



822

To promote the economic, social and environmental viability of Northern California by enhancing and preserving the water rights, supplies and water quality of our members.

October 20, 2006

Via Electronic Mail

Song Her, Clerk of the Board
State Water Resources Control Board
1001 I Street
Sacramento, California 95814
commentletters@waterboards.ca.gov



Re: Comment Letter—2006 Federal CWA Section 303(d) List

Ms. Her:

The Northern California Water Association ("NCWA") appreciates the opportunity to comment on the State Water Resources Control Board's ("State Board") proposed 303(d) list of water quality limited segments for California. NCWA and its members have a critical interest in the protection and enhancement of water quality and in the regulatory frameworks that affect water quality and agriculture in California.¹ The proposed 303(d) list prioritizes Total Maximum Daily Loads (TMDLs) and identifies agricultural-related impairments within the following water bodies of importance to NCWA and its members: Bear River, Lower; Butte Slough; Colusa Basin Drain; Feather River, Lower; Natomas East Main Drainage Canal; Pit River, and; Fall River (collectively referred to hereafter as "Sacramento Valley TMDLs").

NCWA urges the State Board to reconsider the priorities assigned to the Sacramento Valley TMDLs.² Under the Water Quality Control Policy for Developing California's

¹ NCWA represents private and public water suppliers, farmers, and other individual water right holders with senior rights and entitlements to Sacramento Valley surface waters.

² Moreover, due to the recent United States Supreme Court decision in *Rapanos v. United States*, 126 S.Ct. 2208 (2006), it may be appropriate for the State Board to consider whether each of the identified water bodies for the Sacramento Valley TMDLs are actually subject to the Federal Clean Water Act.

Clean Water Act Section 303(d) List ("303(d) Policy"), the completion schedule must consider and reflect analysis of certain factors. (303(d) Policy, p. 16.) The proposed 303(d) list inappropriately prioritizes the Sacramento Valley TMDLs without regard to the 303(d) Policy because the following pertinent factors have not been appropriately considered: (1) water quality benefits of activities ongoing in the watershed; and (2) availability of data and information to address the water quality problem.

Water Quality Benefits of Ongoing Watershed Activities

NCWA requests that the State Board consider, in reviewing the priorities assigned to Sacramento Valley TMDLs, two substantial watershed activities currently underway to identify and address water quality problems in Sacramento Valley surface waters.

1. *Sacramento Valley Water Quality Coalition*

NCWA and its members have spearheaded the creation and management of the Sacramento Valley Water Quality Coalition ("Coalition"). The Coalition was formed in 2003 to enhance and improve water quality in the Sacramento River.

The Coalition developed and submitted its Regional Plan for Action ("Plan"), which is available online at http://www.norcalwater.org/int_program/, to the State Board and the Central Valley Regional Water Quality Control Board ("Regional Board") in June 2003. The Plan was submitted to and accepted by the Regional Board to meet the newly adopted water quality requirements associated with discharges from irrigated lands. The Plan serves as a road map for the Coalition by describing a watershed approach for the Sacramento Valley.

To effectively implement the Regional Board monitoring and reporting requirements, the Coalition and ten subwatershed groups have signed a memorandum of agreement ("MOA") that defines the respective roles and responsibilities of the subwatershed groups to implement the Regional Plan, including the roles of consultants that will assist in this process. Additionally, the Coalition has signed a memorandum of agreement with the California Rice Commission to coordinate the respective programs in the Sacramento River Basin. The Coalition is also pursuing partnerships with municipalities and urban areas in the region that are developing stormwater management plans.

The Coalition's efforts are identifying water quality issues, sources of any water quality problems, and best management practices to address those water quality problems. The Coalition's activities since 2003 are the beginning of a comprehensive process to obtain data and monitoring results sufficient to develop trend analyses and analyze water quality in the Sacramento Valley watershed. Given the recent Coalition monitoring, the proposed 303(d) list prioritizes the Sacramento Valley TMDLs prematurely. The Coalition's activities in compliance with the Regional Board's Irrigated Lands Program must first be given the chance to produce monitoring results to guide the prioritization.

Additionally, we support the deletion of diazinon in the Feather River. The Coalition has a Diazinon Management Plan; the monitoring results have shown no exceedances.

2. *Integrated Regional Water Management Program*

NCWA is in the process of adopting an Integrated Regional Water Management Plan ("IRWMP") that has broad support from water suppliers and local governments throughout the Sacramento Valley. Through the IRWMP, water users have committed to help improve water quality. The IRWMP, which is available online at <http://www.svwqc.org/pdf/svwqc.pdf>, identifies water management strategies to enhance and improve water supplies and the ecosystem in this region.

The proposed 303(d) list prioritizes the creation of TMDLs for waterbodies and constituents that will be addressed through the IRWMP. These priorities are premature.

Availability of Data and Information to Address Water Quality Issues

As noted above, NCWA, through the Coalition and IRWMP, is involved in obtaining water quality background data, monitoring results, and source identification throughout the Sacramento Valley water bodies. These processes will, over time, provide sufficient information to identify whether TMDLs are necessary and, if so, inform future TMDL process to resolve water quality issues. However, the proposed 303(d) list attempts to prioritize the Sacramento Valley TMDLs without the benefit of this information. Preparation of a TMDL is a futile exercise where, as here, the Regional Board does not yet have sufficient information to assign and implement TMDLs.

Thank you for your consideration of these comments.

Respectfully submitted,



David J. Guy
Executive Director