



CALIFORNIA ASSOCIATION of SANITATION AGENCIES

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Sent via Electronic Mail to commentletters@waterboards.ca.gov

February 5, 2015

Felicia Marcus, Chair, and Members
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
c/o Ms. Jeanine Townsend, Clerk to the Board



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SUBJECT: Comment Letter—303(d) List portion of the 2012 California Integrated Report

Dear Chair Marcus and Board Members:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to provide comment to the State Water Resources Control Board (State Water Board) on the proposed Clean Water Act Section 303(d) List of Water Quality Limited Segments Portion of the 2012 California Integrated Report (303(d) List). As background, CASA is a statewide association representing more than 100 municipalities, special districts, and joint powers agencies that provide wastewater collection, treatment, clean energy and water recycling services to millions of Californians. The proposed 303(d) List pertains to the North Coast, Lahontan, and Colorado River regions; therefore, our members located in these regions are directly affected by the 303(d) List. Additionally, the methodologies applied for the 2012 303(d) List have the potential to affect all of our members.

CASA appreciates the State Water Board's efforts to ensure that listing and delisting recommendations are consistent among regions throughout the state. In terms of the proposed 2012 303(d) listings, CASA supports the recommendations for metals and flow; however, we believe listing assessment for pyrethroids and bacteria should be reevaluated. Lastly, we encourage the State Water Board to define "supporting use" and the process entailed in the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy). CASA's detailed comments on each of these listing topics are as follows:

Metals

The 2012 303(d) List Staff Report describes the assessment process for metals in a water matrix analysis. Specifically, the Staff Report states that data submitted as the total fraction for metals were assessed according to the total metal criteria. The State Water Board notes that future metals assessment will be made for the dissolved fraction using the California Toxics Rule (CTR) conversion equations. CASA agrees that regardless of the end data result, the dissolved fraction or total, the metals data must be considered as one line of evidence (LOE) to make listing and de-listing recommendations. CASA also agrees that the dissolved fraction is the most appropriate form of the metals to use for listing decisions.

Flow

The Clean Water Act Section 303(d) portion of the California Integrated Report addresses impairments by pollutants. As the Staff Report acknowledges, it is inappropriate to include surface flows in the 303(d) portion of the report because flow is not a pollutant. CASA supports the State Water Board staff's recommendation to not treat lack of flow as a pollutant and to delist any flow related listings in the applicable future listing cycles. Further, CASA also agrees with the State Water Board staff's recommendation to not address flow related impairments with the Clean Water Action Section 305(b) portion of the California Integrated Report at this time since further research and inter-agency coordination is required.

Pyrethroids

The Colorado River Region's Basin Plan does not contain pyrethroid objectives; however, the proposed 2012 303(d) List contains recommendations to list malathion, bifenthrin, and cypermethrin. These listing recommendations are based upon criteria developed by UC Davis. CASA would like to note that there are a number of technical shortcomings in the UC Davis criteria. First, the chronic toxicity criteria are not based on actual data; instead, a default acute to chronic ratio was applied. Second, it is well documented that pyrethroid sensitivity has a significant inverse temperature relationship, but this relationship was not accounted for in the criteria derivation. Lastly, the criteria were developed assuming that all of the pyrethroids would be in the dissolved fraction, which is a poor assumption for pyrethroids since they have low solubility and tend to strongly associate with solids. In short, all of these technical shortcomings combined result in unnecessarily overly stringent criteria. Further, the Staff Report notes that since conversion of a whole water concentration to a dissolved concentration is not possible due to lack of information, the whole water concentrations were used for assessment, adding yet another margin of safety.

Instead of using the UC Davis criteria, CASA recommends using the criteria developed by the US Environmental Protection Agency (USEPA) Office of Pesticide Programs (OPP). OPP develops criteria, called aquatic life benchmarks,¹ which are based on peer-reviewed studies required under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These benchmarks represent allowable environmental levels of various pyrethroids that, in turn, the California Department of Pesticide Regulation (CDPR) utilize to evaluate environmental risk during registration and re-registration in California. In the end, CASA strongly urges the State Water Board and Regional Water Boards to work with CDPR (as specified in the Management Agency Agreement Between the State Water Board and CDPR)² and USEPA to address pesticide water quality issues since they are ultimately responsible for ensuring that water quality is not adversely impacted by pesticide use.

¹ http://www.epa.gov/oppefed1/ecorisk_ders/aquatic_life_benchmark.htm

² <http://www.cdpr.ca.gov/docs/emon/surfwtr/maa.htm>

Bacteria

The 2012 303(d) List Staff Report states that the bacteria lines of evidence for water contact recreation (REC-1) were completed using the 1986 USEPA Ambient Water Quality Criteria for Bacteria. Then, the Staff Report goes on to state that the USEPA 2012 water quality criteria for bacteria will be used to assess data collected as part of the next solicitation period. CASA believes it would be premature to list according to 2012 USEPA recommended bacteria criteria for REC-1 until the criteria are adopted into the Water Quality Control Plan for Ocean Waters of California and the Regional Water Quality Control Plans for Inland Waters. Additionally, the USEPA 2012 water quality criteria for REC-1 bacteria are recommended criteria and may not necessarily be adopted; therefore, any listing or delisting recommendations should be assessed according to water quality criteria specified in the current water quality control plans.

Supporting Use

The Staff Report introduces a new concept for determining if a beneficial use is "supported." Specifically, the State Water Board staff encouraged Regional Water Boards to employ an extra condition in the 2012 Listing Cycle that requires a monitoring data set to consist of at least 26 samples for conventional pollutants and at least 16 samples for toxic pollutants in order for a use to be considered "supported." Since the process for determining individual and overall beneficial use support ratings affects how listings are made for various water segments, CASA believes it would be more appropriate to address this procedure in the Listing Policy.

Thank you for the opportunity to provide comment, and please do not hesitate to contact CASA's Director of Government Affairs, Adam Link, at alink@casaweb.org, or 916.446.0388, with any questions or concerns.

Sincerely,



Roberta L. Larson
Executive Director