for the conduct and findings of other investigations.

In the case of the urban dischargers, revisions of the Municipal Storm Water Management Plan (MSWMP), Drainage Area Management Plans (DAMP) and Water Quality Management Plans (WQMP) are required to reflect the results of the urban source evaluation plan. The proposed Tasks do not specify explicit deadlines for the submittal of revised versions of these plans, since the magnitude and nature of the revisions is again likely to be contingent on the findings of the Stormwater Quality Standards Task Force and other investigations. Instead, the approach now used in the revised Basin Plan amendment (Tasks 4.2, 4.3, 4.4 and 4.5) is to require that the urban dischargers submit plans and schedules for review of the MSWMP, DAMP and WQMP within 90 days of notification by the Executive Officer of the need to do so. The proposed plans/schedules would then be considered for approval by the Regional Board or by the Executive Officer if no significant comments are raised during the public notice period.

In the case of agricultural dischargers, the proposed Basin Plan amendment language has also been modified to require submittal of a proposed Bacterial Indicator Agricultural Source Management Plan within 90 days of notification by the Executive Officer of the need to do so. The proposed plans/schedules would be implemented upon approval by the Regional Board.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REQUIREMENTS**

The basin planning process has been certified by the Secretary of Resources as functionally equivalent to the requirement for the preparation of an Environmental Impact Report or Negative Declaration. The Regional Board is required to complete an environmental assessment of any changes the Board proposes to make to the Basin Plan. Staff prepared an Environmental Checklist (Attachment C to the June 24, 2005 TMDL Staff Report), determining that there would be no significant adverse environmental impacts from the proposed Basin Plan Amendment. Staff has reviewed the Environmental Checklist in light of the proposed changes to the Basin Plan amendment/TMDLs discussed above. No changes to environmental checklist are warranted; the staff determination that there would be no adverse environmental impacts from the proposed amendment remains valid.

## **STAFF RECOMMENDATION**

Adopt Resolution No. R8-2005-0001, amending Chapter 5 of the Basin Plan to incorporate the Middle Santa Ana River Watershed Waterbodies Bacterial Indicator TMDLs shown in the Attachment to the Resolution.

## **ATTACHMENTS**

- Attachment A – Tentative Resolution No. R8-2005-0001, with attached proposed (revised) Basin Plan amendment
- Attachment B – Responses to comments received
- Attachment C – Environmental Checklist
- Attachment D – Comment Letters