



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
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TOM WHEELER
SUPERVISOR, DISTRICT 5

March 16, 2009

Danny McClure
Regional Water Quality Control Board, Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670

RE: Proposed 303(d) List Revisions

Dear Mr. McClure:

As the Supervisor representing Eastern Madera County, I have serious concerns with the proposed addition of nine Madera County water bodies to the 303(d) list. My concerns stem primarily from the data used for placement on the list as well as from the effects the listing will have on my constituents as it relates to the proposed AB 885 septic system regulations.

Regarding the proposed listing of the upper Fresno River for the purpose of low dissolved oxygen, I disagree with the findings of the Regional Water Quality Control Board (RWQCB) for the following reasons:

- The samples collected were taken eight years ago.
- The samples were collected in the late summer from mostly stagnant/low-flow waters.
- The objective they cite states "The Basin Plan Objective sets the minimum Dissolved Oxygen content at 8 mg/L.

This number is incorrect. After reviewing *Appendix 3 Basin Plan Water Quality Objectives*, the required level is only 5mg/L. It specifically states dissolved oxygen shall not be less than 5.0 mg/L in inland surface waters designated as Marine Habitat or Warm Freshwater Habitat.

According to this, the number of exceeded (based on their samples) would drop from 11 occurrences of 15 samples, to only 5 occurrences of 15 samples.

Additionally, I believe these samples are outdated and should be redone. I propose (to avoid unnecessary listing) we provide the RWQCB with more up-to-date samples. A current sample (taken this wet season) should give a far better reading of dissolved oxygen due simply to the additional amount of flow.

It is important to note that the California State University, Fresno Biology Department has been contracted by the County to perform field studies on this particular portion of the river to conduct an overall analysis on the health of the existing watershed. Although funds for this project are currently frozen, we may want to see if they have conducted any recent dissolved oxygen tests. These samples can be submitted to the RWQCB in efforts to prevent the listing on the 303(d).

Furthermore, as you are aware, the State Water Resources Control Board released its proposed AB 885 septic system regulations earlier this year. Included in the initial proposal was the requirement that an existing septic system within 600 feet of an impaired surface water body must have a qualified professional determine whether the septic system is contributing to the impairment. If so, the owner must retrofit the septic system with supplemental treatment (\$45,000 approximate cost for a retrofit).

Although the revised proposal has not yet been released and we are unsure whether this requirement is still included, I am concerned with the effects it will have on my constituents. There are numerous property owners with septic systems that meet these criteria, many of them low-income. If the State is going to require these individuals to undergo expensive studies and even more expensive retrofits, it should be held to a high standard of proof that the systems are a likely cause of the water impairment. As is the case with the Fresno River, evidence does not support its placement on the 303(d) list. Given the above-mentioned points, it would be irresponsible for the Board to take the proposed action of listing the Fresno River on the 303(d) list. Since data on the other eight Madera County water bodies is similarly dated, I have to also question their validity.

Finally, I'd also like to respectfully request that your Board offer more thorough outreach in regards to the listing. The proposed changes to the 303(d) list were only brought to our attention in the last two weeks. In order to present adequate and comprehensive comments to the proposal, sufficient notice is needed.

Very Truly Yours,

A large, stylized blue letter 'S' that serves as a signature or initial.

Tom Wheeler
Supervisor, District 5