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April 29, 2013

Ms. Hope Smythe
Chief, Inland Basin Planning
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

CRWQCB - REGION 8
HAS 5/1/13

APR 29 2013

Dear Ms. Smythe:

Re: Final CNRP for Lake Elsinore/Canyon Lake Nutrient TMDL

I am writing on behalf of the County of Riverside ("County") to address recently received comments from a staff member at the City of Lake Elsinore on the Comprehensive Nutrient Reduction Plan ("CNRP") for Lake Elsinore and Canyon Lake to address the Nutrient TMDLs for those lakes ("LE/CL TMDLs") incorporated into Order No. R8-2010-0033.

The County reaffirms that the Final CNRP provides a comprehensive, thoroughly studied and technically feasible method to achieve the LE/CL TMDLs urban waste load allocations. It provides a reasonable and stepwise approach to addressing the impairments in both lakes by supporting deployment of those BMPs expected to best address the nutrient impairment. The County believe that implementation of the BMPs identified in the CNRP will attain the Urban WLA objectives. Moreover, the CNRP identifies additional and/or alternative BMPs to supplement initial BMPs if those initial BMPs do not meet the WLA objectives.

It is noted that the City of Lake Elsinore staff member who wrote the April 20 letter, Mr. Pat Kilroy, supports the basic approach outlined in the CNRP and concludes that "the cost of conventional watershed nutrient BMPs . . . may be cost prohibitive." Mr. Kilroy further asserts that the report of the TMDL task force on "In-Lake Sediment Nutrient Reduction Plan for Lake Elsinore" ("Task Force Report") supports a three-part strategy: in-lake aeration, fisheries management, and lake level stabilization, apparently supported by all MS4 Permittees. Mr. Kilroy's reading of the Task Force Report, which was incorporated into Regional Board Resolution No. R8-2007-0083, is not entirely correct. Therefore, please draw your attention to the following facts:

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While the Task Force Report referenced lake level stabilization as one prong of a three-prong approach, the report was clear that the responsibility for implementation of this effort would remain with the Elsinore Valley Municipal Water District ("EVMWD") and the City of Lake Elsinore. Nowhere does the Task Force Report indicate that the LE/CL TMDL responsible parties would assume any financial responsibility for this effort, which is being conducted pursuant to an agreement between the EVMWD and the City of Lake Elsinore that settled water rights litigation brought by the City in 2001. That litigation was initiated to enforce prior agreements between the parties dating back to a 1991 Agreement to Fill and Operate Lake Elsinore and references water rights agreements dating back to 1927, among other things.

The EVMWD/City of Lake Elsinore agreement, known as the Lake Elsinore Comprehensive Water Management Agreement, sets forth the exclusive responsibility of the EVMWD to provide and the City and the EVMWD to jointly fund the use of supplemental water sources to maintain lake levels. The agreement contains provisions by which the City allows EVMWD to use reclaimed water to meet its water rights obligations. Reclaimed water is readily available from EVMWD's wastewater reclamation plant and, as it is understood, that it is more economical than higher quality source waters that could be used to stabilize lake levels.

Additionally, the agreement leaves all water rights/flow issues in the exclusive control of the EVMWD and the City. The EVMWD and the City maintain sole authority over direction and funding of the reclaimed water and other water flow arrangements set forth in the agreement. Section 7.15 of the agreement expressly states that "[n]o person other than the Parties [EVMWD and the City] may rely on or be a beneficiary to the Agreement." The Regional Board recognized this arrangement in adopting the LE/CL TMDL and incorporated it as an existing discharge with its own Waste Load Allocation.

It should finally be noted that the LE/CL TMDLs responsible parties, including the County of Riverside as a Co-Permittee, were required to take reduced waste load allocations due to the fact that reclaimed water has been allocated a majority of the allowable nutrient load to Lake Elsinore. Thus, the County will continue to pay (through the funding of non-lake stabilization BMPs) for the nutrient loading contributed by the reclaimed water. Further, the use of reclaimed water to stabilize lake levels is not necessarily required; other sources of lake stabilization water could be used, such as from Canyon Lake, the Island wells or raw water. Such sources would contribute far less to the nutrient loads going into Lake Elsinore than reclaimed water and provide more assimilative capacity to the Lake.

Thank you for the opportunity to further comment on the Final CNRP and to respond to the points made in Mr. Kilroy's letter. If you or your staff have any questions regarding any of the issues discussed in this letter, please do not hesitate to contact me at 951.955.1186.

Sincerely,

Steven C. Horn
NPDES Stormwater Program Administrator

cc: Debra Cournoyer, Deputy County Executive Officer
Jason Uhley, Chief of Watershed Protection, Flood Control