



**Santa Clara Valley
Urban Runoff
Pollution Prevention Program**

Campbell · Cupertino · Los Altos · Los Altos Hills · Los Gatos · Milpitas · Monte Sereno · Mountain View · Palo Alto
San Jose · Santa Clara · Saratoga · Sunnyvale · Santa Clara County · Santa Clara Valley Water District

January 31, 2006

Craig J. Wilson, Chief
Water Quality Assessment Unit
Division of Water Quality
P.O. Box 100
Sacramento, California 95812-0100



303 (d) Deadline:
1/31/06

Subject: Comments on Draft 2006 Revisions to the Section 303(d) List

Dear Mr. Wilson:

This letter is submitted on behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) regarding the *2006 Revision of the Clean Water Act Section 303(d) List of Water Quality Limited Segments*. The SCVURPPP is an association of 13 cities and towns¹ in the Santa Clara Valley, the Santa Clara County and the Santa Clara Valley Water District. Program participants share a common NPDES permit to discharge municipal stormwater to South San Francisco Bay.

The SCVURPPP appreciates the opportunity to submit comments regarding the suggested revisions to the 2006 303(d) list for the State of California. Our comments are related to the proposed listing of one water body located in the Santa Clara Valley (i.e., Stevens Creek) and the San Francisco Bay.

Stevens Creek and Stevens Creek Reservoir

Mercury, PCBs, Chlordane, and Dieldrin

The SCVURPPP opposes the proposed listing of Stevens Creek and Stevens Creek Reservoir as impaired due to mercury, polychlorinated biphenyls (PCBs), Chlordane and Dieldrin for the following reasons:

1. The information used to support the listing of Stevens Creek does not pertain to this water body. The fact sheets in Volume II of the Staff Report indicate that the proposed listings are based on fish tissue samples collected from Stevens Creek

¹ Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale

627
6
150

Reservoir, not Stevens Creek. There are no data presented that indicate fish in Stevens Creek contain any of these chemicals.

2. The listing of Stevens Creek Reservoir is based on an extremely small sample size of fish (n=6) that has not been determined to be a statistical representation of the concentrations of mercury, PCBs, Chlordane, and Dieldrin in fish consumed from that reservoir. As described in the U.S. EPA's *Consolidated Assessment and Listing Methodology* (2002), smaller sample sizes are more prone to yield erroneous assessment decisions because they have a lower probability of detecting WQs exceedances, unless the exceedances are large and pervasive. In the case of Stevens Creek Reservoir, the exceedances were not "large and pervasive". Only three Channel Catfish had concentrations of Chlordanes and Dieldrin greater than the OEHHA Screening Value.²
3. The information used by the State Water Resources Control Board (SWRCB) to support the listing of the Stevens Creek Reservoir was improperly referenced and was not made available for public review. The references that are used to support the listing are not identified in Appendix 2 of Volume I of the Staff Report. In Volume II, the fact sheet includes the references "TSMP, 2002" and "Environmental Chemistry Quality Assurance and Data Report for the Toxic Substances Monitoring Program, 2001-2002; Department of Fish and Game." In our attempts to access this information, it became apparent that neither the raw data nor an associated report has been publicly released. Additionally, the information was not collected via the Toxic Substances Monitoring Program (TSMP), as referenced.

Toxicity

The SCVURPPP opposes the proposed listing of Stevens Creek as impaired due to toxicity for the following reasons:

1. The Staff Report does not identify a pollutant responsible for the observed toxicity as required by 40 CFR § 130.7. Pollutants causing or expected to cause violations of the applicable water quality standards must be identified to list a water body on the 303(d) list. Numerous naturally occurring processes result in periodic episodes of toxicity in water bodies, and there is no evidence presented that the observations were not the result of such processes.
2. The information used by the State Water Resources Control Board (SWRCB) to support the listing of Stevens Creek was improperly referenced and was not made available for public review. The references that are used to support the listing are not identified in Appendix 2 of Volume I of the Staff Report. In Volume II, the fact sheet includes the references "TSMP, 2002" and "Environmental Chemistry Quality Assurance and Data Report for the Toxic Substances Monitoring Program, 2001-2002; Department of Fish and Game." In our attempts to access this information, it became apparent that neither the raw data nor an associated report has been publicly released. Additionally, the information was

² In the report where screening values (SV) adopted by OEHHA were developed (Brodberg and Pollack 1999), the authors state that, "The SVs are not intended as levels at which consumption advisories should be issued, but are useful as a guide to identify fish species and chemicals from a limited data set, such as this one, for which more intensive sampling, analysis or health evaluation are to be recommended".

not collected via the Toxic Substances Monitoring Program (TSMP), as referenced.

San Francisco Bay (all segments)

Diazinon

The SCVURPPP strongly supports the State Board Staff recommendation to remove the San Francisco Bay and all its segments from the Section 303(d) list for diazinon³. Since the listing in 1998, new water quality data has been collected and analyzed from all segments of the San Francisco Bay, which indicate that ambient water concentrations of diazinon in the Bay are at least an order of magnitude below water quality criteria (US EPA 2000). Additionally, monitoring of ambient water toxicity in water samples collected from October 2001 through April 2003, also indicate an absence of toxicity to test organisms (Ogle and Gunther 2002; Ogle and Gunther 2003). Therefore, the best available data suggests that the concentrations of diazinon are below water quality criteria and aquatic toxicity in the San Francisco Bay is not present; indicating that the narrative water quality objectives for toxicity (acute and chronic) are currently being met.

Thank you for the opportunity to comment on the proposed 2006 303(d) list. If you require additional information or have questions regarding these comments, please contact me at (510) 832-2852.

Sincerely,



Adam W. Olivieri Dr.PH., P.E.
SCVURPPP Program Manager

cc: SCVURPPP Management Committee
SCVURPPP Monitoring AHTG
SCBWMI WAM Subcommittee
BASMAA Executive Board

References

Brodberg, R. and G. Pollack (1999). *Prevalence of Selected Target Chemical Contaminants in Sport Fish from Two California Lakes: Health Designed Screening Study*. Final Project Report. Prepared for Office of Environmental Health and Hazard Assessment, California Environmental Protection Agency. June.

Ogle, S. and A. Gunther 2003. 2002 Episodic Ambient Water Toxicity in the San Francisco Estuary. Prepared for the Regional Monitoring Program for the San Francisco Estuary.

Ogle, S. and A. Gunther 2002. 2001 Episodic Ambient Water Toxicity in the San Francisco Estuary. Prepared for the Regional Monitoring Program for the San Francisco Estuary.

United States Environmental Protection Agency (2002). *Consolidated Assessment and Listing Methodology- Toward a Compendium of Best Practices. First Edition. Office of Wetlands, Oceans, and Watersheds*. July.

³ The SCVURPPP sent a memorandum to the SWRCB in June 2004 requesting that all segments of the San Francisco Bay be delisted for diazinon.