



March 16, 2009

VIA CERTIFIED MAIL  
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Mr. Danny McClure  
California Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670-6114

**RE: Review and Comment on the Proposed 303(d) Listing of Marsh Creek**

Dear Mr. McClure:

The City of Brentwood (City) has reviewed the basis for the proposed addition of Marsh Creek to the States Clean Water Action Section 303(d) list. For the reasons discussed herein, the City requests that Marsh Creek be removed from the proposed 303(d) list for salinity and boron.

In proposing to list Marsh Creek for salinity and boron, the proposed listing fact sheet lists agriculture and municipal supply as designated beneficial uses. In the City of Brentwood's Wastewater Treatment Plant NPDES permit (NPDES Permit No. CA0082660; Order No. R5-2008-0006) agriculture supply (AGR) and municipal supply (MUN) beneficial uses were determined to not be designated for Marsh Creek based on the current Basin Plan. Specifically, existing designated beneficial uses for Marsh Creek include REC-1, REC-2, WARM, WILD, and RARE. Order No. R5-2008-0006 specifically states:

*"The Basin Plan does not directly specify beneficial uses for Marsh Creek. However, Footnote 9 to Table II-1 of the Basin Plan states: 'Per State Board Resolution No. 90-28, Marsh Creek and Marsh Creek Reservoir in Contra Costa County are assigned the following beneficial uses: REC-1 and REC-2'. State Board Resolution 90-28, entitled, Approval of Revision (Editing and Updating) of the Water Quality Control Plan for the Sacramento River Basin (Basin 5A), Sacramento-San Joaquin Delta Basin (Basin 5B), and San Joaquin River Basin (Basin 5C), approved a revised Basin Plan edition adopted by the Regional Water Board under Resolution No. 89-056, with several exceptions. State Water Board Resolution No. 90-28 states: 'That the State Board... disapproves the deletion of Marsh Creek and Marsh Reservoir and their beneficial uses. These water bodies*

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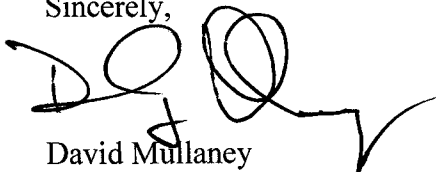
*and their beneficial uses are incorporated into Chapter II, Present and Potential Beneficial Uses.* Prior to the edition of the Basin Plan updated by the Regional Water Board under Resolution No. 89-056, the beneficial uses identified for Marsh Creek included water contact recreation (REC-1); non-contact water recreation (REC-2); warm freshwater habitat (WARM); wildlife habitat (WILD); and rare, threatened, or endangered species (RARE). For surface waters, the Fourth Edition of the Basin Plan states on page II-2.00: *'In making any exemptions to the beneficial use designation of MUN, the Regional Board will apply the exceptions listed in Resolution 88-63.'* However, the exceptions in Resolution 88-63 only apply to water bodies that are not specifically listed in the Basin Plan as having designated beneficial uses."

As water quality standards necessarily include designated beneficial uses, there appears no justifiable basis to list Marsh Creek on the State's 303(d) for salinity and boron. We respectfully request that Marsh Creek be removed from the proposed 303(d) list for these constituents.

Similarly, for the proposed toxicity listings, cold freshwater habitat (COLD) is the stated beneficial use in the fact sheet. COLD is not a designated beneficial use for Marsh Creek, therefore we request that this use of COLD be corrected.

If you have any questions regarding this information, please feel free to contact me at 925.516.6060.

Sincerely,



David Mullaney  
Wastewater Operations Manager

cc: Michael Bryan, Ph.D., Robertson-Bryan, Inc.  
Jeff Lafer, Robertson-Bryan, Inc.  
Chris Ehlers, Deputy Director of Public Works  
Carl Gaston, Wastewater Treatment Plant Supervisor  
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