



Date: October 14, 2006

To: Song Her, Clerk to SWRCB

Subject: Comment Letter - 2006 Federal CWA section 303(d) List

The Southern San Luis Obispo and Santa Barbara Counties Agricultural Watershed Coalition appreciates the opportunity to provide comments to SWRCB regarding the proposed 2006 303(d) list of Waterbodies. The Coalition recognized the time and effort involved in Central Coast RWQCB review and proposal of these listings. Generally, The Coalition finds the listings to objective and fair. Nevertheless, The Coalition would like to take this opportunity to comment on three areas of concern:

- 1) The quantity of data used to propose the listing of certain waterbodies;
- 2) The proposal to list boron as a pollutant when it is endemic in the soils of certain watersheds in this areas; and
- 3) Inconsistent use of beneficial use designations; and

Hopefully, these comments will be useful as SWRCB considers these proposed listings.

First of all, The Coalition is concerned with the limited number of samples (taken over a short period of time) that are being utilized to justify proposed listings in certain waterbodies (See below). This is of particular concern in San Luis Obispo and Santa Barbara Counties where rainfall, and subsequent flows, vary dramatically from year-to-year. For example, Santa Barbara County rainfall records, from 1868 to 2003, show the average amount of rainfall to be 18.5 inches. The lowest rainfall on record was below 5 inches in 1877 and the highest was above 45 inches in 1996 (1).

In the Region 3 Fact Sheets, CCRWQCB states that "the data used satisfies the data quantity requirements of Section 6.5.1 of the Policy." It is explicitly recognized in section 6.5.1 that RWQCBs have wide discretion to establish "how data and information are to be evaluated, including the flexibility to establish water segmentation, spatial and temporal data". Nevertheless, further reading of Section 6.5.1 recommends the following: "Samples should be available from two or more seasons or from two or more events when effects or water quality objective exceedances would be expected to be clearly manifested...[When] sampling in ephemeral waters...timing of the sampling

should include the critical season for the pollutant and applicable water quality standard...The water quality fact sheet should describe the significance of the sample timing". The intent of this section appears to be that there should be sufficient data taken over a period of time to scientifically establish the probability that waters are impaired.

The Coalition is concerned that 1-15 months of data may not be adequate to establish water quality impairment in a geographical region with highly fluctuating rainfall and in ephemeral streams. Concerns are that the some current proposed listings are based on a "snapshot" of data and are not an adequate basis for imposing this regulatory burden. Instead of using a "snapshot" approach, it would seem more appropriate to delay listing the waterbodies below until additional data are collected:

Creek	Pollutant	Number Samples	Percent Exceedances	Sampling Period
Glen Annie	Nitrate as NO3	15	80	Feb 2001-March 2002
Chorro Creek	Dissolved O	72	?	3 24-hr sample periods in during low flow periods: July, August, and Sept 2003
Cuyama River	Boron	35	17	Jan 2000 – April 2001
Main Street Canal	Ammonia (unionized)	11	90	Feb 2000 – Jan 2001
Arroyo Paredon	Nitrate as NO3	16	88	Jan 2001-Mar 2002
Arroyo Paredon	Toxicity	2	100	Dec 2001 and Mar 19 2002
Bell Creek	Nitrate as NO#	17	88	Jan 2001 – Mar 2002
Bradley Cyn Creek	Ammonia (Unionized)	7	43	April 2000 – Dec 2000
Bradley Cyn Creek	Nitrate as NO3	9	44	Mar 2000 – Dec 2000
Bradley Channel	Nitrate as NO3	15	20	Jan 2000 – Feb 2001
Canada de la Gaviota	Boron	32	47	Jan 2001 – to July 2002

A second issue of concern is the listing of the naturally occurring pollutant, boron, in the following waterbodies: Arroyo Paredon, Canada de la Gaviota, Cuyama River, and Rincon Creek. The concern is that a regulatory burden will be imposed for which there is no known source of contamination and no known remedy. The Coalition is not convinced by the CCRWQC Fact Sheets that human activity is responsible for the presence of boron. Based upon very early twentieth century studies, it appears that high levels of boron are historically occurring and not human induced. The existing evidence suggests that high levels of boron are endemic to these water sheds. For example, in one USGS chemical analysis of the Cuyama River in the late 1940's, boron levels were 12

ppm (2). In another water quality analysis in the Carpinteria basin in 1951, levels of boron were noted to be high enough to actually cause crop phytotoxicity and ranged from 0.07 to 6.94 ppm. This article states: "The presence of boron in the Carpinteria basin was noted as early as 1926 or 1927 by officials of the Department of Agriculture, Bureau of Plant Industry, and reported in 1931 (Scofield and Wilcox, 1931, pp 40-43) (3).

The third area of concern is with inconsistent assignment of beneficial use categories. In waterbodies with multiple pollutants, for example, the Arroyo Paredon boron listing has Agricultural Supply as a beneficial use while the Arroyo Paredon Nitrate as NO₃ listing has Municipal & Domestic Water Supply and the Arroyo Paredon Toxicity listing has Rare & Endangered Species, Fish Spawning, Warm Freshwater Habitat, as well as Wildlife Habitat. Which beneficial uses actually apply to this waterbody? It would seem logical that beneficial uses would remain consistent regardless of the pollutant under consideration. This concern extends to the following waterbodies; Los Osos Creek, San Luis Obispo Creek, Bradley Canyon Creek, Rincon Creek, and San Antonio Creek.

Furthermore, in some cases, the beneficial use designations do not seem to accurately reflect the way waterbodies are actually used. For example, few, if any, waterbodies in northern Santa Barbara and southern San Luis Obispo Counties are used for R1 Human Contact Recreation. This type of activity simply does not occur in the following waterbodies: Orcutt Creek (Unionized Ammonia, Chlorpyrifos, and Dieldrin listings), Oso Flaco Creek (Unionized Ammonia listing), Santa Maria River (Unionized Ammonia, Chlorpyrifos, DDT, Dieldrin, and Endrin listings) and Shuman Creek (Sedimentation/Siltation listing). The Coalition suggests that this beneficial use be eliminated for these waterbodies as it does not reflect today's beneficial use reality.

Again, The Coalition would like to express appreciation for the level of consideration that CCRWQCB has extended in making creating these proposed listings. It is a difficult process.

Sincerely,

Kay Mercer
Coordinator
Southern SLO and SB Counties
Agricultural Watershed Coalition

Appendix

- 1) On line
<http://www.countyofsb.org/pwd/water/downloads/ClimateandRainfall105.pdf>
- 2) Upson, J.E. and Worts, G.F. Ground Water in the Cuyama Valley California. Contributions to Hydrology, 1948 – 51. Geological Survey water-Supply Paper 1110-B. United States Government Printing Office, Washington, 1951.
- 3) Upson, J.E. Geology and Ground-Water Resources of the South-coast Basin of Santa Barbara County, California. Geological Survey Water-Supply Paper 1108. United States Government Printing Office, Washington, 1951