



CVCWA Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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Submitted Via Electronic Mail

Ms. Shakoora Azimi-Gaylon
State Water Resources Control Board
Division of Water Quality
TMDL Section
1001 I Street
Sacramento, CA 95814
commentletters@waterboards.ca.gov
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SUBJECT: 2010 Integrated Report/Section 303(d) Lists

Dear Ms. Azimi-Gaylon:

The Central Valley Clean Water Association (CVCWA) has reviewed the State Water Resources Control Board's (State Water Board) proposed 2010 Integrated Report and Section 303(d) Lists. CVCWA is a consortium of publicly owned treatment works (POTWs) in the Central Valley. CVCWA's primary purpose is to exchange information and provide a unified voice on regulatory issues impacting POTWs throughout the Central Valley. CVCWA is an active participant in many State and Regional Water Board regulatory actions, including proposed listings on the state's 303(d) list.

CVCWA writes to express its concern with the State Water Board's proposed listings for sediment toxicity in ten different Central Valley waterways. In particular, we are concerned that the proposed listings directly contravene the state's *Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List* (303(d) Listing Policy). The 303(d) Listing Policy specifically states that the State Water Board shall consider changes "only to waters that are requested for review unless the SWRCB, on its own motion, decides to consider recommendations on other waters." The public notice provided by the State Water Board fails to qualify as notice that the State Water Board intends to consider recommendations on other waters. Further, it appears that the proposed listings are not recommendations from others, but an arbitrary decision of the State Water Board to include the sediment toxicity listings based on information that was not available during the Regional Water Board's listing process.

The consideration of additional information here that was not available during the Regional Water Board's process prejudices the many individuals that were involved at the regional level. Based on the 303(d) Listing Policy, if individuals have concerns with the proposed listings as proposed by the regional water boards, they must request review of the listing decisions within 30-days of the regional water board's action. By circumventing the regional water boards, the State Water Board provides individuals with no ability to challenge the proposed listing, except to the entity making the recommendation. Further, we contend that such an action expands beyond the State Water Board's function and role in approving proposed 303(d) listings as set forth in the 303(d) Listing Policy. Specifically, the State Water Board's role is to evaluate regional water board-developed fact sheets for consistency, consistency with the policy, and consistency with applicable law. It is *not* to suggest additional listings based on information and data that was not available during the Regional Water Board's listing process.

For these reasons, CVCWA is opposed to the proposed sediment toxicity listings in the Central Valley as they are not consistent with the 303(d) Listing Policy process.

Sincerely,



Debbie Webster
Executive Officer