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CENTRAL VALLEY CLEAN WATER ASSOCIATION

Formerly the Central Valley Wastewater Manager's Association

Representing Over Forty Wastewater Agencies

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January 30, 2006

Craig J. Wilson, Chief
Water Quality Assessment Unit
Division of Water Quality
State Water Resources Control Board,
P.O. Box 100
Sacramento, California 95812-0100



303 (d) Deadline: 1/31/06

Via Electronic Mail, commentletters@waterboards.ca.gov

Subject: Comments on Draft Staff Report on Revision of the Clean Water Act Section 303(d) List of Water Quality Limited Segments

Dear Mr. Wilson:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit comments on the *Draft Staff Report on Revision of the Clean Water Act Section 303(d) List of Water Quality Limited Segments*, which was released for public comment in September of 2005. Overall, CVCWA would like to express its appreciation to you and your staff for the comprehensive review conducted for the 2006 303(d) List revision. The application of a new policy for listing to the amount of data required for review was undoubtedly a daunting task.

CVCWA is an association of local public agencies providing wastewater collection, treatment and water recycling services throughout the Central Valley region. Under current regulatory practice, placing a water body on the 303(d) list may trigger interim permitting actions prior to development of the total maximum daily load (TMDL). In addition, federal regulations prohibit new discharges of a pollutant into listed waters. More restrictive interim effluent limits, such as denial of mixing zones, may require a wastewater agency to increase the level of treatment of domestic sewage at a significant cost to its ratepayers in advance of the watershed-wide

approach represented by the TMDL. Thus, 303(d) listings in the Central Valley region have significant impacts on our members and therefore deserve careful review to ensure that they are supported and justified by the available and relevant threshold values and data.

Given the state's resource limitations, we believe it is critical that the Water Boards focus their TMDL development efforts on addressing those water bodies that exceed water quality standards. The Water Board's Listing Policy represents an effort to place some clarity and predictability as to how waters are listed, and in general, we believe the application of the policy has resulted in a more robust and transparent listing process. CVCWA has reviewed the proposed listings and delistings for the Central Valley, and we do not believe the policy has been properly applied in all cases.

Use of OEHHA Screening Values as Evaluation Guidelines

CVCWA is concerned with the State Water Board's use of Office of Environmental Health Hazard Assessment (OEHHA) Screening Values as an evaluation guideline for listing determinations. The screening values used by the State Water Board in the proposed 303(d) list come from a study conducted by OEHHA staff scientists under agreement with the U.S. EPA. The objective of the study was to measure levels of selected target chemicals in fish from two California lakes "to provide an initial data base to determine whether additional sampling and health evaluation of the data are warranted in either lake." (*Prevalence of Selected Target Chemical Contaminants in Sport Fish from Two California Lakes: Public Health Designed Screening Study*, Final Project Report, Prepared by Robert K. Brodberg, Ph.D and Gerald A. Pollock, Ph.D., June 1999, page 1.) The study objective and design was not stated to be to establish screening values for chemical contaminants in all of California's waterways. Because the study is limited to two California lakes, CVCWA believes it is inappropriate to apply the site-specific screening values statewide. In addition, it does not appear that the study was subject to peer review or public review and comment. Thus, this limited study should not be considered an appropriate evaluation guideline with which to make important 303(d) listing determinations. CVCWA requests that all listings based on the OEHHA screening values be deleted unless the State Board addresses these deficiencies.

Use of Total Metals Data

In most cases, it appears that the State Water Resources Control Board (State Water Board) used dissolved metals data to evaluate trace metals concentrations against the California Toxics Rule (CTR) dissolved metals criteria. CVCWA supports this practice because the enforceable CTR standards are based on dissolved criteria. The Federal Register notice for the CTR states, "[i]t is now the Agency's policy that the use of dissolved metal to set and measure compliance with aquatic life water quality standards is the recommended approach, because dissolved metal more closely

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approximates the bioavailable fraction of the metal in the water column than does total recoverable metal." (Federal Register, Vol. 65, No. 97, Thursday, May 18, 2000.) However, in at least one instance (Bear River, copper) the State Board staff includes an evaluation of total recoverable metals data against the National Toxics Rule (NTR) criteria for total recoverable copper. The evaluation of total metals data against total criteria is contrary to both the CTR and to the NTR as it was amended on May 4, 1995. The May 1995 amendment changed the metals criteria for 9 states (including California) by promulgating dissolved metals criteria. (60 FR 22229.) Because the aquatic life criteria for metals as expressed in the CTR and the NTR are currently considered to be dissolved criteria, only dissolved data should be used to evaluate aquatic use impairment for trace metals. Any reference to total data versus total criteria should be removed from the fact sheets and should not be used for listing determinations.

Calculation of CTR Metals Criteria

The fact sheets do not provide consistent information regarding hardness data used to calculate hardness-dependent metals criteria. In some instances, there is no information that indicates if actual hardness data or if default hardness values were used to calculate the applicable criteria. In others, it states that an assumed hardness value of 100 mg/L was used to calculate the criteria. First, CVCWA recommends that the fact sheets be revised to clearly articulate the hardness values used to calculate the water quality criteria. Second, CVCWA encourages the State Water Board to only use water quality data with paired hardness values. In the absence of information that supports the selected hardness value, the data should not be considered to be of sufficient quality to make water quality attainment determinations.

Use of Toxicity Objective for Exotic Species Listings

The State Water Board proposes 10 new impaired waters listings in the Central Valley for exotic species. The fact sheets for these listings identify the narrative toxicity standard as the applicable water quality objective/criterion. CVCWA fails to see the relationship between the narrative toxicity objective and exotic species listings. The narrative objective refers to toxic substances and the interactive effect of multiple substances on aquatic uses. This objective does not include the presence of exotic species in the definition of "toxic substances." Thus, CVCWA recommends that the State Board amend the fact sheets to identify an applicable water quality objective for the exotic species listings. If there are no applicable objectives, then there is not basis to list the various waterways as being impaired for exotic species.

Use of Total Recoverable Data for Iron & Manganese

CVCWA disagrees with the State Water Board's use of total recoverable data in ambient waters for iron and manganese as compared to the secondary maximum contaminant level (Secondary MCL) to determine if there is impairment. Secondary

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MCLs are drinking water standards adopted by the Department of Health Services. They apply to drinking water at the tap as it is delivered by drinking water agencies to consumers. All drinking water must be filtered to comply with the federal Safe Drinking Water Act (or meet a specific turbidity requirement) prior to use by consumers for drinking water. Thus, the drinking water standard as it applies to tap water is evaluated against a dissolved measurement.


In the case of impairment decisions, the State Board is applying total recoverable data to drinking water standards as they apply to tap water. CVCWA disagrees with this practice and contends that only dissolved data should be compared to secondary MCLs for iron and manganese. Consequently, the State Board should re-evaluate the proposed listings for iron and manganese in all cases where its findings were based on the use of total recoverable data.

Delistings for Diazinon

CVCWA has reviewed and supports the State Board's proposed delistings for diazinon in various water bodies. The data reviewed by the State Board clearly supports delistings based on the application of the binomial approach contained in the state's listing policy.

Again, CVCWA appreciates the opportunity to comment on the proposed listings and delistings for the Central Valley. If you have any questions, please call me at (530) 886-4911.

Sincerely,



Warren Tellefson
Executive Officer, CVCWA

cc: Permits Committee

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