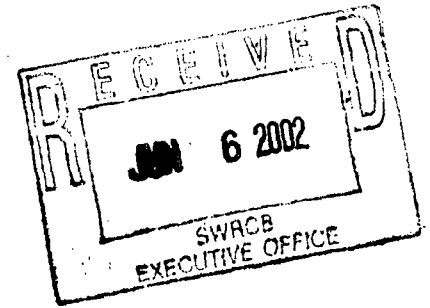




10.19

#371

June 5, 2002



Arthur Baggett, Chair
Members of the State Water Resources Control Board
1001 "I" Street
Sacramento, CA 95814

Re: 2002 Section 303(d) List of Impaired Waters Update

Dear Chairman Baggett and Members of the Board:

These comments on the proposed 2002 Section 303(d) List of Impaired Waters Update are being submitted on behalf of the California Manufacturers and Technology Association (CMTA), a trade association representing hundreds of companies that make up more than half of the state's manufacturing capacity. Our members include *both* direct and indirect (*via* publicly-owned treatment works) dischargers to waters throughout the state and, as a result, they have a keen interest in the 2002 Section 303(d) List update.

To begin with, we wish to note the extraordinary efforts on the part of Craig J. Wilson and his staff at the State Board, as well as many of the Regional Boards, in compiling and analyzing a very substantial volume of information concerning the updated Section 303(d) List. This year's effort is by far the most comprehensive effort undertaken by the State Board in compiling the 303(d) List, and we appreciate those efforts to make objective, scientifically-based decisions.

CMTA has three primary "policy oriented" comments for the State Board's consideration. First, CMTA *strongly* supports the development of a "watch list" as recommended by State Board staff. Contrary to the statements of many from environmental organizations, reliance on a "watch list" approach is wholly consistent with the Federal Clean Water Act. Moreover, from a practical standpoint, using a "watch list" to identify waters that "*might*" be impaired but for which there is inadequate data to support an *actual* listing is the state's best opportunity to dedicate limited (and dwindling) financial resources to address real water quality problems. At the same time, placing such waters on the "watch list" will have absolutely *no* negative environmental impact.

Second, CMTA supports the concept of *not* listing waters on the 303(d) List where there is an alternative, enforceable program in place to achieve water quality standards. This approach was taken by the State of Florida when it adopted its "Impaired Waters Rule" last year which, it should be noted, was approved *not only* by US EPA Region 4, but also by an administrative law judge on May 13, 2002, despite aggressive challenges by environmental

Arthur L. Baggett, Chair
Members of the State Water Resources Control Board
June 5, 2002
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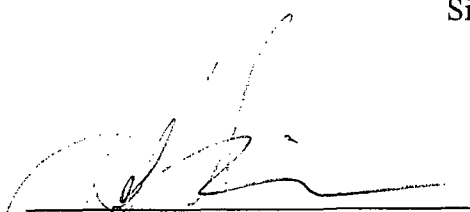
groups in Florida. Again, from a practical standpoint, it is duplicative and wasteful to dedicate resources toward developing TMDLs where alternative, enforceable programs are already in place to achieve water quality standards.

Thirdly, CMTA strongly believes that the State Board must re-examine *all* waters that were placed on the 1998 Section 303(d) List under the same protocols and standards used by staff in reviewing the 2002 Regional Board recommendations. There are many listings from the 1998 List which were not scrutinized by State Board staff in the recent review, but which absolutely *must* be closely analyzed to assure that the State and Regional Boards are not dedicating precious and limited staff time and monetary resources to inappropriate listings.

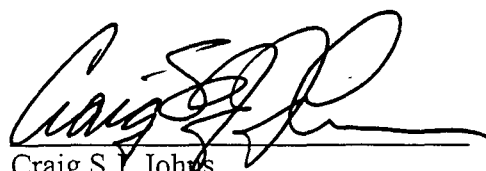
On a final note, many of the budgetary and timing problems facing the Regional Boards today are, in large measure, due to the fact that US EPA Region 9 summarily agreed to several Consent Decrees with plaintiff environmental groups that required the development of dozens of TMDLs throughout the state on an expedited, yet wholly unreasonable, time schedule. It is our understanding that neither the State Board nor the Regional Boards affected by those Consent Decrees were *actual* parties to the agreements. Yet, in a bizarre twist of irony, the State and Regional Boards are essentially faced with having to comply with those Consent Decrees. We respectfully request the State Board to formally contact US EPA Region 9 Administrator Wayne Nastri and ask Region 9 to return to Federal District Court, seeking a modification of the Consent Decrees in order for the state to perform its responsibilities in an orderly and appropriate fashion, without the specter of the short time schedules contained in the current Consent Decrees forcing potentially inappropriate decisions.

CMTA appreciates the opportunity to provide these comments and looks forward to our continued cooperation in developing an appropriate TMDL program for the State.

Sincerely yours,



Jeff Sickenger
Director,
Environmental Quality



Craig S.J. Johns
Project Coordinator,
TMDL & Water Quality Project