



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

MAY 28 2010

Charles R. Hoppin, Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Dear Chairman Hoppin:

Thank you for the opportunity to comment on California's proposed 2010 Integrated Report pursuant to Clean Water Act Sections 303(d) and 305(b). We have reviewed the proposed 303(d) listing decisions and supporting documentation and have concluded that the vast majority of the State's assessment determinations are consistent with federal listing requirements.

As the State's Section 303(d) list submission is long overdue, we urge the State Board to adopt its final 2010 Integrated Report without further delay. After we receive your final submittal package, we will review the assessment documentation and, if necessary, supporting data and information in the State's administrative record to determine whether the final list meets federal listing requirements. EPA believes the State's highest priority at this point should be to complete its work on the 2010 Integrated Report and focus on development of the 2012 Integrated Report.

EPA commends the State for its effort to complete its first Integrated Report. In particular, we want to acknowledge the substantial efforts of the State and Regional Board staff that have led to California's carefully coordinated assessment. We appreciate the State's use of categories for waterbodies in accordance with EPA integrated water quality monitoring and assessment reporting guidance. We encourage the State to continue to improve the consistency of the category determinations throughout the State.

Although EPA agrees with most of the listing decisions proposed in the Integrated Report, we are providing the following comments with respect to several issues of concern.

Coastal Beach Bacteria Assessments

EPA has commented previously with respect to assessment decisions for indicator bacteria at the State's beaches. In our review of the State's proposed final Integrated Report, we observe apparent inconsistencies in assessments. We encourage the State to ensure that all aspects of applicable water quality standards are assessed and California's Water Quality Control Policy is used in a way consistent with those standards. In particular, we urge consistency with regards to evaluation of data gathered from April 1st through October 31st. For example, it appears that some beaches did not have dry season beach bacteria data evaluated against the

geomean portion of the standard using a four percent exceedance threshold for April 1st to October 31st in keeping with Section 3.3 of California's Water Quality Control Policy. Other beaches, however, were evaluated using only the full year's data against the geomean portion of the standard using a ten percent exceedance threshold. Also, in some cases EPA has found errors in assessments. For example, it appears that for the beach, *Pacific Ocean Shoreline, Aliso HSA, at Aliso Beach-middle*, the geomean data was evaluated improperly as the number of exceedances are above the assessment threshold. Also, we have identified concerns with the following beach assessments:

1. Pacific Ocean at Goleta Beach (Santa Barbara County)
2. Pacific Ocean at Pismo Beach (San Luis Obispo County)
3. Pacific Ocean at Pismo Beach (San Luis Obispo County), Park Ave.
4. Pacific Ocean at Pismo Beach (San Luis Obispo County), south of Pismo Pier
5. Pacific Ocean at Rio Del Mar (Santa Cruz County)
6. Pacific Ocean at Stillwater Cove Beach
7. Pacific Ocean at Carpinteria State Beach (Carpinteria Creek mouth, Santa Barbara County)
8. Pacific Ocean at Jalama Beach (Santa Barbara County)
9. Pacific Ocean at Refugio Beach (Santa Barbara County)

Upon receipt of the State's final 2010 Integrated Report, we will further review the State's assessments of beaches for bacteria to determine if they meet the applicable water quality standards.

Other Bacteria Assessments

For the Santa Ana Region, EPA supports the State's decision to list 12 waterbodies (see below) that exceeded applicable water quality standards for *E. coli*. We recognize that new standards are being developed, however, federal listing regulations require states to determine whether the current applicable water quality standards are being implemented. The Santa Ana Region initially made assessments using inappropriate criteria not protective of the REC-1 use designated for these waterbodies. It is not appropriate to assess against uses or water quality standards that have not been approved by EPA. Thus, we support the State Board staff decision to re-assess and list the following waterbodies:

1. Bolsa Chica Channel
2. Borrego Creek (Irvine to Barranca)
3. Buck Gully Creek
4. Goldenstar
5. Peters Canyon Channel
6. Santa Ana Delhi Channel
7. Santa Ana River Reach 2
8. Temescal Creek Reach 6
9. Morning Canyon Creek

10. San Diego Creek Reach 1
11. San Diego Creek Reach 2
12. Serrano Creek

Bioassessment

EPA supports the State's inclusion of several waterbodies on the 303(d) list based on bioassessment data showing poor or very poor water quality conditions. Federal regulations require that a State's narrative criteria be considered when impaired waters are listed under section 303(d) of the Clean Water Act (see 40 CFR 130.7(b)). The State used the Southern California Index of Biotic Integrity for assessment decisions in southern California and EPA finds the State's use of this metric to be reasonable and technically sound. EPA strongly recommends that the State identify waterbodies as impaired in all cases where bioassessment data show that a narrative criteria is not being implemented, including cases where water column or sediment data are unavailable, and cases where the water column or sediment data alone do not demonstrate impairment. EPA's Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act (available at <http://www.epa.gov/owow/tmdl/2006IRG/>) provides some additional information regarding the listing of waters that are not attaining designated uses although numeric ambient water quality criteria are being met (see pages 42 and 60).

California Toxics Rule concerns

EPA also supports the State's decision for the Santa Ana Region with respect to listing waterbodies for metals. After the Santa Ana Region adopted their portion of the Integrated Report, it came to our attention that some waterbodies were not evaluated against CTR criteria but instead against dissolved-to-total metal translators which were not approved as part of an applicable water quality standard. We believe the State appropriately performed a new assessment using the default CTR translators as the evaluation guideline. We support the State Board staff's proposed listing of the following waterbodies for the pollutants noted:

1. Cucamonga Creek Reach 1 (copper and lead)
2. Santa Ana River Reach 2 (cadmium, copper and lead)
3. Santa Ana River Reach 3 (cadmium and lead)
4. Santa Ana River Reach 6 (copper and lead)

EPA remains concerned that there are still some waterbodies and pollutants in the Lahontan Region that were not evaluated using appropriate CTR criteria. We are aware of the following waters which were not evaluated using saltwater CTR criteria because the State asserted that saltwater criteria do not apply to inland saline waters:

1. Amargosa River, Nevada border to Tecopa (arsenic and copper)
2. Amargosa River, Tecopa to Upper Canyon (arsenic)

3. Amargosa River, Upper Canyon to Willow Creek confluence (arsenic and copper)

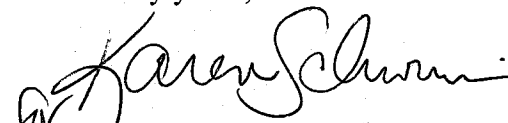
It is not clear what water quality standard the State believes to be applicable. EPA requests that the state clarify which water quality standard is being used to assess these waterbodies and ensure the data for these waterbodies are correctly assessed against the applicable water quality standard.

Newly Assessed Data and Additional Listings in the Lahontan Region

EPA supports the State Board staff decision to both assess and as a result of that assessment, to list a number of waterbodies in the Lahontan Region for multiple pollutants, including turbidity, total dissolved solids, and a variety of chemical-specific constituents. We also support the State Board staff decision to assess the existing temperature data, as we recommended in our testimony at the Regional Board adoption hearing for that portion of the Integrated Report. We reiterate that while it is often desirable to have more frequent monitoring for assessment or more data, all available data must be evaluated against the applicable water quality standards (40 CFR 130.7(b)).

During our review of the final State list submittal, it is possible we may identify additional waters that meet federal listing requirements as impaired or which were inadvertently omitted from the State's submittal. We will discuss these waters with your management team if identified. We are available to discuss our comments and look forward to receiving the 2010 Integrated Report in the near future. If you have any questions, please call me at (415) 972-3572 or Peter Kozelka at (415) 972-3448.

Sincerely yours,


Alexis Strauss
Director, Water Division