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Redwood Chapter P.O. Box 466 Santa Rosa, CA

20 March 2009

North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Re: Commentary Staff Report for the 2008 303d/305b Integrated Report

Attention: Matt St. John

Dear Mr. St. John;

We are disappointed that the draft 303d list in its new format fails to adequately communicate the serious problems of the North Coast watersheds. By changing the style, format and parameters of the listings, and sandwiching the 18 page 303d report inside a 287 page document, the information is not as assessable as prior listings. We ask that the 303d list be broken out as a stand-alone document, as it has been in the past, so that it may easily be downloaded by the public and compared with earlier 303d reports and avoid the appearance of it being hidden.

HISTORY

In 1995 the Navarro River was first listed as impaired for sediment on the 303d list with a priority rating of High with a "Target" completion date of 2000 allowing five years for the task. In 2002 the work had not started, and a new completion date was set for 2004. This extension added four more years to the project, notwithstanding EPA policy set out in 1997, that states:

Once a waterbody is put on a list and a time schedule is specified for completing TMDLs for that waterbody, the TMDL for that waterbody should generally be completed within that time frame; the schedule should not be extended beyond that time frame simply because a new list is developed. P 2

http://www.epa.gov/OWOW/tmdl/ratepace.html#N_2_#N_2

In 2006 we were advised that "due to staff reductions" the Regional Board would not be completing the implementation plans for the Navarro River, now also listed for high water temperature. The 2006 303d listing revised the completion date again to 2019, twenty-four years following its first listing. The priority rating was also removed. The 2008 303d list now under consideration lists completion date as the year 2000, when the EPA, in response to the failure of the Board to act, adopted a technical TMDL in compliance with the 1997 consent decree. This action re-defined what "completion" now means on the states 303d list. The result is that there is an appearance that the state no longer has any responsibility for the actual completion of the TMDL's implementation plan.

No distinction is now made in the 303d list between a state or EPA completion date, even though they are entirely different. The state listing is a target date when the state will complete an implementation plan, while the EPA listing date has no reference to actual completion, but instead is the date they have adopted a technical TMDL. This listing contains no information as to when an implementation plan will be completed by the state and actual completion of the TMDL will take place. It is like mixing birth dates and death dates. While this method may serve the minimum requirements of the EPA, we now have no schedule for the actual completion of those technical TMDLs in the 303d list.

PRIORITIZATION

The Regional Board adopted a 1996 303d "list and prioritization" report showing each proposed TMDL to be High, Low or Medium Priority. This approach continued through 2002, listing each TMDL with a priority rating providing the public with at least some indication of the relative merit of proceeding with a one particular watershed over another. While the EPA has taken what we believe to be an unwise position in allowing the schedule itself to satisfy the legal obligation to "establish a priority ranking" of listed watersheds it is particularly inappropriate in this case. As pointed out above, those technical TMDLs imply that completion has already occurred and do not disclose any priority with respect to the state's responsibility to complete the TMDL. We urge the Board to establish a priority ranking that clearly identifies either the target dates for the actual completion of all listed TMDLs or a numeric or text differentiation between those which need the most urgent attention down to those which are not as urgent.

REALITY

The EPA limits the time for scheduling the completion of TMDLs by the state to thirteen years maximum. This draft listing complies with this by not listing any completions beyond 2021. The list contains 133 TMDLs 16 more than the 2006 303d list. To honor this schedule the Regional Board needs to complete over ten TMDLs per year. In a recent period, when the Board had more staff than they do now, they completed five TMDL segments in ten years. If the schedule were not arbitrarily limited to thirteen years and was based on the resources currently applied, it would extend 266 years! As it now stands the draft 303d list conceals the absolute impossibility of meeting the dates set out.

This artifice does not serve the state or EPA well. We suggest the state put their cards on the table, publish a realistic schedule that does not comply with the thirteen-year rule and describe the problems and the immediate need for greater resources. Solution to stagnation of the TMDL program will more likely come from putting it on the table and asking the EPA for help than attempting to conceal it.

Should the 303d list be approved as now proposed we would urge the EPA not to accept this schedule for the reasons set out above. We would also suggest EPA develop better protocols---to restore prioritization to the process---to prevent this obfuscation of the 303d requirement we see in this document---and to provide much greater financial support to the state to address this very large environmental problem.

We do not mean to demean work that is being performed by the Director and limited staff now working on the TMDL program. We do advocate for a much greater effort by the Regional Water Board, the State Water Resources Control Board in support of the program.

Very truly yours,

Daniel Myers

Water Committee Chair, Redwood Chapter Sierra Club

CC: Alexis Strauss EPA

State Water Resources Control Board