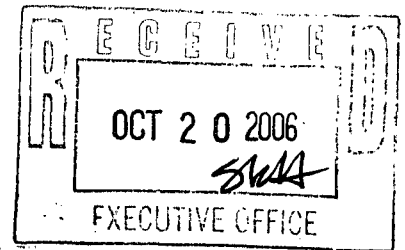


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10/25/06 BdMtg Item 10
303(d) List
Deadline: 10/20/06 5pm



777

October 18, 2006

Transmitted via Federal Express

Mr. Craig Wilson
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Listing of New Water Bodies as "Impaired" under Section 303(d) of the Clean Water Act; Listings of September 20, 2006

Dear Mr. Wilson:

We appreciate the opportunity to express our support for the listings of several new segments of water bodies in the San Diego Bay for the Clean Water Act mandated "303(d) list". We would like to focus our comments directly and solely on the proposed listing of San Diego Bay "shoreline" segments of the bay at Chula Vista (p. 200 of the web-based document of proposed listings), the America's Cup Harbor (p. 202), the Coronado Cays (p. 204), Glorietta Bay (p. 206), Harbor Island (East Basin) (p.208), Harbor Island (West Basin) (p.209), and the Marriott Marina (p. 212).

On August 29, 2005, more than a year ago, we wrote the State Water Resources Control Board to comment on the proposed adoption of a TMDL for the Shelter Island Yacht Basin, another water segment in the San Diego Bay. In our comments we noted that for any regulation of copper in the bay to be environmentally successful, the regulation of copper had to be on a "bay-wide" basis. We proposed the idea that regulating copper in the bay through an implementation plan at only one of the many boat basins in the bay is doomed to failure, for obvious reasons. We pointed out, at the time, that the same high copper levels found in the Shelter Island Yacht Basin water column were commonly found in the other marinas and boat basins of San Diego Bay as well. Regulation of merely one boat basin in these circumstances would not only be environmentally futile, but it would likely be economically unfair. Members of the SWRCB indicated recognition and support for this position at the hearing in Sacramento, where we later came and gave voice to these same concerns.

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The listing of these new segments of the San Diego Bay is highly appropriate in light of these facts, and this situation. The regulatory framework being planned to enforce the TMDL can and should be designed in a manner that can be implemented equitably on a bay-wide basis. We support the Port of San Diego and its efforts to find a state-wide solution to the issue of copper impacts to the water column as a result of the application of anti-fouling paint on boat hulls, because the current studies will likely confirm that this issue is not a localized one, but a state-wide concern. However, as the effort to find a state-wide solution progresses, we believe it is essential to start any regulation of copper by adopting, as a minimally appropriate scope, a bay-wide approach, and the listing of these new water bodies is entirely consistent with this policy and its environmental and equitable goals.

Lastly, as a technical note, we were unable to determine whether the 303(d) listing for the Shelter Island Yacht Basin identified it as a "shoreline" listing, but the focus of the listing, and the later TMDL, was water quality in the water column, and not the shoreline. We presume the same is true for the new listings, even though they are specifically designated as "shoreline" listings. If the listings are not for water quality, on the same basis as for the Shelter Island Yacht Basin, please make whatever distinctions are proposed plain. Thank you for allowing us the opportunity to comment.

Sincerely,

Willis E. Short II
President

WESII/jai

cc: Members of the RWQCB for Region 9
Members of the SWRCB ✓
John Robertus
R.G. Opper