



O R A N G E C O U N T Y
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April 15, 2011

The Honorable Robert Wieckowski, Chair and Members
Assembly Environmental Safety and Toxic Materials Committee
Legislative Office Building
1020 N Street, Room 171
Sacramento, CA 95814

Sent via Fax to 916-319-3950

RE: Assembly Bill 262 (Harkey) - OPPOSE

Dear Chair Wieckowski and Members of the Committee:

On behalf of Orange County Coastkeeper, which seeks to protect and preserve the region's marine habitats, we write to strongly oppose AB 262. Assembly member Harkey's bill would change Regional Water Quality Control Board based on politics, not science and watersheds.

Regional boundaries for the nine regional boards are based on watersheds, and water quality requirements are based on the unique differences in climate, topography, geology and hydrology for each watershed. Each Regional Board makes critical water quality decisions for its region, including setting standards, issuing waste discharge requirements, determining compliance with those requirements, and taking appropriate enforcement actions.

Following is the language of California Water Code Section 13200 that AB 262 proposes to change:

~~Santa Ana region, which comprises all basins draining into the Pacific Ocean between the southeasterly boundary of the Los Angeles region and a line which follows the drainage divide between Muddy and Moro Canyons from the ocean to the summit of San Joaquin Hills; thence along the divide between lands draining into Newport Bay and into Laguna Canyon to Niguel Road; thence along Niguel Road and Los Aliso Avenue to the divide between Newport Bay and Aliso Creek drainages; thence along that divide and the southeasterly boundary of the Santa Ana River drainage to the divide between Baldwin Lake and Mojave Desert drainages; thence along that divide to the divide between Pacific Ocean and Mojave Desert drainages~~ the southern border of Orange County.ⁱ

AB 262 ignores the fact that the current boundaries of the Regional Boards were decided on sound scientific basis, after a detailed analysis of the watersheds, water quality issues, and the natural environment. The proposed language of AB 262 changes the language of Section 13200 of the California Water Board from setting scientific boundaries that take into account the diversity of water bodies in the region to an *arbitrary* and political boundary of "the southern border of Orange County."

If passed, AB 262 will set an alarming precedent for basing for Regional Boards' boundaries on political whims, instead of on the natural environmental boundaries. Assemblymember Harkey seeks to remove all of Orange

County to Region 8's jurisdiction, even though portions of south Orange County are hydrologically connected to areas under the jurisdiction of Region 9. There are an additional seven Regional Boards in California where similar scientific and political conflicts exist. If passed, AB 262 will set a precedent of arbitrary or political boundaries for the Regional Boards. Changing the borders of these two Regional Boards would have a myriad of undesirable consequences for waterways and set a problematic precedent.

AB 262 Would Have Significant Costs with No Environmental Benefits

AB 262 would have significant fiscal repercussions for the Regional Water Quality Control Boards. Under section 303(d) of the 1972 Clean Water Act, states, territories, and authorized tribes are required to develop lists of impaired waters. Waterbodies are deemed "impaired" if they fail to meet water quality standards that states, territories, and authorized tribes have set for them, even after point sources have installed the minimum required levels of pollution control technology. The law requires that these jurisdictions establish priority rankings for waters on the lists and develop Total Maximum Daily Loads (TMDL) for these waters.ⁱⁱ In recent correspondence, the Executive Officer of the San Diego Regional Water Quality Control Board, David Gibson, reported that there are "36 303(d) listings remaining to be addressed in the San Juan Hydrologic Unit," which spans both San Diego and Orange Counties. A "303(d) listing" is a formal recognition that water quality within a particular waterbody is not meeting existing water quality standards. These listings are typically "addressed" by developing and implementing a TMDL, which is basically a "pollution budget" and plan to bring the waterbody back into compliance with water quality standards.

According to Mr. Gibson, the 36 303(d) listings in the San Juan Hydrologic Unit have expected TMDL completion dates ranging from Jan 2019 to Jan 2021. TMDLs typically take years to develop, even when Regional Board staff members have significant experience and expertise with the water bodies involved. Mr. Gibson also acknowledged that "**the cost to taxpayers to develop a TMDL is nearly 1 million dollars, a sum dwarfed by the implementation costs.**"

Other costs that would be incurred under AB 262 include: (1) making changes to the Basin Plan to address the shifted borders; (2) costs to re-open and amend stormwater and other permits, and (3) the need to add staff to Region 8 to oversee these tasks.

Southern California's Regional Boards are already under-staffed and cash-strapped with the existing jurisdictional boundaries. They have few resources to enforce existing permits, and budget restrictions leave them with countless unfilled positions. Assemblymember Harkey's proposal does nothing to benefit the environment and adds unnecessary costs that will further reduce the amount of work the Regional Board staff will be able to accomplish.

We urge the Committee to reject setting a dangerous precedent of regulating waterways based on political, rather than watershed, boundaries. Our waterways and natural resources, including the world-renowned Southern California coastline, deserve full protection as the natural treasures that they are.

Sincerely,



Garry Brown
Executive Director

ⁱ *Assembly Bill No. 262*, Introduced by Assembly Member Harkey on Feb. 7, 2011, available at: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0251-0300/ab_262_bill_20110207_introduced.pdf

ⁱⁱ Clean Water Act § 303(d) List of Impaired Waters
<http://yosemite.epa.gov/R10/WATER.NSF/TMDLs/CWA+303d+List>