



City of Commerce

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January 31, 2006

Via Fax and U.S. Mail

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Mayor Pro Tem

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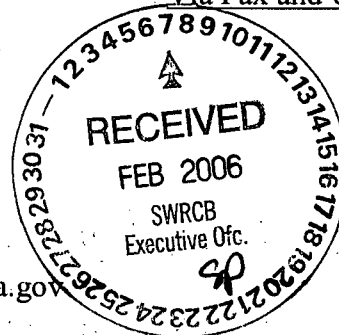
Thomas Sykes
City Administrator

Selica Potter
State Water Resources Control Board
Executive Office

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Subject: Comments on Proposed Revision to Federal Clean Water Act Section 303(d) List of Water Quality Limited Segments for California

Dear Ms. Potter and Members of the Board:

The City of Commerce would like to commend the State Board for the improvements it has already made to the 303(d) listing process and the list itself since State Board staff was assigned responsibility for developing the 2002 list and the Listing/Delisting Policy. We are also grateful that the staff recommended several changes that will further improve the list. Staff made a number of recommendations for de-listings where the original listings were not appropriate and where recent data shows that existing or proposed listings do not meet the criteria for listing in the policy adopted by the Board.

The City is especially pleased to see the recommended de-listing for conditions where actual pollutants have not been identified. Such de-listings will mark significant progress in establishing the 303(d) list as a technically valid basis for determining when and where Total Maximum Daily Loads (TMDLs) are required to improve water quality. The current 303(d) list is flawed, and we appreciate the State Board's efforts to remedy this situation.

However, many of the 92 new listings that State Board staff has recommended in Region 4 are for potential beneficial uses, not for probable future uses. Adding these listings to the 303(d) list will cause TMDLs to be developed. Cities cannot afford to waste potentially millions of dollars to implement TMDLs that are not necessary to protect actual beneficial uses.

We need your help and leadership to correct this situation. The Water Code specifies that the State Board is to set Policy and the Regional Boards are to

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implement that policy. We ask that you adopt appropriate policies and take whatever other steps are necessary to ensure that the Basin Plans and the 303(d) list that are consistent with California Water Code Section 13241. This section clearly specifies establishment of water quality objectives to protect past, present, and probable future beneficial uses.

One thing that we ask you to do is to implement the request of the Los Angeles Regional Board at the January 5, 2006 workshop in Pasadena that the high flow exemption for REC-1 uses in flood control channels be recognized and reflected in the revised 303(d) List. The high flow exemption recognizes that during and immediately after a storm event that recreational use of these channels is dangerous and illegal.

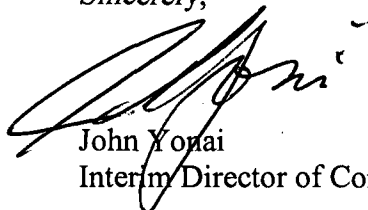
We also request that you concur with the County Sanitation Districts of Los Angeles County that it is an incorrect application of the *Sources of Drinking Water Policy* to list conditional potential MUN uses on the 303(d) List. The Los Angeles River Metals TMDLs Staff Report cites a February 15, 2002 memorandum from Alexis Strauss (USEPA) to SWRCB Executive Director Celeste Cantú indicating that conditional uses are not recognized under federal law. Therefore, they are not water quality standards to be used as a basis for determination of impairments.

In addition, you could concur with the representative of the building industry at the January 5 workshop who noted that the "big elephant in the room" is Basin Plans and their water quality objectives. Several of the impairment problems discussed at the workshop were really problems with water quality objectives. We support the BIA's request to the State Board to consider how to address problems with water quality standards in Basin Plans.

We also support the Coalition for Practical Regulation's request that division of labor in which the State Board develops the 303(d) list and the Regional Boards focus on water quality standards and on the development of TMDLs and other programs to address impaired waters and ensure that beneficial uses are attained be continued. This system has resulted in improvements to the 303(d) list and should remain in place.

Thank you for the opportunity to comment on the proposed Revision to Federal Clean Water Act Section 303(d) of Water Quality Limited Segments for California.

Sincerely,



John Yonai
Interim Director of Community Development