

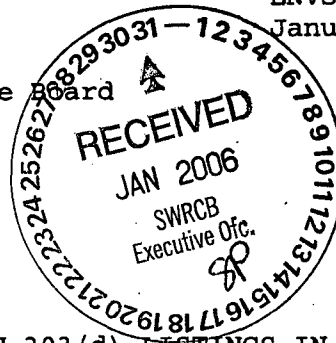


UNITED STATES MARINE CORPS

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5090.7
ENVSEC/42
January 31, 2006

Ms. Selica Potter, Acting Clerk to the Board
State Water Resources Control Board
Executive Office
1001 I Street
Sacramento, CA 95814



303 (d) Deadline:
1/31/06

Dear Members of the Board:

SUBJECT: COMMENTS ON PROPOSED SECTION 303(d) LISTINGS IN THE SANTA MARGARITA RIVER AND DE LUZ CREEK

In accordance with the Board's Memorandum of January 9, 2006, Camp Pendleton hereby submits written comments on the subject proposed listing of impaired water bodies in the Santa Margarita River (SMR) watershed.

1. Proposed Listing for Mercury in the Lower SMR

On Page 255 of the Listing Fact Sheet, Board staff recommends that the Lower SMR¹ be listed as impaired for mercury because two of eight fish screening samples collected between 1979 and 1999 exceeded the putative "fish consumption standard." The drafter of the fact sheet cites the TSMP, 2002 Database as the source of the exceedance data. The proposed listing for mercury is erroneous and legally insufficient for the following reasons:

a. Our review of the TSMP, 2002 Database (which we confirmed with SWRCB staff) seems to indicate that only one of 130 fish tissue samples in the SMR watershed exceeded the OEHHA screening value for mercury - not two as the fact sheet mentions. Table 3.1 of the Listing Policy requires a minimum of two² or more samples above the OEHHA Screening Level to place a water segment on the section 303(d) list for toxicants.

b. Assuming for the sake of argument that the eight samples referenced in the fact sheet were properly collected and documented (to reiterate, our records indicate just the opposite), it would still be inappropriate to assume impairment in the Lower SMR because the

*F.S. mentioned
2 exceedances
in the S.M. RIVER
not entire
watershed*

¹ The lower SMR is not identified by a specific hydrologic sub-area (HSA) in the San Diego Basin Plan.

² Table 3.1 indicates that, for a sample size of 130, 12 or more exceedances are necessary to place a water segment on the section 303(d) list for toxicants.