



March 30, 2017

Electronic Submission: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Los Angeles Regional Water Quality Control Board  
Los Angeles Region  
ATTN: Jun Zhu  
320 W 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Subject: Comment Letter – Revisions to the Los Angeles Region 303(d) List**

Dear Dr. Zhu:

The County of Ventura (County) and the Cities of Fillmore and Santa Paula (Cities) appreciate the opportunity to provide comments on the proposed updates to the Clean Water Act Section 303(d) list of impaired waterbodies in the Los Angeles Region [hereinafter referred to as 303(d) list], which was distributed for public review on February 8, 2017. The proposed updates to the 303(d) list did not include delisting of the Santa Clara River Reach 3 for ammonia as recommended by the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) in the letter dated November 10, 2016 provided as an attachment to this letter.

In June 2015, the County and the Cities submitted a letter with data and analysis that supported delisting of the Santa Clara River Reach 3 for ammonia. In the November 10, 2016 letter, Los Angeles Water Board staff responded:

“Based on the findings described above, the requirements for delisting has been met. Therefore, Los Angeles Water Board staff plans to recommend delisting of ammonia from Santa Clara River Reach 3 in the 2016 California Integrated Report.” (page 2 of the attached November 10, 2016 letter).

The County and the Cities request that the ammonia delistings be included in the 303(d) list scheduled for adoption on May 4, 2017.

**Requested Action: Delist Ammonia in Santa Clara River Reach 3.**

The County and the Cities are committed to being stewards to their local waterbodies, and have expended substantial time and resources to comply with these requirements. We are proud of the water quality improvements that are clearly reflected in the data that was submitted to the Los Angeles Water Board staff. The County and the Cities have a long history of working with the Los Angeles Water Board staff to improve water quality in the Ventura County region and believe that it has contributed to the success that has been achieved in improving water quality. We are hoping to continue this collaboration to celebrate the successes in water quality that have occurred in Ventura County through waterbody delistings.

We appreciate your further consideration of this matter. If you have any questions or need additional information, please contact Ewelina Mutkowska with Ventura County Public Works Agency, at (805) 645-1382 or [Ewelina.Mutkowska@ventura.org](mailto:Ewelina.Mutkowska@ventura.org).

Sincerely,



Jeff Pratt,  
Director  
Ventura County  
Public Works Agency



Roxanne Hughes,  
City Engineer  
City of Fillmore



John Ilasin,  
Interim Public Works  
Director  
City of Santa Paula

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Enclosure: "Request for Delisting of Ammonia in Santa Clara River Reach 3", Los Angeles Regional Water Quality Control Board Letter dated November 10, 2016

Cc: Samuel Unger, Los Angeles Regional Water Quality Control Board  
Nick Martorano, State Water Resources Control Board  
Glenn Shephard, Ventura County Watershed Protection District  
Arne Anselm, Ventura County Watershed Protection District  
Ewelina Mutkowska, Ventura County Public Works Agency  
Caesar Hernandez, City of Santa Paula  
David Burkhart, City of Fillmore  
Ashli Desai, Larry Walker Associates



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Los Angeles Regional Water Quality Control Board

November 10, 2016

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Mr. Peter Sheydai, Interim Director  
Ventura County Watershed Protection District  
800 South Victoria Avenue  
Ventura, CA 93009

Ms. Roxanne Hughes, City Engineer  
City of Fillmore  
Central Park Plaza, 250 Central Ave.  
Fillmore, CA 93015

Mr. Brian Yanez, Public Works Director  
City of Santa Paula Public Works Department  
866 E Main St.  
Santa Paula, CA 93060

### **Subject: REQUEST FOR DELISTING OF AMMONIA IN SANTA CLARA RIVER REACH 3**

Dear Mr. Clifford, Ms. Hughes and Mr. Yanez:

The Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) is in receipt of the letter from the Ventura County Watershed Protection District and the cities of Fillmore and Santa Paula dated June 4, 2015, with the subject "Reassessment and Delisting of Ammonia and Absence of Impairment for Other Nitrogen Compounds in the Santa Clara River Reach 3" (June 2015 letter), which requested delisting of Santa Clara River Reach 3 for ammonia. In the June 2015 letter, water quality data spanning the period from April 2014 to December 2014 were provided in support of the request for delisting. The Los Angeles Water Board responded to the June 2015 letter by email on October 5, 2015.

The Los Angeles Water Board is in receipt of the subsequent letter from the Ventura County Watershed Protection District and the cities of Fillmore and Santa Paula dated February 16, 2016, with the subject "Request for Official Regional Board Response" (February 2016 letter). The February 2016 letter reiterated the request for delisting and expressed concerns about the scope and timing of the upcoming 2016 listing decisions and, more generally, the implications of delisting decisions relative to regulatory requirements.

The Los Angeles Water Board provides this response to the request for delisting in both the June 2015 and the February 2016 letters and to address the concerns expressed in the February 2016 letter.

### Response to Request for Delisting of Santa Clara River Reach 3 for Ammonia

The Los Angeles Water Board assessed the existing Lines of Evidence (LOEs) in the California Water Quality Assessment Database (CalWQA) as well as the water quality data provided in the June 2015 letter for the Santa Clara River Reach 3 Ammonia listing. Our data analysis shows that:

- 1) There were a total of 40 water quality data points for Santa Clara River Reach 3 during the time period of April 14, 2004 to August 30, 2010, the deadline for submittal of data for the 2012 California Integrated Report. The water quality data came from three data sources:
  - a. Thirty-seven water samples were collected at the mass emission station ME-SCR by the Ventura Countywide NPDES Stormwater Monitoring Program.
  - b. Two water samples were collected at the monitoring site S03D\_Bards along Bardsdale Avenue on January 24, 2008 and February 6, 2009 by the Ventura County Agricultural Irrigated Lands Group pursuant to Order No. R4-2005-0080.
  - c. One water sample was collected approximately 4 miles upstream of South Mountain Road in Santa Paula by the Southern California Stormwater Monitoring Coalition on June 1, 2010.
- 2) Water sample collection by these three programs, a through c, above, occurred after March 18, 2004 when the Santa Clara River Nitrogen Compounds TMDL became effective, following which the Fillmore and Santa Paula POTWs ceased discharging to Santa Clara River Reach 3.
- 3) Per the *Water Quality Control Plan, Los Angeles Region* (1994) as amended (Basin Plan), Santa Clara River Reach 3 is subject to the Early Life Stage (ELS) Provision for determination of the ammonia as nitrogen objective. Therefore, a 30-day average concentration of ammonia was calculated as a function of pH and temperature (°C) as follows:

$$\text{30-day Average Concentration} = \left( \frac{0.0577}{1 + 10^{7.688 - \text{pH}}} + \frac{2.487}{1 + 10^{\text{pH} - 7.688}} \right) * \text{MIN} \left( 2.85, 1.45 * 10^{0.028 * (25 - T)} \right)$$

- 4) Based on Board staff's calculation, one of the 40 ammonia data points (13.5 mg/L, sampled on December 18, 2007) was found to have exceeded the numeric target for the 30-day average concentration of total ammonia as nitrogen (1.7 mg/L) set by the Santa Clara River Nitrogen Compounds TMDL.
- 5) Pursuant to the State's Listing Policy Section 4.1, the maximum number of measured exceedances allowed to remove a water segment from the section 303(d) list for toxicants (including priority pollutants, metals, chlorine and ammonia) is three when the sample size is between 37 and 47.

Based on the findings described above, the requirement for delisting has been met. Therefore, Los Angeles Water Board staff plans to recommend delisting of ammonia from Santa Clara River Reach 3 in the 2016 California Integrated Report.



We anticipate that the listing and delisting decisions for the 2016 California Integrated Report will be issued for public comment in early 2017. All interested persons will be able to provide comments at that time. The 2016 California Integrated Report would then be presented for approval at a Los Angeles Water Board meeting and/or State Water Board meeting in spring 2017.

However, we note that even once Santa Clara Reach 3 is delisted for ammonia through the 303(d) listing process, the Santa Clara River Nitrogen Compounds TMDL, including the established numeric targets and allocations, are part of the Basin Plan and remain in effect. Please see our additional discussion, below, under "Response to Concerns Regarding Implications of 303(d) Listings."

### **Response to Concerns Regarding Scope and Schedule for 2016 Integrated Report and Review of Previous Listing Decisions**

The State Water Resources Control Board (State Water Board) solicited water quality data for the current California Integrated Report, including the Clean Water Act Section 305(b) report and the 303(d) list, with an original deadline of June 30, 2010, which was extended to August 30, 2010. On November 12, 2013, the State Water Board announced in a memorandum distributed to interested persons via the Board's Lyrus subscription list a new strategy for the development of the state's Integrated Report including establishing three groups of Regional Water Boards and submitting an Integrated Report for one group per listing cycle (i.e. every two years). On February 3, 2015, the State Water Board amended the Listing Policy to reflect this and other changes.

As determined by the State Water Board after consultation with the USEPA, the 2012 Integrated Report addressed data in Regions 1, 6 and 7. The 2014 Integrated Report is addressing Regions 3, 5 and 9, and the 2016 Integrated Report will address Regions 2, 4 (Los Angeles) and 8. Despite the new strategy, the State Water Board decided that it would not solicit additional data for the 2014 and 2016 Integrated Reports; instead data submitted for the 2012 Integrated Report (i.e., data prior to August 30, 2010) would be used to develop the 2014 and 2016 Integrated Reports.

In addition, while the Listing Policy changes allow for a Regional Water Board to make decisions "off-cycle" (i.e., not in their assigned Integrated Report year), the State Water Board's November 2013 memorandum states that the Integrated Report process will allow for the "off cycle" decisions "beginning with the next data solicitation."

We recognize that the 2013 procedural changes (as incorporated into the 2015 amendment to the State's Listing Policy) represent a change from previous procedures and from the procedure that was anticipated during the 2010 data solicitation. We also understand stakeholder concerns that the data now being assessed by the Los Angeles Water Board for the 2016 303(d) list will only include data through August 2010.

However, we anticipate that the changes to the procedures included in the 2015 amendment to the Listing Policy, including the grouping of the Regional Water Boards and the requirement that all data be submitted via the California Environmental Data Exchange Network (CEDEN), will significantly improve the efficiency of the listing and delisting process so that even with regional updates only once every six years, California will have a more comprehensive assessment and 303(d) list than in the past.

The Los Angeles Water Board is currently reviewing LOEs and preparing to make decision recommendations for the 2016 303(d) list. The usefulness and appropriateness of making off-cycle listing decisions for the 2018 303(d) list can be considered on a case-by-case basis after we have completed the 2016 303(d) list.

In addition, we note that while listings established prior to the 2004 Listing Policy were not re-assessed in their entirety for the 2006 or 2010 303(d) lists, many re-assessments were made in both lists, as shown in the table below.

**Numbers of “do not delist” and “delist” decisions in 2006 and 2010 in the Los Angeles Region**

Decisions that included re-assessment of previous listings	Listing Year	
	2006	2010
Do not delist	85	33
Delist	110	22

**Response to Concerns Regarding the Implications of 303(d) Listings and TMDLs**

The Los Angeles Water Board agrees that 303(d) listings have important implications in terms of requirements that they are addressed through TMDLs or other programs of water quality improvement and in discharge permits and other Board orders.

The Clean Water Act and implementing regulations require that impairments included on the 303(d) list are addressed in a timely manner through TMDLs or other programs of water quality improvement. TMDLs are a technical regulatory tool to identify the loading capacity of a waterbody for a particular pollutant and allocate that allowable load among the sources of the pollutant in order to restore a waterbody to a condition that fully supports beneficial uses. TMDLs may also be relied upon to ensure ongoing protection of beneficial uses. As such, a waterbody does not need to remain impaired to be addressed by a TMDL in the Basin Plan.

That notwithstanding, the Los Angeles Water Board can, if it deems appropriate based on the weight of the evidence regarding receiving water conditions throughout the waterbody and the water quality of point and nonpoint source discharges, remove targets and allocations from an existing TMDL during a reconsideration of the TMDL. The Los Angeles Water Board can reconsider a TMDL that it has established at any time. In the case of the Santa Clara River Nitrogen Compounds TMDL, the Los Angeles Water Board could, in the future, withdraw or reconsider and modify the TMDL if it deemed appropriate. However, these potential actions would require a more comprehensive analysis than a 303(d) listing decision. A reconsideration of the Santa Clara River Nitrogen Compounds TMDL would require a reassessment of all the available ammonia and nitrate+nitrite data in the Santa Clara River, its tributaries and estuary, and also an evaluation of the eutrophic status and other related effects of nitrogen compounds on the River. Finally, it would require an evaluation of the discharge quality of the various sources of nitrogen compounds to the River relative to their wasteload and load allocations in the TMDL.

In addition, the Los Angeles Water Board would consider the utility of keeping the TMDL, or a revised TMDL, in place in order to ensure the continued progress toward, or maintenance of, attainment of water quality standards in the River. The USEPA's draft March 22, 2012

"Considerations for Revising and Withdrawing TMDLs" recommends keeping effective TMDLs in place:

EPA recommends that existing TMDLs not be withdrawn simply because the load and wasteload allocations have been implemented successfully and the water is now attaining water quality standards. EPA recommends that such "successful" TMDLs remain in place to ensure that WQS [water quality standards] continue to be maintained in the future, and that their water quality analyses and allocation targets continue to inform permit writers' and stakeholders' efforts to maintain those water quality standards.

### **Response to Concerns Regarding Implications of 303(d) Listings in Permitting**

NPDES permits and other Board orders may include specific requirements for actions that will be taken when the permitted discharge is to a 303(d) listed waterbody. These specific requirements are identified during the development of the permit and are subject to stakeholder comment and Board consideration.


As you anticipate and we have been discussing with you through our MS4 program, the Los Angeles County MS4 Permit will be a model for the upcoming Ventura County MS4 Permit renewal, so municipalities in Ventura County will have the opportunity to develop watershed management programs (WMP) or enhanced watershed management programs (EWMP). WMPs and EWMPs under a renewed Ventura County MS4 Permit will also likely have to consider waterbody-pollutant combinations on the 303(d) list within their watershed when prioritizing water quality issues and identifying watershed control measures. It is appropriate to conduct a reasonable assurance analysis (RAA) for 303(d) listed constituents (directly or through a limiting pollutant analysis) or otherwise provide a justification for how these pollutants are adequately addressed in the WMP/EWMP.

Although the 303(d) list does not reflect more recent data at this time, it remains an informative list based on a comprehensive evaluation of data per the Listing Policy criteria, which was subject to public review and comment and final approval by USEPA. Further, as indicated above, based on the findings of our analysis of data from 2004-2010, Los Angeles Water Board staff plans to recommend delisting of ammonia from Santa Clara River Reach 3 in the 2016 California Integrated Report.

Whether a renewed Ventura County MS4 Permit includes provisions to adjust requirements due to improvements in waterbodies that remain on the 303(d) list during the term of the permit can be addressed during development of the permit. The Ventura County MS4 Permit may well allow for the same compliance demonstration pathways as those in the Los Angeles County MS4 Permit, including demonstrating that receiving water limitations are being met in the adjacent and downstream waterbody. Monitoring requirements can also be addressed during permit development.

In closing, we acknowledge and appreciate the hard work and the resources committed by the Ventura County Watershed Protection District and the cities of Fillmore and Santa Paula to improve the water quality in the Santa Clara River and look forward to even more water quality improvement in the future. If you have any questions, please contact Dr. L.B. Nye at (213) 576-6785 or Dr. Jun Zhu at (213) 576-6681.

Sincerely,

  
Samuel Unger, P.E.  
Executive Officer

cc: Nick Martorano, State Water Resources Control Board  
Ewelina Mutkowska, Ventura County Watershed Protection District  
Caesar Hernandez, City of Santa Paula  
David Burkhart, City of Fillmore  
Ashli Desai, Larry Walker Associates