



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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3/20/07 BdMtg Item 7
Listing Policy
Deadline: 3/8/07 12 noon

Via electronic mail

Ms. Tam Doduc, Chair and Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Dear Chair Doduc and Members of the Board:

Comments on the Implementation of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List March 20, 2007 State Board Meeting and Workshop, Agenda Item 7

The Sanitation Districts of Los Angeles County¹ (Districts) appreciate the opportunity to provide comments on the implementation of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy) for both the 2006 303(d) list and for future list cycles to the State Water Resources Control Board (State Board). The Districts are a consortium of 24 independent special districts serving the wastewater and solid waste management needs of over 5 million people and 3,300 industries in Los Angeles County, California. The Districts serve 78 cities and unincorporated areas within the County. We currently operate and maintain over 1,300 miles of trunk sewers and 11 wastewater treatment plants that collectively treat over 650 million gallons per day of wastewater. Of the 11 wastewater treatment plants, 7 discharge to inland surface waters in the San Gabriel River, Santa Clara River, and Rio Hondo watersheds (all in the Los Angeles Region), one discharges to the ocean (on the Palos Verdes Shelf), and 3 do not discharge to waters of the United States..

Implementation of Listing Policy for the 2006 303(d) List

As the Districts have previously stated, both in written comments and at the October 25, 2006 State Board Meeting on the adoption of the 2006 303(d) list, the State Board's consistent use and application of the Listing Policy produced a well-documented and scientifically valid 303(d) list. Clearly, the statewide application of the Listing Policy was the primary reason that so many commenters on the

¹ District No. 2 on behalf of the Joint Outfall System and the Solid Waste System. The ownership and operation of the Joint Outfall System is proportionally shared among the signatory parties to the amended Joint Outfall Agreement effective July 1, 1995. These parties include County Sanitation Districts of Los Angeles County Nos. 1, 2, 3, 5, 8, 15, 16, 17, 18, 19, 21, 22, 23, 28, 29, and 34, and South Bay Cities Sanitation District of Los Angeles County. The ownership and operation of the Solid Waste System is proportionally shared among the signatory parties to the Sanitation Districts' Solid Waste Management System Agreement effective February 21, 1996.

proposed 2006 303(d) list felt compelled to state that their organizations agreed with the State Board listing recommendations 99% of the time. Considering the diverse interests represented in the State of California, the State Board staff should be commended for their diligent efforts in implementing the Listing Policy to produce such a defensible set of final recommendations. The Districts believe that, with the use of the Listing Policy, the 2006 303(d) listing process was noticeably more transparent and consistent than past listing cycles, and the listing decisions, for the most part, had a well-documented, rigorous and scientifically valid basis. Although the Districts did not agree with every aspect of the Listing Policy when it was adopted, nor with every decision that was made on the 2006 303(d) list, we do believe its use in developing California's 2006 303(d) list has markedly improved the overall listing process and provided a much needed consistent statewide approach that previously was lacking.

Development of the 2008 303(d) List and Future 303(d) Lists

Consistent with our support for both the Listing Policy and the State Board's uniform and diligent application of the Listing Policy, the Districts wish to clearly state a preference for the State Board to continue to be the lead agency that reviews and updates the 303(d) list in the 2008 listing cycle and other future listing cycles. It should be noted that in the Los Angeles Regional Water Quality Control Board's (Regional Board's) written comments to the State Board regarding the 2006 303(d) list and in the course of the Regional Board's preparation of local Total Maximum Daily Loads (TMDLs) (where the Regional Board reviews which waterbody-pollutant combinations are impaired), the Regional Board proposed impairments based on analyses that were inconsistent with the Listing Policy.

For example, in the proposed TMDL for Metals and Selenium in the San Gabriel River and Impaired Tributaries (adopted by the Regional Board in July 2006, but not yet taken up by the State Board), the Regional Board claimed to use the Listing Policy to determine the impairment status of the waterbodies under consideration for inclusion in the TMDL. However, the Regional Board did not follow the guidelines or provisions of the Listing Policy in many situations. In particular, the Regional Board did not regard the Listing Policy's provisions on Temporal Representation (Section 6.1.5.3), Quantification of Chemical Concentrations (Section 6.1.5.5) or Evaluation of Data Consistent With the Expression of Numeric Water Quality Objectives (Section 6.1.5.6). The end result is that the proposed TMDL addresses six waterbody-pollutant combinations in the watershed whereas the State Board determined, after a full evaluation of the available data in its 2006 303(d) listing cycle, that only two of those combinations represented impairments. Other examples can be found by examining the Regional Board's comments regarding the proposed 2006 303(d) list and the State Board's responses to those comments, which illustrate the fact that the Regional Board's listing practices are not consistent with the Listing Policy. Based on the foregoing, the Districts believe that, if the regional boards are the lead agencies, the State Board will have to undertake a huge amount of work each time the 303(d) list is updated just to ensure that the Listing Policy is properly applied and interpreted.

The discussion of this Agenda Item asks whether or not the State Board should pursue amendments to the Listing Policy in light of the 2006 303(d) listing process. The Districts contend that before amending the Policy is even considered, ALL of the provisions of the current Listing Policy should be fully implemented by the State and all the Regional Boards. The introduction to the Listing Policy states: "this State policy for water quality control describes the process by which the State Water Resources Control Board and Regional Water Quality Control Boards will comply with the listing requirements of section 303(d) of the federal Clean Water Act. The objective of this Policy is to establish a standardized approach for developing California's section 303(d) list in order to achieve the overall goal of achieving water quality standards and maintaining beneficial uses in all of California's surface waters." (*emphasis added and acronyms removed*) The Districts agree with this objective and the majority of the provisions in the Listing Policy and would like to see the Listing Policy be fully implemented by the State

Ms. Tam Doduc

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Board for at least another complete listing cycle before amendments are even considered. If you have any questions regarding these comments, please contact Sharon Green or Beth Bax at (562) 699-7411.

Very truly yours,

Stephen R. Maguin



Robert G. Asgian
Section Head

Water Quality & Soils Engineering

RGA:BB:dhs

cc: Mr. Craig J. Wilson, State Board