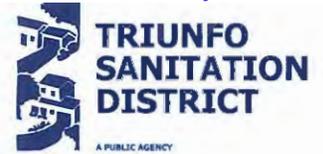




Las Virgenes – Triunfo Joint Powers Authority
 4232 Las Virgenes Road, Calabasas, CA 91302
 818.251.2100

Public Comment
 Listing Policy Amendment
 Deadline: 12/22/14 by 12:00 noon



Also transmitted electronically via commentletters@waterboards.ca.gov

December 16, 2014

Jeanine Townsend, Clerk to the Board
 State Water Resources Control Board
 1001 I Street, 24th Floor
 Sacramento, CA 95814



Subject: Comment Letter—Listing Policy Amendment

Dear Ms. Townsend:

The Las Virgenes – Triunfo Joint Powers Authority (JPA), comprised of the Las Virgenes Municipal Water District and the Triunfo Sanitation District, is a combined public water and sanitation utility serving approximately 100,000 customers in northwest Los Angeles County and eastern Ventura County. We would like to offer the following comments on the proposed amendment to the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List (Listing Policy).

The state’s proposed amendments to its 303(d) Listing Policy seek to reduce the administrative burden of the 303(d) listing process by (1) limiting the definition of “readily available information;” (2) lengthening the listing cycle regionally; (3) allowing the state to complete the listing process for region’s that cannot do so in a timely fashion, and (4) providing the Executive Officer of the State Water Resources Control Board (SWRCB) discretion to finalize future updates to the state 303(d) list without taking it before the SWRCB for a vote¹.

While the JPA generally supports the state’s efforts to make its administrative procedures more efficient, we cannot support the proposed amendments in their entirety. Specifically:

- We cannot support staff’s proposal to delegate the state’s approval of future 303(d) lists to the State Water Resources Control Board Executive Officer.

Rationale: Under the proposed amendment, the SWRCB Executive Officer would have discretionary authority to approve future updates to the 303(d) list and directly submit the revised list to the EPA for final adoption. If exercised, this procedural change would circumvent the existing approval process, which culminates with a vote of concurrence by the SWRCB in a publicly-noticed hearing before the SWRCB prior to the submission of the updated list to the EPA.

We strongly believe such discretionary authority is contrary to the checks and balances specifically provided by SWRCB review and approval, especially for a

¹ Beyond these procedural changes, the Notice also proposes to incorporate sediment quality narrative objectives in the state’s Listing Policy pursuant to SWRCB Resolution No. 2008-0070.

Glen Peterson
 Chair, Las Virgenes-Triunfo
 Joint Powers Authority
 President, Las Virgenes Municipal Water District
 Board of Directors

Steve Iceland
 Vice Chair, Las Virgenes-Triunfo
 Joint Powers Authority
 Chair, Triunfo Sanitation District
 Board of Directors

document with such far-reaching regulatory consequences². Short of the courts, a SWRCB hearing is the venue of last resort for citizens and public agencies alike to have their views heard before board members specifically appointed to represent stakeholders directly affected by proposed water quality regulations that would be developed for 303(d) listed water bodies.

We ask that this language be deleted from the proposed Listing Policy amendments.

- We are concerned with the proposal to limit the definition of “readily available information” to information submitted to the California Environmental Data Exchange Network (CEDEN). Specifically, under the proposed amendment it is unclear whether data submitted to the state in compliance with NPDES permit monitoring and reporting requirements would be automatically uploaded to the CEDEN system.

We ask that the proposed amendment be revised to include data submitted to the state under the NPDES program as “readily available information,” rather than adding to the administrative burden of NPDES permittees (and creating potential confusion) by requiring separate submissions of these data to two state-administered systems (i.e. NPDES and CEDEN).

Alternatively, if the Board wishes to adopt the proposed amendment’s language on this issue without revision, we ask that it instruct its staff to include CEDEN system uploads of NPDES water quality monitoring data on at least an annual (and preferably quarterly) basis, to ensure that these data are readily available for future 303(d) listing cycles.

- In our review of the state’s 303(d) listing policy, we also noticed a logical inconsistency in Section 3.2 of the policy, which provides listing guidance for numeric water quality objectives. This section contains the following statement:

“For depressed dissolved oxygen, if measurements of dissolved oxygen taken over the day (diel) show low concentrations in the morning and sufficient concentrations in the afternoon, then it shall be assumed that nutrients are responsible for the observed dissolved oxygen concentrations if riparian cover, substrate composition or other pertinent factors can be ruled out as controlling dissolved oxygen fluctuations.”

While we understand no changes to this language are proposed in the amendments to the state Listing Policy, we wish to point-out that that this statement would be equally true of any factor resulting in the specified conditions. As guidance on methods, this is simply a restatement of the process of elimination. Our concern is with the policy’s arbitrary focus on nutrients as the one factor that warrants and actually authorizes a degree of assumption under these conditions. Accordingly, we ask the state to consider either generalizing the statement by substituting “nutrients” with “one factor” in the above statement, or simply delete the sentence.

² The 303(d) list is more than just a compilation of impaired water bodies; under the CWA, inclusion of a water body on the state 303(d) list triggers further regulations, notably the establishment of Total Maximum Daily Loads (TMDLs) for any pollutant found to be contributing to the identified water quality impairment.

We appreciate this opportunity to comment. Please feel free to contact me at 818 / 251-2100 or dpedersen@lvmwd.com if you have any questions or wish clarification on any of our comments.

Sincerely,

A handwritten signature in black ink that reads "David W. Pedersen". The signature is written in a cursive, flowing style.

David W. Pedersen, P.E.
Administering Agent/General Manager