



# CALIFORNIA FARM BUREAU FEDERATION

NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

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*Sent via U.S. Mail & E-Mail*

JShu@waterboards.ca.gov

June 30, 2010

Jeffrey Shu  
State Water Resources Control Board  
Division of Water Quality  
P.O. Box 100  
Sacramento, CA 95812-0100

***Re: Public Solicitation of Water Quality Data and Information for 2012 California Integrated Report – Surface Water Quality Assessment and List Of Impaired Waters [Clean Water Act Sections 305(b) and 303(d)]***

Dear Mr. Shu:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 81,000 members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

Farm Bureau appreciates the opportunity to comment on the public solicitation of water quality data and information for the 2012 Integrated Report—Surface Water Quality Assessment and List of Impaired Waters [Clean Water Act Sections 305(b) and 303(d)] (“Integrated Report”). Farm Bureau respectfully requests the State Water Resources Control Board (“State Board”) to reevaluate all data and determinations that were used to list Pescadero Creek (San Mateo County, within the San Francisco Bay Regional Water Quality Control Board region) for sediment impairment. Given the erroneous circumstances surrounding the original listing and the current habitat conditions supporting fish species, Farm Bureau requests the State Board to delist Pescadero Creek for sedimentation/siltation impairments.

Original Listing Procedures Were Not Followed and Listing Was Flawed

The State Board has specific procedures that must occur prior to placing a water segment on the Section 303(d) list for sediment toxicity or impairment. As stated in the State Board's Water Quality Control Policy For Developing California's Clean Water Act Section 303(d) List ("Listing Policy"):

A water segment shall be placed on the section 303(d) list if the water segment exhibits statistically significant water or sediment toxicity using the binomial distribution as described in section 3.1. The segment shall be listed if the observed toxicity is associated with a pollutant or pollutants. Waters may also be placed on the section 303(d) list for toxicity alone. If the pollutant causing or contributing to the toxicity is identified, the pollutant shall be included on the section 303(d) list as soon as possible (i.e., during the next listing cycle).

Reference conditions may include laboratory controls (using a t-test or other applicable statistical test), the lower confidence interval of the reference envelope, or, for sediments, response less than 90 percent of the minimum significant difference for each specific test organism.

Appropriate reference and control measures must be included in the toxicity testing. Acceptable methods include, but are not limited to, those listed in water quality control plans, the methods used by Surface Water Ambient Monitoring Program (SWAMP), the Southern California Bight Projects of the Southern California Coastal Water Research Project, American Society for Testing and Materials (ASTM), USEPA, the Regional Monitoring Program of the San Francisco Estuary Institute, and the Bay Protection and Toxic Cleanup Program (BPTCP).

Association of pollutant concentrations with toxic or other biological effects should be determined by any one of the following:

- A. Sediment quality guidelines (satisfying the requirements of section 6.1.3) are exceeded using the binomial distribution as described in section 3.1. In addition, using rank correlation, the observed effects are correlated with measurements of chemical concentration in sediments. If these conditions are met, the pollutant shall be identified as "sediment pollutant(s)."
- B. For sediments, an evaluation of equilibrium partitioning or other type of toxicological response that identifies the pollutant that may cause the observed impact. Comparison to reference conditions within a watershed or ecoregion may be used to establish sediment impacts.
- C. Development of an evaluation (such as a toxicity identification evaluation) that identifies the pollutant that contributes to or caused the observed impact.

(State Water Resources Control Board, Water Quality Control Policy For Developing California's Clean Water Act Section 303(d) List (Sept. 30, 2004), pp. 5-6.)

The original listing of Pescadero Creek for sediment was based solely on a two page letter from the Department of Fish and Game briefly stating general concerns for Coho salmon and steelhead in streams south of San Francisco Bay. The letter provided no evidence documenting any sedimentation issues in Pescadero Creek or that the habitat within Pescadero Creek was in any way compromised by sediment.

Estimation of sediment loading in a stream typically requires utilizing automated event samplers to collect a limited number of total suspended solids samples for laboratory analysis. However, no such samples were collected or evidence gathered in order to warrant listing Pescadero Creek as impaired for sediments. Thus, the original listing was not substantiated by any evidence and is unwarranted.

#### Delisting of Pescadero Creek is Warranted

The State Board's Listing Policy requires the delisting of waters if the decision is found to be faulty and it is demonstrated that the listing would not have occurred in the absence of such faulty data. (State Water Resources Control Board, Water Quality Control Policy For Developing California's Clean Water Act Section 303(d) List (Sept. 30, 2004), p. 11.) "Faulty data include, but are not limited to, typographical errors, improper quality assurance/quality control procedures, or limitations related to the analytical methods that would lead to improper conclusions regarding the water quality status of the segment." (*Ibid.*)

As stated earlier, Pescadero Creek was listed for sediment impairment solely due to a two page letter from the Department of Fish and Game which briefly stated general concerns for Coho salmon and steelhead in streams south of San Francisco Bay but that offered no proof of Pescadero Creek-specific sediment concerns. In the absence of this "faulty data," this listing would not have occurred as no other evidence supported the sediment listing for Pescadero Creek. Rather, additional lines of evidence offered at the time of listing and subsequent listing evaluations actually disproved the need to list Pescadero Creek for sedimentation/siltation. Lines of evidence stated:

Most of the samples indicate optimal or suboptimal fish habitat and the benthic bioassessments indicate most of the samples have good or excellent ratings. (California Regional Water Quality Control Boards, Region 2, Fact Sheets Supporting "Do Not Delist" Recommendations (Nov. 2006), p. 140.)

Assessments of physical habitat quality, biotic conditions, pool habitat quality, and water quality in the Pescadero-Butano watershed revealed the following overall fisheries habitat conditions currently present in the

watershed: (1) Accessible salmonid habitat is fairly abundant throughout the watershed, (2) salmonid habitat quality is higher in the mid and upper Pescadero Creek watershed and lower in the Butano Creek watershed as well as the low gradient reaches of Pescadero Creek, (3) pool habitat is fairly abundant but of limited depth and suboptimal cover, (4) water quality throughout both watersheds is generally adequate for salmonids and other aquatic organisms. (California Regional Water Quality Control Boards, Region 2, Fact Sheets Supporting “Do Not Delist” Recommendations (Nov. 2006), p. 142.)

In addition, the September 2005 Fact Sheets Supporting “Do Not List” Recommendations determined that Pescadero Creek should not be listed for turbidity. (California Regional Water Quality Control Boards, Region 2, Fact Sheets Supporting “Do Not List” Recommendations (Sept. 2005), p. 105.) Turbidity is a measurement of the decrease in transparency of stream water as light is scattered by suspended particulate matter. (Ziegler, Issues Related To Use Of Turbidity Measurements As A Surrogate For Suspended Sediment, 2002.) Turbidity measurements may correlate closely with sediment concentrations in streams. Thus, due to correlations between turbidity and sediment, and the fact that the same data was used to obtain opposite listing results for turbidity and sediment (not to list for turbidity and not to delist for sediment),<sup>1</sup> the State Board should reevaluate sedimentation within Pescadero Creek and should delist the water segment.

#### Current Conditions

Since the listing of Pescadero Creek for sedimentation impairment, the Department of Fish and Game has reintroduced Coho salmon into the creek. Prior to reintroduction, the Department of Fish and Game conducted stream studies. After finding good habitat conditions, low turbidity, low sediment, and high water quality, the fish were reintroduced and have successfully spawned. Given the current quality of Pescadero Creek, which has prompted state and federal agencies to determine its ability to support fish species, the sediment listing for Pescadero Creek is unwarranted and unnecessary.

#### Evidence of Suitable Habitat for Coho Salmon

Farm Bureau urges the State Board to consult with the Department of Fish and Game and the National Oceanic and Atmospheric Administration/National Marine Fisheries Service regarding the fish agencies’ procedures and policies prior to reintroducing fish species into water segments. In addition, Farm Bureau has attached a small selection of documents and

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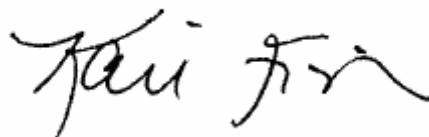
<sup>1</sup> The “Narrative Description Data” used to conclude that Pescadero Creek did not warrant listing for turbidity was the *exact same data* used to conclude that Pescadero Creek should not be delisted for sediment. (See California Regional Water Quality Control Boards, Region 2, Fact Sheets Supporting “Do Not List” Recommendations (Sept. 2005), pp. 106-107; California Regional Water Quality Control Boards, Region 2, Fact Sheets Supporting “Do Not Delist” Recommendations (Nov. 2006), p. 143.)

fish agency policy guides highlighting necessary habitat and sediment conditions that must be present within a water segment prior to the reintroduction, stocking, and/or release of fish species. (*See the following attached documents:* DFG Recovery Strategy For California Coho Salmon {outlining the Recovery Strategy}; NOAA Salmon Habitat {recognizing the need for proper habitat for salmon survival}; NOAA Recovery of Salmon & Steelhead in California and Southern Oregon {calling for the need for healthy ecosystems in order to support salmon}; SF Gate Article {documenting the prevalence of migrating fish in Pescadero Creek since the reintroduction of species}; *see also the following larger documents provided on the attached CD:* DFG Salmonid Stream Habitat Manual {documenting necessary habitat conditions}; NOAA 2005 Federal Recovery Outline for the Central California Coast Evolutionary Significant Unit of Coho Salmon {designating Pescadero Creek coho as an independent population, the necessity of a healthy habitat for population success, and requiring watershed restoration prior to reintroduction}.) As seen from a brief review of the attachments, both the Department of Fish and Game and the National Oceanic and Atmospheric Administration/National Marine Fisheries Service must fully analyze all conditions, including sediment, within a water body prior to the release of fish. After conducting the proper studies, the fish agencies concluded that the habitat and sediment within Pescadero Creek supported the reintroduction of Coho salmon in 2003 and 2006. Thus, Pescadero Creek was found to have the proper habitat conditions, including proper sedimentation, to support the reintroduction of Coho salmon. As such, Pescadero Creek should be delisted for sediment impairment.

Based on the correct data and information that was readily available at the original time of listing and is currently available now, the weight of evidence indicates that there is insufficient justification for maintaining the sedimentation listing. Accordingly, the Pescadero Creek sediment listing warrants delisting.

Thank you for the opportunity to provide our comments and concerns. We look forward to further involvement and discussion with the State Board on the delisting of Pescadero Creek for sediment/siltation impairment.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kari Fisher", with a stylized, cursive script.

KARI E. FISHER  
Associate Counsel

KEF:pkh

Attachments 1-4

Enclosed CD – Attachments 5-7