



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Arnold Schwarzenegger
Governor

October 20, 2006

10/25/06 BdMtg Item 10
303(d) List
Deadline: 10/20/06 5pm

Tam M. Doduc
Board Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



COMMENTS ON THE PROPOSED 2006 FEDERAL CLEAN WATER ACT SECTION 303(d) LIST OF WATER QUALITY LIMITED SEGMENTS

Dear Chairwoman Doduc:

Thank you for the opportunity to comment on the September 15, 2006 draft proposed 2006 federal Clean Water Act (CWA) section 303(d) lists which will be considered by the State Board on October 25, 2006. Regional Board staff worked closely with State Board staff in developing the proposed list and provided comments on earlier drafts of the 2004/06 303(d) list, as well as a detailed assessment of the Los Angeles/Long Beach Harbors and Dominguez Channel listings. Regional Board staff also gave oral testimony on a previous version of the draft list at the public workshop held by the State Board in southern California on January 5, 2006. Regional Board staff also provided written comments on the proposed list in a letter to State Board dated January 31, 2006.

Regional Board staff appreciate State Board staff's consideration and incorporation of many of the recommendations provided in our January 31, 2006 letter including the recommendations to list the Los Angeles River estuary for trash; the retention of the lead listing in San Gabriel River Reach 2; the retention of the algae listing for Malibu Creek; and the listings for DDT and PCBs in portions of the Los Angeles Harbor and the Ventura Marina jetties.

Regional Board staff has reviewed the lists of water quality limited segments released on September 15, 2006 as well as Volume 4 of the Staff Report, Responses to Comments. Our comments focus on five general areas as described below:

- Listing determinations where a TMDL is in effect;
- Listing determinations where a TMDL is not in effect;
- Listings and Delistings that are not supported by fact sheets;
- Listing determinations for algae and selenium; and,
- Recommendations for specific waterbody-pollutant combinations.

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Some of the comments and recommendations below have been submitted previously, but they are included here because Regional Board staff find that the fact sheets and responses to comments provided by State Board staff do not adequately support some of the listing and delisting determinations in the draft 303(d) list.

LISTING DETERMINATIONS WHERE A TMDL IS IN EFFECT

When there is an United States Environmental Protection Agency (USEPA) approved Total Maximum Daily Load (TMDL) in effect some of the waterbody-pollutant combinations have been left on the proposed 2006 CWA section 303(d) list of water quality limited segments, whereas other waterbody-pollutant combinations are proposed for delisting. Regional Board staff recommend that when there is an approved USEPA TMDL in effect, the waterbody-pollutant combination should be placed on the list of "water quality limited segments being addressed by USEPA approved TMDLs." This change should be applied to all of the following waterbody-pollutant combinations.

1. The algae listings for reaches 4, 5, 9A, 9B, 10, 11, and 13 of Calleguas Creek should not be delisted. These impairments are addressed by the Calleguas Creek Nitrogen and Related Effects TMDL approved by USEPA in 2003.
2. The ammonia listing for reach 10 of Calleguas Creek should be moved to the "water quality limited segments being addressed," since, this impairment is addressed by the Calleguas Creek Nitrogen and Related Effects TMDL approved by USEPA in 2003.
3. The sedimentation/siltation listing for reach 1 of Calleguas Creek should be moved to the "water quality limited segments being addressed," since, this impairment is addressed by the Calleguas Creek Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation TMDL approved by USEPA in 2006.
4. The new listings for chlordane, DDT, dieldrin, and toxaphene in reach 3 of Calleguas Creek are addressed by the Calleguas Creek Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation TMDL approved by USEPA in 2006.
5. The cadmium listing in reach 1 of the Los Angeles River should not be delisted. This impairment is addressed in the Los Angeles River Metals TMDL approved by USEPA in 2005, with an effective date of January 11, 2006. The TMDL includes monitoring and special studies prior to required metals reductions. When the TMDL is reconsidered in 2011, the Regional Board will consider the listing policy and all available data to determine whether or not cadmium should still be included in the TMDL.

6. The cadmium listing in Burbank Western Channel should not be delisted. This impairment is addressed in the Los Angeles River Metals TMDL approved by USEPA in 2005.
7. The algae listings for reaches 1 and 2 of the Arroyo Seco should not be delisted. These impairments are addressed by the Los Angeles River Nutrients TMDL approved by USEPA in 2004.
8. The scum/foam – unnatural listings for reaches 1, 3, 4, and 5 of the Los Angeles River should not be delisted. These impairments are addressed in the Los Angeles River Nutrients TMDL approved by USEPA in 2004.
9. The odor listing for reaches 2, 3, 4, and 5 of the Los Angeles River should not be delisted. These impairments are addressed in the Los Angeles River Nutrients TMDL approved by USEPA in 2004.
10. The listings for algae, scum/foam, odor and ammonia in Burbank Western Channel should not be delisted. These impairments are addressed in the Los Angeles River Nutrients TMDL approved by USEPA in 2004.
11. The listings for scum/foam – unnatural and odor in Tujunga Wash (LA River to Hansen) should not be delisted. These impairments are addressed in the Los Angeles River Nutrients TMDL approved by USEPA in 2004.
12. The listing for excessive algal growth in Verdugo Wash should not be delisted. These impairments are addressed in the Los Angeles River Nutrients TMDL approved by USEPA in 2004.
13. The Ballona Wetland trash impairment should be removed from the “list of water quality limited segments” and added to the “list of water quality limited segments being addressed by USEPA approved TMDLs” since a Trash TMDL for Ballona Creek and Wetland was approved by USEPA in August 2002.
14. The coliform bacteria listings in Las Virgenes Creek, reaches 1 and 2 of Lindero Creek, Malibu Creek, Malibu Lagoon, reaches 1 and 2 of Medea Creek, Palo Comado Creek, and Stokes Creek should be removed from the “list of water quality limited segments” and added to the “list of water quality limited segments being addressed by USEPA approved TMDLs” since a bacteria TMDL for the Malibu Creek Watershed was approved by USEPA in January 2006.
15. The listings for lead, selenium, and zinc in Ballona Creek should not be delisted. These impairments are addressed in the Ballona Creek Metals TMDL approved by USEPA in



2005, with an effective date of January 11, 2006. Since there is a remedial program in place these impairments should be added to the "list of water quality limited segments being addressed by USEPA approved TMDLs." The TMDL includes monitoring and special studies prior to required metals reductions. When the TMDL is reconsidered in 2011, the Regional Board will consider the listing policy and all available data.

LISTING DETERMINATIONS WHERE A TMDL IS NOT IN EFFECT

There are some waterbody-pollutant combinations listed on the "water quality limited segments being addressed by USEPA approved TMDLs," for which TMDLs have not been written; the impairments are not addressed by a TMDL; or, the TMDL has not been approved by the USEPA. The following waterbody-pollutant combinations should be moved to the "list of water quality limited segments."

1. The listing of viruses (enteric) in Ballona Creek and the listing of indicator bacteria for Sepulveda Canyon should not be listed as being addressed by a USEPA approved TMDL, since, the Ballona Creek bacteria TMDL has not been approved by the State Board, Office of Administrative Law, or the USEPA. The State Board hearing for this TMDL is scheduled for November 15, 2006. This impairment for Ballona Creek and Sepulveda Canyon should remain on the "list of water quality limited segments."
2. The trash listings for Echo Park Lake, Lincoln Park Lake, Peck Road Park Lake, the Los Angeles River Estuary, and reaches 1, 2, 3, 4, and 5 of the Los Angeles River should be moved to the "list of water quality limited segments" as the 2001 Los Angeles River Watershed Trash TMDL was set aside on June 8, 2006, and no new TMDL has been approved to date. These impairments should not be on the "list of water quality limited segments being addressed by USEPA approved TMDLs."
3. The fish tissue concentrations of chlordane, dieldrin, and total DDTs in the Marina del Rey Harbor were found to be below the fish tissue targets, therefore, the Marina del Rey Harbor Toxics TMDL did not address these pollutants in fish tissue. Therefore, the chlordane, dieldrin, and total DDTs fish tissue impairments for Marina del Rey Harbor should be removed from the "list of water quality limited segments being addressed by USEPA approved TMDLs." These impairments should be considered for delisting.
4. The total aluminum listing in reach 1 of the Los Angeles River is not addressed by the Los Angeles River Metals TMDL. This impairment should be removed from the "water quality limited segments being addressed" and included on the "list of water quality limited segments."

5. The indicator bacteria listings from Peninsula Beach and Rincon Beach should be moved to the "list of water quality limited segments." A TMDL has not been written to address these impairments.
6. The nitrate and nitrite listings for reach 1 of Mint Canyon should be moved to the "list of water quality limited segments." A TMDL has not been written to address these impairments.
7. The listing of chloride in Santa Clara River Reach 7 (was Reach 9 on 2002 303 (d) list) should be moved to the "list of water quality limited segments." The Upper Santa Clara River Chloride TMDL approved by USEPA in 2005 includes Reaches 5 and 6, but does not include Reach 7.
8. The sediment listings of cadmium and silver for Ballona Creek are not addressed in the Ballona Creek Metals TMDL as stated in the fact sheets on pages 71 and 77. In the Ballona Creek Metals TMDL, the Regional Board determined that the listings for sediments in Ballona Creek, which include cadmium and silver, were made in error and there was no impairment due to cadmium or silver in water, therefore, these impairments should be delisted.

LISTINGS AND DELISTINGS THAT ARE NOT SUPPORTED BY FACT SHEETS

There are some waterbody-pollutant combinations that appear on the 303(d) list or are delisted, without a fact sheet supporting the listing or delisting. Without the lines of evidence to support the listing or delisting these waterbody-pollutant combinations should not be listed or delisted, respectively. The following changes should be incorporated for each waterbody-pollutant combination.

1. The oil listing for the Los Angeles River Reach 2 needs to remain on the 303(d) list of water quality limited segments. There is no fact sheet that documents the lines of evidence necessary to justify the delisting.
2. The shellfish harvesting advisory listing for Ballona Creek is a new listing. This waterbody-pollutant combination was not on the 2002 CWA Section 303(d) list. This waterbody-pollutant combination is proposed to be listed on the "water quality limited segments being addressed by USEPA approved TMDLs" based on the line of evidence that a remedial program is in place. On page 75 of the fact sheets for Region 4, the line of evidence states that, "The Ballona Creek Coliform TMDL was approved by the RWQCB in June of 2006 and subsequently approved by USEPA." This statement is incorrect, since, the Ballona Creek Coliform TMDL has not been approved by State Board, the Office of Administrative Law, or the USEPA. Therefore, this impairment

does not meet the weight of evidence required for listing and should not be listed as being addressed by a USEPA approved TMDL.

LISTING DETERMINATIONS FOR ALGAE AND SELENIUM

Regional Board staff note that State Board proposes to retain 16 algae listings in the Malibu Creek watershed, Ventura River watershed and various Lakes throughout Region 4 and delist the algae impairments in the San Gabriel River and its tributaries. Regional Board staff find that the retention of algae listings support the rationale that excessive algae can impair beneficial uses and that algae is an appropriate constituent for inclusion on the 303(d) list for certain waterbodies.

Regarding the delisting of algae in the San Gabriel River and its tributaries, staff note that the data record that was relied upon by State Board staff to justify the delisting focused on ammonia only and did not include nitrate or other nutrients that may contribute to excessive algae growth. Regional Board staff is concerned that the record used may have been incomplete and that the entire relevant data set must be considered in listing and delisting decisions in the future.

We also acknowledge the State Board's position against the use of total recoverable metals data in evaluating listings. However, in the case of selenium, the CTR criterion is expressed in the total recoverable form. Therefore, Regional Board staff recommend that the selenium criterion should be compared to the total recoverable data for the purposes of evaluating listings. There are 11/78 exceedances of the selenium criterion in San Jose Creek, which according to the listing policy, requires that this segment be placed on the 303(d) list. See Attachment 1, which was previously submitted to State Board as Attachment 3b to the January 31, 2006 comment letter. Additionally, Regional Board staff note that selenium is not a metal and it is appropriate to consider the total recoverable form of selenium for listing decisions.

Regional Board staff will continue to evaluate all available data, including total recoverable metals data, where appropriate, for the purposes of TMDL development.

RECOMMENDATIONS FOR SPECIFIC WATERBODY-POLLUTANT COMBINATIONS

Ormond Beach and San Buenaventura Beach

The fact sheets do not support delisting. Ormond Beach and San Buenaventura Beach in Ventura County, have 3 and 4 monitoring locations, respectively. When data from all the locations are combined, as it was for the delisting rationale, each beach has a greater than 10% exceedance rate of bacterial indicators. When the data is not combined, the exceedance rate at the Ormond Beach

sites ranges from 0.02% to 19% and the exceedance rate at San Buenaventura Beach sites also ranges from 0.02% to 19%. Each of those sampling locations represents monitoring sites which may be as much as a mile apart and are located near different sources of fresh water. By combining the data from the separate sites, the sites which have high exceedance rates are masked. The fact sheets do not describe the rationale for combining the data for these monitoring points. Regional Board staff recommend that Ormond Beach and San Buenaventura Beach continue to be listed for indicator bacteria.

Coyote Creek, San Gabriel River Reach 1, And San Gabriel River Estuary

Regional Board staff recommend that the listings for fish histology in Coyote Creek, San Gabriel River Reach 1, and San Gabriel River Estuary be retained. First, the delisting factors in section 4.8 of the Policy have not been met. No data are provided to demonstrate that an adverse biological response is no longer evident or that associated water or sediment numeric pollutant-specific evaluation guidelines are not exceeded. Instead, there is a discussion of the existing data set (1992-1993) and a conclusion that it was not supportive of the original listing. Although we feel it is appropriate to apply the delisting factors in Section 4 of the Listing Policy to delist a segment, it is not appropriate to retroactively apply the listing factors in Section 3 of the Listing Policy to modify the original listing decision.

Second, if the listing factors are applied, Regional Board staff believe they would require retention of the listing. The study upon which the listing was made compared observed histopathological abnormalities to reference conditions in conformance with section 3.8 and found, "These are not healthy fish and their tissue conditions do not resemble those of fishes from reference habitats previously investigated by this group." Although it was not possible to directly attribute abnormalities to toxicity or a specific pollutant, the study stated, "Clearly, these fish are not normal and would likely be susceptible to additional stress from deteriorating water quality." Furthermore, a portion of the adverse biological responses in San Gabriel Reach 1 and the Estuary was due to toxicity. Toxicity Identification Evaluations were completed and it was suggested that diazinon, chlorpyrifos, and ammonia were the cause of the toxicity.

Thus, while staff agree that the existing data are old and the specific constituent or constituents caused the observed abnormalities are unknown, we believe that new data must be collected to demonstrate attainment of standards in order for these segments to be delisted. Regional Board staff encourage stakeholders to conduct additional studies to obtain more recent fish histology data.

Please also note that in the fact sheet for Coyote Creek, the third finding states, "Four of 5 observations were judged to indicate that beneficial uses are not supported but there is nothing in the administrative record associating these impacts to toxicity or pollutant concentrations." This finding appears to be included in error as the frequency of impairment does not correlate with the lines of evidence provided.

Dominguez Channel

The lined portion of Dominguez above Vermont Avenue has tissue listings for aldrin, Chem A, chlordane, DDT, dieldrin, and PCBs and sediments listings for chromium, DDT, and PAHs. These impairments were incorrectly applied to the lined portion of Dominguez Channel in the 2002 303(d) list and should be removed since no sediment or tissue samples were ever collected in the lined portions. The fish sample was collected in the Estuary not the freshwater portion of the Channel and there is no sediment in the concrete lined portion of the Channel. In addition, maximum tissue residual levels (MTRLs) were used, which are no longer considered valid assessment guidelines. See fact sheets previously sent to State Board for Dominguez Channel.

Since, there is no sediment then the toxicity listing should be in the water column not the sediment. Water column toxicity (reduced survival and reproductive success) was repeatedly observed at S28 monitoring station from 2002 to 2005. Chronic *Ceriodaphnia dubia* tests showed inhibited survival during two wet weather events in Oct. 2004 and one event in Nov. 2002. *C. dubia* tests for showed inhibited reproductive success in winter 2002 and winter 2004. Sea urchin fertilization tests also showed toxic results in Jan. and Feb. 2004. Toxic responses occurred during this three year timeframe during both dry and wet weather event.

The upper portion of Dominguez Channel contains freshwater down to Vermont Avenue. Los Angeles County Department of Public Works (LACDPW) collects samples at the Dominguez Channel mass emissions monitoring station (S28), which avoids tidal influence. The portion of the river where the monitoring site is located is a concrete-lined rectangular channel. LAC DPW monitoring results from this site (S28) provides data for both wet and dry weather monitoring events. From 2002 to 2005, results show the following exceedances of CTR for dissolved metals in wet weather: copper 9/11; lead 3/11; zinc 8/11. Total metal results were also provided, were compared to total metal criteria, which were converted from dissolved criteria using saltwater translator values from CTR, and reveal additional exceedances in wet weather events: copper 11/11; lead 6/11; zinc 10/11. No dissolved exceedances were observed for these three metals during dry weather sampling. No dissolved exceedances were observed for cadmium, chromium, mercury, nickel, selenium and silver. All metal data were compared to sample-specific hardness adjusted CTR standards. Therefore, dissolved copper, lead and zinc in should be listed in Dominguez Channel.

Dominguez Channel Estuary

The tissue listing of aldrin and Chem A in Dominguez Channel Estuary should be delisted. The MTRLs were used which are no longer considered valid assessment guidelines, therefore, these pollutants should be removed. See fact sheets previously sent to State Board for Dominguez Channel Estuary.

Los Angeles Harbor – Cabrillo Marina

Chlordane and chrysene in sediment should be listed. PCBs and DDT apply to the fish advisory. See fact sheets previously sent to State Board for Los Angeles Harbor.

Los Angeles Harbor – Consolidated Slip

Chlordane and toxaphene in tissue should not be listed. The original listings were based on exceeding background levels rather than valid assessment guidelines. The existing dieldrin listing, which does not specify a matrix, should be specific to sediment. See fact sheets previously sent to State Board for Los Angeles Harbor.

Los Angeles Harbor – Fish Harbor

Benzo(a)pyrene, low molecular weight polycyclic aromatic hydrocarbons (LPAHs), and high molecular weight polycyclic aromatic hydrocarbons (HPAHs) in sediment should be listed. PAHs (total is implied) in sediment should not be listed. Additionally, due to the multiple matrices in which pollutants are found in this waterbody, it should be made clear to which matrix the pollutant listing applies. For instance, the individual PAHs (including LPAHs and HPAHs) as well as chlordane, copper, DDT, lead, mercury, PCBs, and zinc listings apply to sediment. DDT and PCBs are also listed due to a fish advisory. See fact sheets previously sent to State Board for Los Angeles Harbor.

In addition, benzo[a]anthracene should be listed. Eight of 13 surface samples exceeded Benzo[a]anthracene guideline (CSFT database). Total sediment results were created from several different studies within Fish Harbor (BPTCP, Bight 98 and POLA dredge tests). Numerous exceedances occurred in same time period as sediment toxicity results were observed.

Los Angeles Harbor – Inner Cabrillo Beach Area

Due to the multiple matrices in which pollutants are found in this waterbody, it should be made clear to which matrix the pollutant listing applies. For instance, the copper listing applies to sediment and the DDT listing applies to both sediment and a fish advisory. See fact sheets previously sent to State Board for Los Angeles Harbor.

Los Angeles/Long Beach Inner Harbor

The Inner Harbor should not be listed for benthic community effects or sediment toxicity. It should be listed for copper in sediment. Due to the multiple matrices in which pollutants are found in this waterbody, it should be made clear to which matrix the pollutant listing applies. For instance, the DDT listing applies to both sediment and a fish advisory while the PCBs listing

applies only to a fish advisory. See fact sheets previously sent to State Board for Los Angeles/Long Beach Harbor.

Los Angeles/Long Beach Outer Harbor (inside breakwater)

Due to the multiple matrices in which pollutants are found in this waterbody, it should be made clear to which matrix the pollutant listing applies. For instance, the DDT listing applies to sediment, tissue, and a fish advisory. The PCBs listing applies to a fish advisory. See fact sheets previously sent to State Board for Los Angeles/Long Beach Harbor.

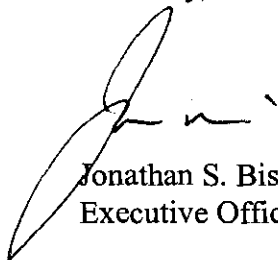
GENERAL COMMENTS

1. Regional Board staff acknowledge the State Board's position against the separation of dry and wet-weather data for assessment purposes. However, Regional Board staff will continue to examine dry and wet weather data separately because of the difference in pollutant loading mechanisms during dry and wet weather, where appropriate, for the purposes of TMDL development. As a result, Regional Board staff will recommend development of wet-weather TMDLs for lead and zinc in Coyote Creek.
2. The 2002 303(d) list specified the matrix in which the pollutant occurred, this is useful information to have at a glance without having to look up fact sheets. The assumption was if there was no matrix specified then the pollutant was in water. Regional Board staff would like to see this information included on the 2006 303(d) list.
3. The proposed 303(d) list contains tissue listings of Chem A in Calleguas Creek, Dominguez Channel, Dominguez Channel Estuary, Machado Lake (Harbor Park Lake), Duck Pond Agricultural Drains/Mugu Drain/Oxnard Drain No 2, Rio De Santa Clara/Oxnard Drain No. 3, and Santa Clara River Estuary. During the 2002 303(d) listing process most of these listings were removed because the original listings were based on elevated data levels (EDLs) or MTRLs, which are no longer considered valid assessment guidelines. Therefore, these impairments should be delisted to be consistent with the listing policy.
4. There are a number of delistings proposed for "taste and odor" in Region 4, however, the 2002 303(d) list never had any listings for taste. Therefore, all the fact sheets that reference delisting "taste and odor" need to be changed to delisting odor only.

Regional Board staff has also included a list of minor comments (Attachment 2) that should be incorporated.

In conclusion, the Regional Board staff appreciate the effort of State Board staff in preparing the 2006 303(d) list of water quality limited segments. We would like to work with State Board staff to resolve the concerns discussed above. If you have any questions concerning our comments, please call me at (213) 576-6605 or Rebecca Christmann at (213) 576-6757.

Sincerely,



Jonathan S. Bishop
Executive Officer

Enclosures

cc: Michael Levy Esq., Office of the Chief Counsel, State water Resources Control Board
David Smith, United States Environmental Protection Agency, Region 9

