

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Richard Looker)
MEETING DATE: April 12, 2017

ITEM: 6

SUBJECT: **Proposed Revisions to Clean Water Act Section 303(d) List of Impaired Waters -**
Adoption of Resolution Approving Recommendations for Revisions

CHRONOLOGY: January 14, 2009 – Previous Adoption of Recommendations to 303(d) List

DISCUSSION: This is a hearing on proposed revisions to the list of impaired waters in the San Francisco Bay Region, compiled in compliance with section 303(d) of the federal Clean Water Act (303(d) List). At this hearing, the Board will be asked to adopt the Tentative Resolution (Appendix A) approving and transmitting to the State Board its recommendations for proposed revisions to the 303(d) List. We will present proposed revisions to the 303(d) List, including the Staff Report (Appendix B) and Fact Sheets and Category lists (Appendix C). The statewide formal data solicitation for this listing period occurred in 2010, so the listing recommendations are based on data collected prior to 2010.

In summary, the proposed 303(d) List revisions for our Region include:

- New listings for nine lakes and reservoirs and Mare Island Strait for mercury;
- New listings for San Francisco Bay, Coyote Creek, and Mare Island Strait for sediment toxicity and Guadalupe Slough for water column toxicity;
- New listings for Mare Island Strait (Chlordane, DDT, Dieldrin, Mercury, and PCBs) and San Leandro Bay (DDT);
- New listings for eleven beaches for indicator bacteria; and
- Delisting seven beaches for indicator bacteria.

We received eight comment letters (Appendix D) during the public comment period. Our Responses to Comments document (Appendix E) addresses all comments we received.

We made three changes to the listing recommendations based on the comments we received. First, we do not recommend listing Arroyo Las Positas for water toxicity because of valid concerns about the quality of the available data. Second, based on a re-evaluation of the available fish tissue data and the evaluation guideline for heptachlor epoxide, we do not recommend listing South San Francisco Bay for this legacy contaminant. Third, we recommend not listing Fort Funston for indicator bacteria and instead including it in Integrated Report Category 3 (insufficient information but possibly impaired) because of concerns about the temporal representativeness of the available indicator bacteria data for this water body.

Many of the comment letters shared concerns about our reliance on older data for the water quality assessment and about the age and reliability of sediment toxicity data used to support the Bay listings. Commenters called for a process to restrict attention to newer data in water quality assessments. While there is no provision in the Water Quality Control Policy for developing California's Clean Water Act Section 303(d) Listing Policy (Listing Policy) for excluding consideration of data solely on the basis of age, we can restrict attention to newer

data if we expect improvement in water quality due to implementation of a control measure or a restoration effort. We did not identify any circumstances that would allow us to restrict consideration to newer data during the current assessment period, but we are open to this procedure if warranted in future assessments.

As to the comments regarding the age and reliability of Bay sediment toxicity data, we understand the concerns raised in the comment letters on this issue. There are sediment sites in the Bay that are already on the 303(d) List for sediment toxicity; these were identified as toxic hot spots, and they are clearly impacted by elevated sediment chemistry. The Regional Monitoring Program (RMP) has routinely been collecting data on sediment toxicity since 1993. This is the first time these data have been assessed using the Listing Policy. Since 1993, at least 26% of each year's samples have been determined to be toxic¹. To date, we have not been able to determine the cause of that toxicity and whether it was associated with a pollutant. The RMP conducted special studies to evaluate the hypothesis that the test organism being used, *Eohaustorius estuarius*, is sensitive to the high clay sediments found in the Bay. Some of the toxicity test results may be explained by confounding factors, such as particle size, but there does still appear to be a moderate toxicity signal. Thus, we recommend listing Bay segments for sediment toxicity. The other possible course of action is to place these waters in Integrated Report Category 3, which applies where there is insufficient information to determine beneficial use support, but data indicate that uses may be threatened, and to continue to collect information to help our understanding of sediment toxicity in the Bay.

One other concern raised by a commenter is that we consider making recommendations for impairment listings based on flow, especially for the Napa River. Due to a lack of flow assessment guidance and lack of numeric or narrative flow objectives, we do not currently have a mechanism to move forward with evaluating flow alteration impacts. In taking this approach, we are being consistent with the State Board and most other regions. The State Board's Division of Water Rights is currently drafting a manual with the goal of providing a framework to develop regional flow criteria and objectives. The issue of developing flow objectives was raised during the public process for our most recent Basin Plan Triennial Review workplan development, but it was not ranked as a high priority project by the Board. Nevertheless, we will continue to track efforts to support flow objective development and flow impairment assessments in our Region.

RECOMMEN- Adopt the Tentative Resolution approving and transmitting the 2016 303(d) List revisions to
DATION: the State Board.

APPENDICES: A. Tentative Resolution
B. Staff Report
C. Fact Sheets and Category lists – available online only, see link below
D. Comment Letters
E. Response to Comments

http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/303dlist.shtml#2016_303d

¹ San Francisco Estuary Institute (SFEI). 2011. *The Pulse of the Estuary: Pollutant Effects on Aquatic Life*. SFEI Contribution 660. San Francisco Estuary Institute, Richmond, CA.