Heal the Bay

1444 9th Street
Santa Monica CA 90401

ph 310 451 1550
fax 310 496 1902

info@healthebay.org
www.healthebay.org

November 13, 2008

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 Tentative Amendment, Copper Water Effects Ratio (WER) for Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) Permit – City of San Buenaventura, Ventura Water Reclamation Facility (NPDES No. CA0053651, CI No. 1822)

Dear Ms. Egoscue:

On behalf of Heal the Bay, we submit the following comments on the *Tentative Amendment, Copper Water Effects Ratio (WER) for Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) Permit – City of San Buenaventura, Ventura Water Reclamation Facility (NPDES No. CA0053651, CI No. 1822)* ("Tentative Amendment").

We appreciate the opportunity to provide these comments. After reading the Tentative Amendment, we have a number of concerns regarding this amendment. As a general comment, we are opposed to changing the water effects ratio ("WER") for copper to a higher value. In general, the use of WERs to modify water quality standards is not a protective approach and should not be pursued. Through limited monitoring, it is extremely difficult to capture variability in the system and develop an appropriate WER value. Thus, there is little assurance that the WER will actually be protective of the beneficial uses of the waterbody. Of note, there has never been a WER study pursued that resulted in tougher water quality objectives. Further, WERs will result in significant increases in the amount of pollution allowed into our waterways, which in turn, will have serious ramifications to beneficial uses. Thus, we believe that the default WER of "1" is appropriate. Our reasons are expressed below.

The Regional Board should require more data before the WER is considered for revision.

Increasing the WER value is premature at this time. The amendment itself acknowledges the fact that more monitoring is necessary before an appropriate WER value is developed. "This final WER is based upon the geometric mean of sample events in March 2004 and January 2005. These sample events generally had the lowest EC50 values, indicating that copper has the most toxicity under these conditions, leading staff to conclude on the basis of available study data that these constitute the critical condition in the Estuary. ***Additional data points, however, will be necessary in order to confirm this assumption***." (Amendment at 2, emphasis added). Why would the Regional Board modify a permit to include a WER value, when there are obviously still concerns about its appropriateness? This approach is not consistent with protecting beneficial uses. Thus, we urge the Regional Board to revert back to a default WER value of 1.0. At a minimum, the 1.58 WER value adopted in the last permit should not be modified until sufficient data are collected.

Heal the Bay

1444 9th Street
Santa Monica CA 90401

ph 310 451 1550
fax 310 496 1902

info@healthebay.org
www.healthebay.org

The Regional Board must ensure that the critical conditions are captured.

The Tentative Amendment indicates that the proposed WER value of 2.08 is calculated "as the geometric mean of data points 3.81, 1.84, 1.77, 1.77, and 1.77, collected during critical conditions." How did the Regional Board determine that "wintertime with the berm open" is the critical condition? Further, with only two sampling events how do we know that critical conditions during this period were in fact captured? In addition, was 2004/2005 an appropriate year to take samples? It is unclear why the data provided at the March 6, 2008 hearing was deemed insufficient, yet it does not appear that any new data were collected. Regardless, the study design must account for variability in water quality and rainfall conditions on both a seasonal and annual basis. Ideally, four sampling events (2 wet and 2 dry) per year over five years are needed to develop a WER that accurately reflects site specific conditions. As we stated in our August 18, 2008 comments on the WER Policy, we recommend that the Regional Board complete a statistical evaluation of existing data from local water bodies on parameters which affect bioavailability. This evaluation should characterize variability in both wet and dry conditions and provide an analysis that demonstrates the minimum amount of data that would typically be necessary to characterize the distribution of these parameters.

The Regional Board should use the most conservative WER value calculated during critical conditions.

The Regional Board calculates the 2.08 WER by taking the geometric mean of data points 3.81, 1.84, 1.77, 1.77, and 1.77. Selecting the geometric mean as the WER value is inappropriate. Four of the five data points are below the selected valuate of 2.08. Although we believe that more data is necessary, at a minimum, the lowest calculated WER should be used in order to be protective. By using the geomean, aquatic life will not be protected during the most critical conditions.

The City should perform continuous monitoring.

A monitoring regime such as the one described on the Tentative Amendments (Section 2, A-E on page 4) should be continued in perpetuity to ensure that whatever WER that is adopted in the permit continues to be appropriate, as water quality conditions can change drastically over a given timeframe.

The proposed WER of 2.08 changes the effluent limit from a 4.2 µg/L monthly average and 8.8 µg/L daily maximum to a 6.7 µg/L monthly average and 14 µg/L daily maximum. In other words, 60% more copper per month will be allowed to enter the waterbody. It is imperative that the original, more conservative copper WER be applied to the Ventura Water Reclamation Facility, as excessive copper will cause toxicity to the aquatic organisms of the Santa Clara River Estuary and the data collected appears insufficient to develop an appropriate WER. The Santa Clara River Estuary is part of a natural preserve and is an important ecosystem. As such, it should not continue to be altered by wastewater effluent discharges.

Heal the Bay

1444 9th Street
Santa Monica CA 90401

ph 310 451 1550
fax 310 496 1902

info@healthebay.org
www.healthebay.org

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

Sincerely,

Kirsten James, MESM
Water Quality Director

W. Susie Santilena, MS, EIT
Water Quality Scientist