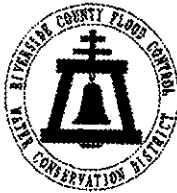


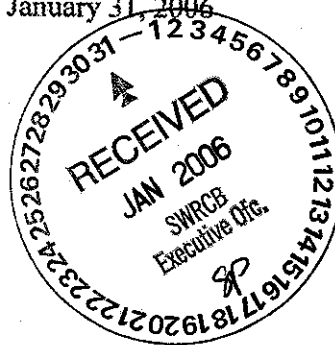
WARREN D. WILLIAMS
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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

January 31, 2006



303 (d) Deadline:
1/31/06

Mr. Craig J. Wilson
Post Office Box 1977
Water Quality Assessment Unit
Division of Water Quality
State Water Resources Control Board
Sacramento, CA 95812-1977

Dear Mr. Wilson:

Re: Draft Clean Water Act Section 303(d)
List of Water Quality Limited Segments

The Riverside County Flood Control and Water Conservation District (District) appreciates the opportunity to comment on the Draft Clean Water Act Section 303(d) List of Water Quality Limited Segments for 2006 (303(d) List). This letter provides comments on proposed listings and delistings in the Santa Ana Regional Water Quality Control Board (RWQCB) (Region 8) and San Diego RWQCB (Region 9) jurisdictions.

Region 8 – Inappropriate listing of Lake Elsinore for polychlorinated biphenyls

The District notes comments submitted by:

- Rish Sciences on behalf of the Big Bear Lake TMDL group;
- The Santa Ana RWQCB; and
- Orange County

regarding concerns of the use of the OEHHA screening value for polychlorinated biphenyls as the basis for including waterbodies on the 303(d) List. The District is also concerned with the use of fish tissue samples without supporting ancillary evidence of chemical toxicity. The District requests the removal of Lake Elsinore from the 303(d) List for polychlorinated biphenyls.

Region 8 – Support de-listing of Lake Elsinore for sedimentation/siltation

The District supports the de-listing of Lake Elsinore for sediments/siltation.

Region 9 – Oppose listing of Murrieta Creek for Arsenic, Copper, Iron, Manganese, and Zinc

The District has reviewed the data supporting the proposed listing of Murrieta Creek for arsenic, copper, iron, manganese, and zinc. The District believes that Murrieta Creek was inappropriately listed for these constituents for the following reasons:

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Exceedances do not meet the criteria of Section 6.1.5.3 of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy), and therefore do not meet the criteria of Table 3.1 of the Listing Policy

All five of these constituents were listed based on the same two sets of data:

- Data collected by RWQCB9 on June 9, 1998 - Two samples were collected on June 9, 1998 at two different locations on Murrieta Creek. Both samples were analyzed for the aforementioned constituents and both exceeded the criteria for each of the aforementioned constituents.
- Data collected by LAW Crandall from 1997 to 2000 - Eleven samples were collected and analyzed for each of the aforementioned constituents. Zero of the samples were in exceedance for each of the aforementioned constituents.

Murrieta Creek is an ephemeral wash with no sustained flows during the dry season at the Calle del Oso Road location, monitored by Regional Board staff. The Cement Factory location received POTW flows, which have since been permanently ceased. Our rainfall records indicate there were no summer rain showers that would have been responsible for the flow at Calle del Oso Road. The samples most likely reflect specific conditions occurring during the day the samples were collected (perhaps an illegal discharge) rather than a chronic water quality condition. Section 6.1.5.3 of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy) states that:

"Samples should be representative of the critical timing that the pollutant is expected to impact the water body. Samples used in the assessment must be temporally independent. If the majority of samples were collected on a single day or during a single short-term natural event (e.g. a storm, flood or wildfire), the data shall not be used as the primary data set to support the listing decision... In general, samples should be available from two or more seasons or from two or more events when the effects or water quality objective exceedances would be expected to be clearly manifested".

It is clear that the exceedances for all five constituents, which are based on two samples from different reaches of Murrieta Creek, were collected on a single date (June 9, 1998). The District requests that these two data points be considered representative of a single exceedance of each Water Quality Objective, consistent with the requirements of Section 6.1.5.3 of the Listing Policy. Based on only a single exceedance of Water Quality Objectives, the constituent would not exceed the allowable frequency listed in Table 3.1, and therefore none of the aforementioned constituents should be listed.

Re: Draft Clean Water Act Section 303(d)
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Additional Water Quality Data collected as part of the District's NPDES MS4 Permit Monitoring and Reporting Program supports delisting of Arsenic, Copper, and Zinc.

Please find attached a summary table of data collected by the District on Murrieta Creek from 1994 to 2005 as part of the Santa Margarita Watershed NPDES MS4 Permit Monitoring and Reporting Program (Board Orders R9-2004-001 and R9-1998-002). This data was collected and analyzed under an appropriate quality assurance project plan consistent with Section 6.1.4 of the Listing Policy. The data is summarized below:

- Arsenic - Data collected by the District per the requirements of its NPDES MS4 Permit from 1994 to 2005. Thirty-nine samples were collected. Zero samples were in exceedance of Basin Plan Objectives.
- Copper - Data collected by the District per the requirements of its NPDES MS4 Permit from 1994 to 2005. Forty-three samples were collected. Zero samples were in exceedance of Basin Plan Objectives.
- Zinc - Data collected by the District per the requirements of its NPDES MS4 Permit from 1994 to 2005. Forty-three samples were collected. Zero samples were in exceedance of Basin Plan Objectives.

Based on this additional data, for each of arsenic, copper, and zinc, there would be at most, two exceedances and at minimum, fifty-two data points not in exceedance. Based on the criteria contained in Table 3.1 of the listing policy, this additional data would not support the listing of Murrieta Creek for arsenic, copper, or zinc.

The District has supplied this data in electronic and paper copies on the pdqflat_2.xls format originally requested by State Board staff in 2004. If additional supporting information regarding this data is required, the District will be glad to add this information in a supplemental request.

The District has not collected or analyzed any samples for Manganese or Iron to date.

Region 9 – Oppose listing of the Lower Santa Margarita River for Mercury

The Lower Santa Margarita River was listed for Mercury based on two exceedances of the Mercury standard in eight fish tissue samples collected between 1979 and 1999. Besides the fish tissue samples, no ancillary evidence exists to support a listing for Mercury. It is not clear what type of fish was sampled, whether the fish was migratory in nature, or whether the fish tissue samples were from the liver or other organs. If the fish are migratory in nature and may range outside of the Lower Santa Margarita River, then the listing would be inappropriate. Further, the listing policy specifically prohibits the use of liver tissue as a measure of bioaccumulation of pollutants in aquatic life tissue. In any case, the District opposes the use of fish or other tissue samples as the sole criteria for listing without consideration for the migratory nature of the aquatic life form or other chemical indicators of the pollutant within the waterbody.

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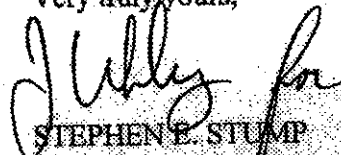
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Closing

In closing, the District would like to thank the State Board for developing a listing policy that provides the basis for the listing/delisting of waterbody/pollutant combinations. Although the District believes that the policy requires continued refinement, such as, requiring supporting chemical evidence for listing based on tissue samples, it is a clear improvement over the efforts in past years. The District looks forward to working with the State Water Resources Control Board and the RWQCBs on programs to further improve the quality of our Receiving Waters. If you have any questions regarding the comments within this letter, please contact Jason Uhley at 951.955.1273.

Very truly yours,



STEPHEN E. STUMP
Chief of Regulatory Division

- c: Alex Gann, County Executive Office
Riverside County Management Steering Committee
Riverside County Technical Advisory Committee
Santa Ana RWQCB
San Diego RWQCB
San Diego MS4 Permittees

JEU:cw
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