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June 13, 2002

FAX COVER SHEET

To: Mr. Craig J. Wilson 916-341-5463

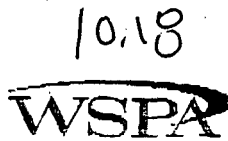
From: Steven Arita

of pages: 9
(including cover)

Please see attached letter.

Dear Craig,
Attached is a copy of our comments on the SWRCB's 303 (d) list. A hard copy is being sent to you via mail. Please call me if you have any questions or need additional information.

If you have problems receiving this material, please call Joey Martinelli at (916) 444-9981.



Western States Petroleum Association
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June 13, 2002

Steven Arita
Environmental Coordinator

Mr. Craig J Wilson, Chief
Monitoring and TMDL Listing Unit
Division of Water Quality
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-0100

Subject: Western States Petroleum Association Comments on Proposed Revision of California's Clean Water Act Section 303(d) List of Water Quality Impaired Segments

The Western States Petroleum Association (WSPA) is a non-profit trade association of companies that produce, transport, refine and market petroleum and petroleum-based products throughout the six western states. Impaired water quality issues, especially 303(d) listing/delisting and the resultant TMDL development and implementation are very important to WSPA and its members.

As we stated during the May 23, 2002 public workshop, WSPA would like to express its appreciation to the SWRCB for extending the public comment period to June 15, 2002. WSPA has conducted a review of the proposed revisions to California's 303(d) list of impaired water quality segments and the staff report, and have submits the following comments:

General Comments on the Proposed 2002 List

WSPA generally supports a number of actions proposed for the 2002 list, but we also have a number of concerns with the proposed 2002 list:

- 1) WSPA supports and endorses staff's recommendations for a "watch" list for water segments where there is insufficient information to support a 303(d) listing, or if a regulatory program is in place to control pollutants and there is not yet sufficient data to demonstrate success. As proposed, the "watch" list would be a list of priority water segments for enhanced monitoring to generate sufficient data to make an appropriate determination to list or not by the next listing cycle. The proposed "Watch" list is also consistent with the recommendations made by the National Academy of Science's

National Research Council (NRC) in its 2001 TMDL report to USEPA. The NRC recommends the use of a "preliminary" list as a means to categorize water segments based on the level of knowledge and supporting scientific data available. WSPA supports the NRC recommendation and state staff proposal for a California "watch" list. Further, WSPA supports the independent assessment of water segments on the "watch" list so that they are individually judged based on the data and the science for each particular water segment. Also, WSPA understands that the "watch" list would be submitted to USEPA, but would not be an official part of the 303(d) list.

Although WSPA supports the "watch" list, WSPA believes there are opportunities to improve on the "watch" list concept. For example, in addition to the "watch" list, WSPA recommends the SWRCB also consider developing a statewide process to ensure that water segments recommended for the "watch" list are done in a consistent manner. Additionally, while WSPA understands the resource constraints the SWRCB is facing, we would urge the Board make every effort to conduct an analysis of the 1998 list to determine which water segments should be placed on the "watch" list.

- 2) WSPA supports the 13 case-by-case factors that were used to evaluate regional board recommendations. However, we have found that the application of the factors by each of the regional boards is inconsistent. Further, the state staff recommendations did not attempt to reconcile the differences into one consistent state methodology for listing. WSPA believes that the methodology should be consistent and transparent throughout the state. Criteria for the use of factors such as minimum data quality, spatial and temporal data representation and independence, minimum data samples, data type, translation of narrative criteria, source of pollution and availability of alternative enforcement programs should be applied consistently throughout the state. WSPA also questions whether it is appropriate to use "fish advisories" as the measurement for impairment. There are no scientific criteria for when an advisory is issued. There is no linkage between these "narrative" criteria to an adopted standard to be met. Further we question the listing of waterbodies for "unknown" pollutants or for generic "beach closures". These water bodies, at a minimum, should be moved to the "watch" list until specific pollutants can be identified and translated into numeric impairments that can be addressed. WSPA encourages state staff review of regional board recommendations so that the factors will be applied consistently throughout the state -- including those water segments on the 1998 list that are not addressed by these revisions.

WSPA also supports the use of all credible data to make impairment determinations, as is required by federal rules. However, we believe that it is important to use minimum requirements to determine if data is credible and scientifically defensible. For example, data should meet reasonable quality assurance and quality control requirements for sample collection, field and laboratory analysis, data management and samples and data are collected by trained personnel. Further, we believe that valid, credible data must meet the appropriate EPA, USGS, ASTM, or American Public Health Association Standard Methods.

→ Further, WSPA supports the NRC report recommendation that a statistical "weight of evidence" evaluation be used to interpret data. A weight of evidence evaluation will ensure that data evaluation and the case-by-case factors are consistently and scientifically applied the statewide. We also note that a "weight of evidence" statistical evaluation in Florida's 303(d) listing policy has been approved by USEPA and reaffirmed by a recent administrative judge ruling. We believe such a similar approach is appropriate for California.

→ 3) WSPA supports a high-medium-low priority ranking system for 303(d) listed water segments as contemplated in the draft proposal. However, WSPA has concerns with how the criteria were used to rank water segments. The draft proposal indicates that water segments on schedule to have TMDLs completed by 2004 would be given a "high" priority designation. Water segments not on schedule for TMDL completion by 2004 would be given "medium" and "low" priority designation. WSPA believes that it is more appropriate to rank water bodies based on the importance of the water segment and on the severity of the impairment. With over 1500 water segments on the both the 1998 list and 2002 proposed list, WSPA believes that it is important that high priority TMDL development and implementation be targeted to address the state's most important and most impaired waters. Therefore, WSPA recommends that the priority ranking also incorporate criteria that address water segment significance (importance) and degree of impairment.

→ 4) Finally, WSPA believes that the same criteria for delisting and/or placing water bodies on the "watch" list should also be applied to water segments on the 1998 list. There are a number of water bodies and segments contained on the 1998 list that were included based on questionable data. For example the entire Santa Monica Bay has been listed based on samples from a few sediment "hotspots." These "hotspots" do not reflect or impact vast areas of the bay. Further, there are a number of questions regarding the linkage between historic sediment based pollutants and new water column pollutants and it's the resulting impacts on impairment. In the case of Santa Monica Bay, it is under a CERCLA action to address the historic sediment. Using the case-by-case factors in the staff report Santa Monica Bay should, at a minimum, be moved to the "watch" list like a number of waterbodies that were placed on "watch" for lack of spatial/temporal data or because they have an alternative enforceable program. We reiterate that we support the comprehensive review and evaluation of all water segments on the 1998 list to ensure that the criteria for listing has been applied consistently to both the 2002 and 1998 lists.

Water Segment Specific Comments for Table 1 Proposed Additions to the 1998 List

State board staff proposes that 195 new water bodies be added to the 1998 303(d) list. The following are comments on the added listings that are important to WSPA members.

San Francisco Bay Regional Board 2

San Pablo Basin (Petaluma River) – Nickel (numeric data, no number of exceeds given) – Sources (Atmospheric deposition/stormwater)

WSPA recommends that this water segment be moved to the “watch” list. WSPA believes that the lack of specific data makes this water segment an ideal candidate for the watch list where it will become a priority for monitoring and assessment. WSPA believes that placing this water segment on the “watch” list would be consistent with the NRC recommendations.

San Pablo Basin (San Pablo Reservoir) – Mercury (based on fish consumption) – Sources (Atmospheric deposition)

WSPA does not believe that fish consumption should be the basis for listing a water segment, as there are no scientific criteria for an advisory nor is there a peer reviewed, administratively adopted regulatory basis for when an advisory is issued. Listing of this water segment and others already on the 1998 based on fish consumption advisories is not appropriate. WSPA recommends that these water segments be placed on the “watch” list where appropriate monitoring and assessment can be undertaken on a priority basis.

Los Angeles Regional Board 4

Ballona Creek Watershed – Copper (numeric data - 38 exceeds in 38 samples)
Lead (numeric data- 5 exceeds in 39 samples)
Zinc (numeric data- 5 exceeds in 39 samples)
Ph (numeric data- 5 exceeds in 40 samples)
Selenium (numeric data- 3 exceeds in 25 samples)
Sources (NPS and storm water)

WSPA would like to point out that the Selenium listing on Table 1 is different from the suggested state recommendation in the water body fact sheet, where a “watch” list designation is recommended. WSPA supports the fact sheet recommendation that Ballona Creek Watershed - Selenium be placed on the “watch” list. Further, WSPA supports that Lead, Zinc, and Ph also be placed on the “watch” list, as the exceeds rate for these pollutants is of the same statistical significance as the exceeds rate for Selenium. WSPA believes that placing these water segments on the “watch” list would be consistent with the NRC recommendations.

Conejo Creek – HCH/PCBs (based on 2 samples) – Sources (historic use of lubricants)

WSPA recommends that this water segment be moved to the "watch" list, as WSPA believes that the 2 samples are not sufficient data for 303(d) listing. The "watch" list is more appropriate for this water segment where it will become a priority for monitoring and assessment. WSPA believes that placing this water segment on the "watch" list would be consistent with the NRC recommendations.

LA River Estuary – Lead (numeric data – 8 exceeds in 18 samples) – Sources (historic use of lubricants)

The data for this listing was gathered as part of the BPTCP. Unlike other water segments with BPTCP enforceable program in place that were recommended for the "watch" list (see LA Harbor), this water segment is recommended for full 303(d) listing. WSPA recommends that this water segment be placed on the "watch" list as was recommended for other water segments with the BPTCP enforceable program in place.

LA River Reach 1 – Cadmium (numeric data – 6 exceeds in 18 samples)
 Copper (numeric data – 11 exceeds in 18 samples)
 Zinc (numeric data – 7 exceeds in 18 samples)
 Sources (point and nonpoint sources)

All data for these recommend listings was derived from samples at one site. WSPA recommends that this water segment be place on the "watch" list for these pollutants as one sampling site is not sufficient to obtain appropriate spatial and temporal data. WSPA believes that placing this water segment on the "watch" list would be consistent with the NRC recommendations.

San Gabriel River Watershed

Coyote Creek – Copper (numeric data – 16 exceeds in 27 samples)
 Lead (numeric data – 18 exceeds in 27 samples)
 Zinc (numeric data – 4 exceeds in 27 samples)
 Selenium (numeric data – 5 exceeds in 27 samples)
 Reach 2 - Copper (numeric data – 3 exceeds in 30 samples)
 Zinc (numeric data – 4 exceeds in 28 samples)
 Source (nonpoint)

All data for these recommended listings was derived from samples at one site. WSPA recommends that this water segment be place on the "watch" list for these pollutants as one sampling site is not sufficient to obtain appropriate spatial and temporal data. Placing these water segments on the "watch" list would be consistent with the NRC recommendations. Further, WSPA believes that Coyote Creek Zinc and Selenium and Reach 2 Copper and Zinc are more appropriate for "watch" list. The exceeds rates for these pollutants is of the same statistical significance as for Selenium in Ballona Creek Watershed which is recommended for the "watch" list.

Region 2 and Region 4 – Beach closure and posting – source (point and nonpoint)

WSPA has concerns that "beach closure" and "beach posting" are not pollutants that can be readily translated to numeric impairments. WSPA recommends that these water segments be placed on the "watch" to allow time to obtain data on pollutants.

Water Segment Specific Comments for Table 2 Proposed Deletions from 1998 List

State board staff proposes that 70 water bodies be deleted from the 1998 303(d) list. WSPA supports the delisting of following water segments and pollutants.

San Francisco Bay Regional Board 2

Central Basin - Copper
 San Pablo Basin - Copper/Nickel
 Santa Clara Basin - Nickel
 South Bay Basin - Copper Nickel
 Suisun Basin/Suisun Bay/Delta/Carquinez Strait - Copper, Nickel

Central Coast Regional Board 3

Chorro Creek - Metals

LA Regional Board 4

Arroyo Creek - Chromium, Nickel, Selenium, Silver, Zinc
 Ballona Creek - Arsenic, Copper, Lead, Silver, TBT
 Ballona Wetland - Arsenic
 Conejo Creek - Cadmium, Chromium, Nickel, Silver
 Coyote Creek - Silver
 LA Harbor - Zinc
 Marina del Rey - Copper, DDT, Lead, Zinc, TBT
 Ventura River - Copper, Selenium, Silver, Zinc

Water Segment Specific Comments for Table 4 Proposed Watch List

State board staff has proposed that -- where there is insufficient information on a water segment to support a 303(d) listing or where there is a regulatory program in place to control pollutants but data are not yet available to demonstrate success -- that water segment should be placed on a watch list that would not be recognized a part of the 303(d) list but would none theless be submitted to US EPA. The staff draft proposal contains 177 suggested water segments for inclusion on the state "watch list". WSPA supports the following as "watch" listings.

North Coast Regional Board 1

Laguna de Santa Rosa - Chromium, Copper, Zinc
 Santa Rosa Creek - Chromium, Copper, Zinc

San Francisco Bay Regional Board 2

Carquinez Strait - Copper, Nickel, PAHs, PBDEs
 Central Basin - Sediment Toxicity
 Delta - Copper, Nickel, PAHs, PBDEs
 SF Bay Central - Copper, PAHs

- SF Bay Lower – Copper, PAHs
- SF Bay South – Copper, Nickel, PAHs
- San Pablo Basin Castro Cove – Toxicity
- San Pablo Bay – Copper, Nickel, PAHs
- South Bay Basin SF – Toxicity
- South Bay Basin Islais Creek – Sediment Toxicity
- South Bay Basin Mission Creek – Sediment Toxicity
- South Bay Basin Oakland – Sediment Toxicity
- South Bay Basin San Leandro – Sediment Toxicity
- Suisun Basin/Peyton Slough sediment Toxicity
- Suisun Bay – Copper Nickel, PAHs

LA Regional Board 4

- Dominguez Channel (Estuary to Vermont) – Chlordane, Copper, PCBs
- LA Harbor – Arsenic, Cadmium, Copper, Dieldrin, Mercury, Nickel, Toxaphene
- LA River – PCBs

Santa Ana Regional Board 8

- Anaheim Bay – Fish Consumption
- Bolsa Chica – Metals/Beach Postings
- Huntington Harbor – Metals, Fish Consumption
- Lake Hodge – MTBE
- Oceanside Harbor – Copper
- Prima Deshecha Channel – Cadmium, Nickel
- San Diego Bay – Arsenic, Cadmium, Copper

Differences between regional board listing recommendations and state board staff recommendations

Each of the above listed recommendations were reviewed to assess the difference between regional board recommendations and state board staff recommendations. The following are WSPA comments where the regional board recommendation are different from the state board recommendations on the above water segments.

San Francisco Bay Regional Board 2

- | | |
|---|--------------------------|
| Central Basin – Sediment Toxicity : | RB recommendation: List |
| | SB recommendation: Watch |
| South Bay Basin – Sediment Toxicity: | RB recommendation: List |
| | SB recommendation: Watch |
| South Bay Mission Creek – Sediment Toxicity: | RB recommendation: List |
| | SB recommendation: Watch |
| Suisun Bay/Peyton Slough – Sediment Toxicity: | RB recommendation: List |
| | SB recommendation: Watch |

WSPA supports the state board recommendation for these water segments

Santa Clara Basin/SF Bay, South – Copper: RB recommendation: Delist, place on
Watch
SB recommendation: Maintain Listing
(WSPA supports the regional board recommendations)

LA Regional Board 4

Dominguez Channel – Copper:	RB recommendation: List
	SB recommendation: Watch
Dominguez Channel – PCB:	RB recommendation: List
	SB recommendation: Watch
Ballona Creek Watershed – Selenium:	RB recommendation: List
	SB recommendation: Watch

WSPA supports the state board staff recommendations. However, as noted above, the Ballona Creek Watershed Selenium listing on Table 1 is different from the suggested state recommendation in the water body fact sheet, where the state board staff recommends a “watch” list designation. WSPA supports placing Ballona Creek Watershed Selenium on the “watch” list as recommended by state board staff.

Thank you for considering WSPA’s comments. If you have any questions regarding our comments, please do not hesitate to contact me at (916) 498-7753.

Sincerely,


Steve Arita