

## Attachment to Resolution No. 99-10

Amendment to the Santa Ana Region Basin Plan

Chapter 5 - Implementation Plan, Discussion of Newport Bay Watershed (page 5-39 et seq.)

### 3. Bacterial Contamination

Bacterial contamination of the waters of Newport Bay can directly affect two designated beneficial uses: water-contact recreation (**REC-1**) and shellfish harvesting (**SHEL**). The Orange County Health Care Agency (OCHCA) conducts routine bacteriological monitoring and more detailed sanitary surveys as necessary, and is responsible for closure of areas to recreational and shellfish harvesting uses if warranted by the results.

Because of consistently high levels of total coliform bacteria, the upper portion of Upper Newport Bay (Upper Bay) has been closed to these uses since 1974. In 1978, the shellfish harvesting prohibition area was expanded to include all of the Upper Bay, and the OCHCA generally advises against the consumption of shellfish harvested anywhere in the Bay. Bacterial objectives established to protect shellfish harvesting activities are rarely met in the Bay. (Fecal coliform objectives for the protection of shellfish harvesting and water-contact recreation are shown in Chapter 4, "Enclosed Bays and Estuaries". The OCHCA has relied on total coliform standards specified in the California Health and Safety Code. Fecal coliform are a subset of total coliform.) Certain areas in the lower parts of the Upper Bay and in Lower Newport Bay (Lower Bay) are also closed to water-contact recreation on a temporary basis, generally in response to storms. In these areas, there is generally good compliance with water-contact recreation bacterial objectives in the summer.

Data collected by the OCHCA demonstrate that tributary inflows, composed of urban and agricultural runoff, including stormwater, are the principal sources of coliform input to the Bay. As expected, there are more violations of bacterial standards in the Bay during wet weather, when tributary flows are higher, than in dry weather. There are few data on the exact sources of the coliform in this runoff. Coliform has diverse origins, including: manure fertilizers which may be applied to agricultural crops and to commercial and residential landscaping; the fecal wastes of humans, household pets and wildlife; and other sources. Special investigations by OCHCA have demonstrated that food wastes are a significant source of coliform. Many restaurants wash down equipment and floor mats into storm drains tributary to the Bay and may improperly dispose of food waste such that it eventually washes into the Bay. Such discharges likely contribute to the chronic bacterial quality problems in certain parts of the Bay.

Another source of bacterial input to the Bay is the discharge of vessel sanitary wastes. Newport Bay has been designated a no-discharge harbor for vessel sanitary wastes since 1976. Despite this prohibition, discharges of these wastes have continued to occur. Since these wastes are of human origin, they pose a potentially significant public health threat.

The Regional Board, the City of Newport Beach (City), the County of Orange, the City of Newport Beach Harbor Quality Committee, and other parties have taken or stimulated actions to enforce the vessel waste discharge prohibition. The principal focus of these efforts has been to make compliance with the prohibition convenient and therefore more likely. Vessel waste pumpouts have been installed at key locations around the Bay and are inspected routinely by the OCHCA. A City ordinance addresses people-intensive boating activities to ensure proper disposal of sanitary wastes. The ordinance requires that sailing clubs, harbor tour, and boat charter operations install pumpouts for their vessels. Another City ordinance addresses vessel waste disposal by persons living on their boats. Efforts have also been made to ensure that there are adequate public rest rooms onshore. The City also sponsors an extensive public education campaign designed to advise both residents and visitors of the discharge prohibition, the significance of violations, and of the location of pumpouts and rest room facilities. The effectiveness of these extensive vessel waste control efforts is not known.

As noted, the fecal waste of wildlife, including waterfowl that inhabit the Bay and its environs, is a source of coliform input. The fecal coliform from these natural sources may contribute to the violations of water quality objectives and the loss of beneficial uses, but it is currently unknown to what extent these natural sources contribute to, or cause, the violations of bacterial quality objectives in Newport Bay.

Reports prepared by Regional Board staff describe the bacterial quality problems in the Bay in greater detail and discuss the technical basis for the fecal coliform TMDL that follows (21, 22). Implementation of this TMDL is expected to address these bacterial quality problems and to assure attainment of water quality standards, that is, compliance with water quality objectives and protection of beneficial uses.

### 3.a. Fecal Coliform TMDL

A prioritized, phased approach to the control of bacterial quality in the Bay is specified in this TMDL. This approach is appropriate, given the complexity of the problem, the paucity of relevant data on bacterial sources and fate, the expected difficulties in identifying and implementing appropriate control measures, and uncertainty regarding the nature and attainability of the SHEL use in the Bay. The phased approach is intended to allow for additional monitoring and

assessment to address areas of uncertainty and for future revision and refinement of the TMDL as warranted by these studies.

Table 5-9f summarizes the TMDL, Waste Load Allocations (WLAs) for point sources of fecal coliform inputs and Load Allocations (LAs) for nonpoint source inputs. As shown, the TMDL, WLAs and LAs are established to assure compliance with water contact recreation standards no later than December 30, 2014 and with shellfish standards no later than December 30, 2019. WLAs are specified for vessel waste and urban runoff, including stormwater, the quality of which is regulated under a County-wide NPDES permit issued by the Regional Board. This runoff is thus regulated as a point source, even though it is diffuse in origin. LAs are specified for fecal coliform inputs from agricultural runoff, including stormwater, and natural sources. The TMDL is to be adjusted, as appropriate, based upon completion of the studies contained in Table 5-9g. Upon completion of these studies, an updated TMDL report will be prepared summarizing the results of the studies and making recommendations regarding implementation of the TMDL. The results of the studies may lead to recommendations for changes to the TMDL specified in Table 5-9f to assure compliance with existing Basin Plan standards (objectives and beneficial uses). The study results may also lead to recommendations for changes to the Basin Plan objectives and/or beneficial uses. If such standards changes are approved through the Basin Plan amendment process, then appropriate changes to the TMDL would be required to assure attainment of the revised standards. Revision of the TMDL, if appropriate, would also be considered through the Basin Plan amendment process.

Upon completion and consideration of the studies and any appropriate Basin Plan amendments, a plan for compliance with the TMDL specified in Table 5-9f, or with an approved amended TMDL, shall be established. It is expected that this plan will specify a phased compliance approach, based on consideration of such factors as geographic location, the priority assigned by the Regional Board to specific locations for control actions (see Section 3.a.ii, "Beneficial Use Assessment"), season, etc. Interim WLAs, LAs and compliance dates that lead to ultimate compliance with the TMDL will be established.

The TMDL and its allocations contain a significant margin of safety. The margin of safety can be either incorporated implicitly through analytical approaches and assumptions used to develop the TMDL or added explicitly as a separate component of the TMDL. A substantial margin of safety is implicitly incorporated in the TMDL in the fact that the TMDL does not apply criteria for dilution, natural die-off, and tidal flushing. The TMDL, WLAs, and LAs are established at concentrations equivalent to the water quality objectives.

**Table 5-9f: Total Maximum Daily Load, Waste Load Allocations, and Load Allocations for Fecal Coliform in Newport Bay**

<b>Total Maximum Daily Load for Fecal Coliform In Newport Bay</b>	<b>Waste Load Allocations for Fecal Coliform in Urban Runoff, including stormwater, Discharges to Newport Bay</b>	<b>Load Allocations for Fecal Coliform in Agricultural Runoff, including stormwater, Discharges to Newport Bay</b>	<b>Load Allocations for Fecal Coliform from Natural Sources in all Discharges to Newport Bay</b>	<b>Waste Load Allocations for Vessel Waste</b>
<b>As soon as possible but no later than December 30, 2013</b>			<b>In Effect</b>	<b>In Effect</b>
5-Sample/30-days Geometric Mean less than 200 organisms/100 mL, and not more than 10% of the samples exceed 400 organisms/ 100 mL for any 30-day period.	5-Sample/30-days Geometric Mean less than 200 organisms/100 mL, and not more than 10% of the samples exceed 400 organisms/ 100 mL for any 30-day period.	5-Sample/30-days Geometric Mean less than 200 organisms/ 100 mL, and not more than 10% of the samples exceed 400 organisms/ 100 mL for any 30-day period.	5-Sample/30-days Geometric Mean less than 200 organisms/100 mL, and not more than 10% of the samples exceed 400 organisms/ 100 mL for any 30-day period.	0 MPN/100 mL No discharge.
<b>As soon as possible but no later than December 30, 2019</b>				<b>In Effect</b>
Monthly Median less than 14 MPN/100 mL, and not more than 10% of the samples exceed 43 MPN/100 mL.	Monthly Median less than 14 MPN/100 mL, and not more than 10% of the samples exceed 43 MPN/100 mL.	Monthly Median less than 14 MPN/100 mL, and not more than 10% of the samples exceed 43 MPN/100 mL.	Monthly Median less than 14 MPN/100 mL, and not more than 10% of the samples exceed 43 MPN/100 mL.	0 MPN/100 mL No discharge.

**Table 5-9g: Fecal Coliform Implementation Plan/Schedule Report Due Dates**

<b>Task</b>	<b>Description</b>	<b>Compliance Date-As soon As Possible but No Later Than</b>
Task 1	Routine Monitoring Program (Section 3.a.ii.a) a) Submit Proposed Routine Monitoring Plan(s) <sup>1</sup> b) Implement Routine Monitoring Plan(s)  c) Submit Monthly and Annual Reports (Reporting Period: April 1-March 31)	a) January 30, 2000 b) Upon Regional Board Approval of Plan(s) c) Monthly within 30 days, Annual Report by September 1
Task 2	Water Quality Model for Bacterial Indicators (Section 3.a.ii.b) a) Submit Proposed Model Development Plan b) Submit Calibrated Model and Model Documentation	a) January 30, 2000 b) 13 months after Regional Board approval of plan(s)
Task 3	Beneficial Use Assessment Plan (Section 3.a.ii.c) Submit Proposed Assessment Plan for: a) REC-1 b) SHEL	a) January 30, 2000 b) March 1, 2001
Task 4	Beneficial Use Assessment Report (3.a.ii.c) Submit Beneficial Use Assessment Report for: a) REC-1  b) SHEL	a) 13 months after Regional Board approval of plan(s) b) 13 months after Regional Board approval of plan(s)
Task 5	Source Identification and Characterization Plan(s) (Section 3.a.ii.d) Submit Proposed Source Identification Plans for: a) The Dunes Resort b) Urban Runoff (including stormwater) c) Agriculture (including stormwater) d) Natural Sources	a) March 1, 2000 b) March 1, 2000 c) April 1, 2000 d) April 1, 2000

<b>Table 5-9g: Fecal Coliform Implementation Plan/Schedule Report Due Dates</b>		
<b>Task</b>	<b>Description</b>	<b>Compliance Date-As Soon As Possible but No Later Than</b>
Task 6	Source Identification and Characterization Reports (Section 3.a.ii.d) Submit Source Identification and Characterization Reports for: a) The Dunes Resort  b) Urban Runoff (including stormwater)  c) Agriculture (including stormwater)  d) Natural Sources	a) 7 months after Regional Board approval of plan(s) b) 13 months after Regional Board approval of plan(s) c) 16 months after Regional Board approval of plan(s) d) 16 months after Regional Board approval of plan(s)
Task 7	Evaluation of Vessel Waste Program (Section 3.a.ii.e) a) Submit Proposed Plan for Evaluating the Current Vessel Waste Program b) Submit Report on the Evaluation of the Vessel Waste Program	a) April 1, 2000 b) 12 months after Regional Board approval of plan
Task 8	TMDL, WLA, and LA Evaluation and Source Monitoring Program (Section 3.a.ii.f) a) Submit Proposed Evaluation and Source Monitoring Program Plan(s)  b) Implement Evaluation and Source Monitoring Plan(s)  c) Submit Monthly and Annual Reports (Reporting Period: April 1-March 31)	a) 3 months after completion of Tasks 2, 4a, and 6 b) Upon Regional Board approval of plan(s) c) Monthly within 30 days, Annual Report by September 1
Task 9	Updated TMDL Report Submit updated TMDL report for: a) REC-1  b) SHEL	a) 6 months after completion of Tasks 2, 4a, 6, and 7 b) 6 months after completion of Tasks 2, 4b, 6, and 7

<b>Table 5-9g: Fecal Coliform Implementation Plan/Schedule Report Due Dates</b>		
<b>Task</b>	<b>Description</b>	<b>Compliance Date-As Soon As Possible but No Later Than</b>
Task 10	Adjust TMDL, if necessary; adopt interim WLAs, LAs, and Compliance Dates (Section 3.a.ii.h) a) REC-1  b) SHEL	a) 12 months after completion of Updated TMDL Report for REC-1 (Task 9.a) b) 12 months after completion of Updated TMDL Report for SHEL (Task 9.b)
<sup>1</sup> Note: Provided that the monitoring program plan(s) fulfills the minimum requirements specified in this TMDL, approval of the TMDL shall constitute Regional Board approval of the monitoring program plan(s).		

### 3.a.i. TMDL Implementation

As soon as possible but no later than the dates specified in Table 5-9g, the County of Orange, the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest and Newport Beach and agricultural operators in the Newport Bay watershed shall submit the plans and schedules shown in Table 5-9g and described in Section 3.a.ii. Subsequent phases of TMDL implementation shall take into account the results of the monitoring and assessment efforts required by the initial study phase of the TMDL implementation plan and other relevant studies.

The following sections describe the requirements for the submittal of plans by dischargers in the Newport Bay watershed to complete specific monitoring, investigations and analyses. In each and every case, the plans submitted by the named dischargers will be considered for approval by the Regional Board at a duly noticed public hearing as specified in Chapter 1.5, Division 3, Title 23 of the California Code of Regulations (Section 647 et seq.). The plans are to be implemented upon Regional Board approval and completed as specified in Table 5-9g.

### 3.a.ii. Monitoring and Assessment

Routine monitoring and special investigations and analyses are an important part of this phased TMDL. Routine monitoring is necessary to assess compliance with the bacterial quality objectives in the Bay and with the WLAs and LAs specified in the TMDL. Special investigations and analyses are needed to identify and characterize sources of fecal coliform input and to determine their fate in the Bay so that appropriate control measures can be developed and implemented. The effectiveness of current and future bacterial control measures needs to be evaluated. The results of these studies may warrant future changes to this TMDL.

#### 3.a.ii.a. Routine Monitoring

By January 30, 2000, the County of Orange, the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest and Newport Beach, and the agricultural operators in the Newport Bay watershed shall propose a plan for routine monitoring to determine compliance with the bacterial quality objectives in the Bay. At a minimum, the proposed plan shall include the collection of five (5) samples/30-days at the stations specified in Table 5-9h and shown in Figure 5-1



and analysis of the samples for total and fecal coliform and enterococci. Reports of the collected data shall be submitted monthly. An annual report summarizing the data collected for the year and evaluating compliance with the water quality objectives shall be submitted by September 1 of each year.

In lieu of this coordinated, regional monitoring plan, one or more of the parties identified in the preceding paragraph may submit an individual or group plan to conduct routine monitoring in areas solely within their jurisdiction to determine compliance with the bacterial objectives in the Bay (if appropriate). Any such individual or group plans shall also be submitted by January 30, 2000. Reports of the data collected pursuant to approved individual/group plan(s) shall be submitted monthly and an annual report summarizing the data and evaluating compliance with water quality objectives shall be submitted by September 1 of each year.

The monitoring plan(s) shall be implemented upon Regional Board approval.

**Table 5-9h**

**Newport Bay Sampling Stations for Routine Compliance Monitoring with Bacterial Quality Objectives (see Figure 1 for Station Locations)**

Ski Zone	33rd Street	Park Avenue
Vaughns Launch	Rhine Channel	Via Genoa
Northstar Beach	De Anza	Alvarado/Bay Is.
Abalone Avenue	Promontory Pt.	10th Street
Dunes East	Bayshore Beach	15th Street
Dunes Middle	Onyx Avenue	19th Street
Dunes West	Garnet Avenue	Lido Island Yacht Club
Dunes North	Ruby Avenue	Harbor Patrol
43rd Street	Sapphire Avenue	N Street Beach
38th Street	Newport Blvd. Bridge	Rocky Point
San Diego Creek @ Campus Dr.	Santa Ana Delhi Channel	Big Canyon Wash
Backbay Dr. Drain		

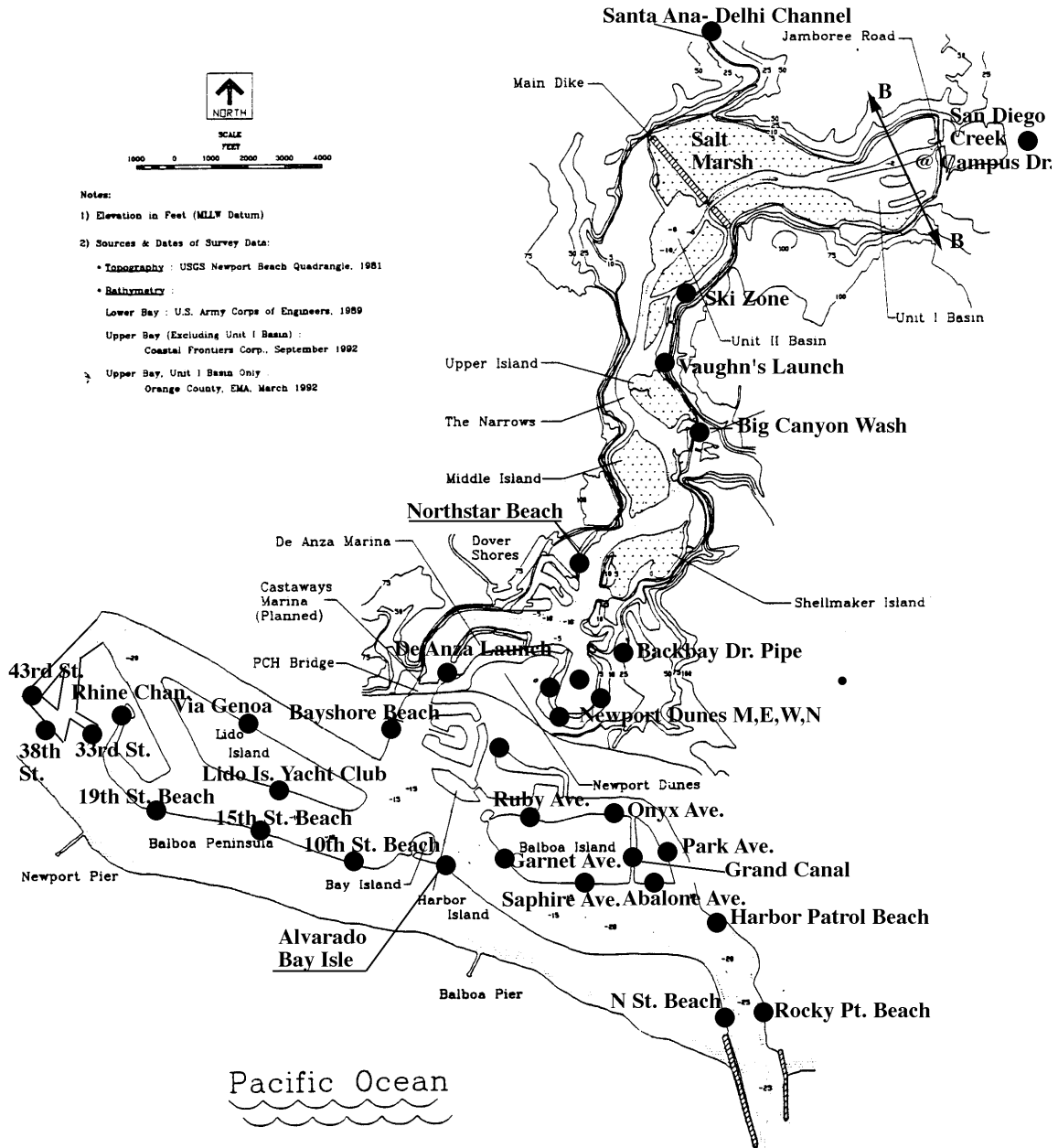


Figure 5-1: Newport Bay Bacterial Quality Monitoring Stations

### 3.a.ii.b. Fate of Bacterial Inputs

By January 30, 2000, the County of Orange, the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest, and Newport Beach and the agricultural operators in the Newport Bay watershed shall submit a plan for the development and submittal of a water quality model to be completed by 13 months after Regional Board approval of the plan. The model shall be capable of analysis of fecal coliform inputs to Newport Bay, the fate of those inputs, and the effect of those inputs on compliance with bacterial quality objectives in the Bay.

### 3.a.ii.c. Beneficial Use Assessment

By January 30, 2000, the County of Orange, the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest and Newport Beach shall submit a plan to complete, by 13 months after Regional Board approval of the plan, a beneficial use assessment to identify and quantify water contact recreation activities in Newport Bay. By 13 months after Regional Board approval of the beneficial use assessment plan, these parties shall submit a report of the results of the water contact recreation beneficial use assessment.

By March 1, 2001, the County of Orange , the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest and Newport Beach shall submit a plan to complete, by 13 months after Regional Board approval of the plan, a beneficial use assessment to identify and quantify shellfish harvesting activities in Newport Bay. By 13 months after Regional Board approval of the beneficial use assessment plan, these parties shall submit a report of the results of the shellfish harvesting beneficial use assessment.

The beneficial use assessment reports shall contain recommendations for prioritizing areas within Newport Bay for purposes of evaluation and implementation of cost-effective and reasonable control actions as part of the TMDL process. The Regional Board will consider these recommendations and make its determinations regarding high priority water contact recreation and shellfish harvesting areas at a duly noticed public hearing. These determinations will be considered in establishing interim WLAs and LAs and compliance dates (Task 10, Table 5-9g).

### 3.a.ii.d. Source Identification and Characterization

By March 1, 2000, the County of Orange and the City of Newport Beach shall submit a proposed plan for a program, to be completed within 7 months after Regional Board approval of the plan to identify and characterize fecal coliform inputs to The Dunes Resort. In lieu of this coordinated plan, each of these parties may submit an individual plan to identify and characterize fecal coliform inputs to The Dunes Resort. Any such individual plan shall also be submitted by March 1, 2000 and completed within 7 months after Regional Board approval of the plan(s).

By March 1, 2000, the County of Orange and the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest, and Newport Beach shall submit a proposed plan for a program, to be completed within 13 months after Regional Board approval of the plan to identify and characterize fecal coliform inputs to Newport Bay from urban runoff, including stormwater. In lieu of this coordinated, regional plan, one or more of these parties may submit an individual or group plan to identify and characterize fecal coliform inputs to the Bay from urban runoff from areas within its jurisdiction. Any such individual or group plan shall also be submitted by March 1, 2000 and completed within 13 months after Regional Board approval of the plan(s).

By April 1, 2000, the agricultural operators in the Newport Bay watershed shall submit a proposed plan for a program, to be completed within 16 months after Regional Board approval of the plan, to identify and characterize fecal coliform inputs to Newport Bay from agricultural runoff, including stormwater. In lieu of this coordinated plan, one or more of the agricultural operators may submit an individual or group plan to identify and characterize fecal coliform inputs to the Bay from agricultural runoff from areas within their jurisdiction. Any such individual or group plan shall also be submitted by April 1, 2000, and completed within 16 months after Regional Board approval of the plan(s).

By April 1, 2000, the County of Orange and the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest, and Newport Beach shall submit a proposed plan for a program, to be completed within 16 months after Regional Board approval of the plan, to identify and characterize fecal coliform inputs to Newport Bay from natural sources. In lieu of this coordinated, regional plan, one or more of these parties may submit an individual or group plan to identify and characterize fecal coliform inputs to the Bay from natural sources from areas within its jurisdiction. Any such individual or group plan shall also be submitted by April 1, 2000 and completed within 16 months after Regional Board approval of the plan(s).

### 3.a.ii.e. Evaluation of Vessel Waste Control Program

By April 1, 2000, the County of Orange and the City of Newport Beach shall submit a plan to complete, by one year after Regional Board approval of the plan, an assessment of the effectiveness of the vessel waste control program implemented by those agencies in Newport Bay. The plan shall be implemented upon approval by the Regional Board. A report of the study results shall be submitted, together with recommendations for changes to the vessel waste program necessary to ensure compliance with this TMDL.

The Regional Board will consider appropriate changes to the vessel waste control program. These changes shall be implemented in accordance with a schedule to be established by the Regional Board.

### 3.a.ii.f. TMDL, WLA and LA Evaluation and Source Monitoring Program

By 3 months after completion of Tasks 2, 4a, and 6 as shown in Table 5-9g, the County of Orange, the Cities of Tustin, Irvine, Costa Mesa Santa Ana, Orange, Lake Forest and Newport Beach, and the agricultural operators in the Newport Bay watershed shall propose a plan for evaluation and source monitoring to determine compliance with the WLAs and LAs specified in Table 5-9f. In lieu of this coordinated, regional plan, one or more of these parties may submit an individual or group plan to conduct TMDL, WLA, LA and Source Evaluation monitoring from areas solely within their jurisdiction. Any such individual or group plan shall also be submitted by 3 months after completion of Tasks 2, 4a, and 6 as shown in Table 5-9g. Reports of the data collected pursuant to approved individual/group plan(s) shall be submitted monthly and an annual report summarizing the data and evaluating compliance with WLAs and LAs shall be submitted by September 1 of each year. The annual report shall also include an evaluation of the effectiveness of control measures implemented to control sources of fecal coliform, and recommendations for any changes to the control measures needed to ensure compliance with the TMDL, WLAs, and LAs.

The evaluation and source monitoring plan(s) shall be implemented upon Regional Board approval.

### 3.a.ii.g. Updated TMDL Report

The County of Orange, the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Orange, Lake Forest and Newport Beach, and the agricultural operators in the Newport Bay watershed shall submit Updated TMDL Reports as specified in Table 5-9g. These updated TMDL reports shall, at a minimum, integrate and evaluate the results of the studies required in Table 5-9g (Task 1 – 7). The

reports shall include recommendations for revisions to the TMDL, if appropriate and for interim WLAs, LAs and compliance schedules

3.a.ii.h. Adjust TMDL; Adopt Interim WLA, LAs and Compliance Dates

Based on the results of the studies required by Table 5-9g and recommendations made in the Updated TMDL Reports, changes to the TMDL for fecal coliform may be warranted. Such changes would be considered through the Basin Plan Amendment process. Upon completion and consideration of the studies and any appropriate Basin Plan amendments, interim WLAs and LAs that lead to ultimate compliance with the TMDL specified in Table 5-9f, or with an approved amended TMDL, will be established with interim compliance dates. Schedules will also be established for submittal of implementation plans for control measures to achieve compliance with these WLAs, LAs, and compliance dates. These implementation plans will be considered by the Regional Board at a duly noticed public hearing.

The Regional Board is committed to the review of this TMDL every three years or more frequently if warranted by these or other studies. The County of Orange, the Cities of Tustin, Irvine, Costa Mesa, Santa Ana, Lake Forest, and Newport Beach, The Irvine Company and the Irvine Ranch Water District have undertaken to prepare a health risk assessment for Newport Bay for water contact recreation and shellfish harvesting beneficial uses. This study will evaluate whether exceedances of fecal coliform objectives correlates with actual impairment of beneficial uses and may recommend revisions to the Basin Plan objectives and/or beneficial use designations. Because this study is in progress, it is not required by this TMDL implementation plan, but will be considered in conjunction with the studies required by the implementation plan.