



**NORTH MARIN  
WATER DISTRICT**

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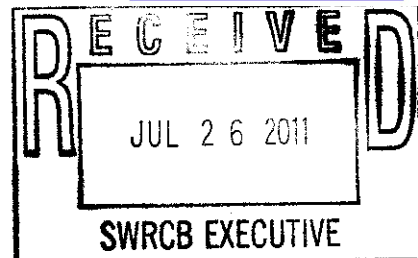
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Jeannine Townsend, Clerk to the Board  
State Water Resources Control Board  
Attn: Chairman Hoppin & SWRCB Members  
PO Box 100  
Sacramento CA 95812-2000

July 8, 2011



Re: Comment Letter – SF Bay Region Beneficial Uses/Water Bodies Update

Dear Chair Hoppin and SWRCB Members:

North Marin Water District (NMWD) is sending this comment letter to address an error in the designation of Stafford Lake beneficial uses listed in the San Francisco Bay Basin Plan. Stafford Dam and Lake on Novato Creek were constructed by NMWD in 1952 to meet water supply needs of the then growing Novato community in northern Marin County, California. It is a relatively small surface water reservoir (~4,300 acre feet capacity) used for municipal water supply purposes and providing some incidental flood protection. It has a healthy bass and bluegill population for recreational fishing, but is not a cold water resource. Since the Stafford Lake Reservoir is used for municipal water supply, there is no contact recreation or boating permitted in or on the lake. Table 2-1 of the Basin Plan, Existing and Potential Beneficial Uses of Water Bodies in the San Francisco Bay Region, lists Stafford Lake as having existing cold fresh water habitat (COLD) and existing water contact recreation (REC-1). Both of these Basic Plan designations are in error and in need of correction.

In discussion with the San Francisco Bay Regional Water Quality Control Board (SFRWQCB) staff, we understand that these beneficial use designations for Stafford Lake were established in 1976; and since no one objected at that time, the designations cannot be changed without a request for a Basin Plan amendment. We believe the time and expense to process such a change, both at NMWD and at the SFRWQCB and State Board could be better used elsewhere; thus, we are not planning to request a Basin Plan amendment but wish to document on record that Stafford Lake does not support cold-water fisheries nor is body contact recreation permitted in Stafford Lake. If the SFRWQCB should ever make changes in the Basin Plan, these designation changes might be made as minor administrative modification.

We note that all of the Marin Municipal Water District reservoirs listed in Table 2-1 identify that water contact recreation is prohibited or limited to protect public health. Additionally, we see that Nicasio Reservoir, Marin Municipal's reservoir which also supports a warm water recreational fishery, is listed as a potential beneficial use for cold-water habitat.

NMWD believes the proposed REC-1 beneficial use designation for all surface waters in the region originates in an overly broad interpretation of the intent of Section 101(a)(2) of the Clean Water Act (Act). Section 101(a)(2) of the Act declared, in part, that a "goal" for the "Nation's waters" was "where attainable" an interim water quality goal

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that would provide for recreation "in and on the water" be "achieved by July 1, 1983." Regional Board staff cites this provision of the Act as creating a, "...'rebuttable presumption' that swimmable uses are attainable." Any suggestion, however, that Stafford Lake itself possesses current or prospectively attainable REC-1 attributes may be refuted by California Health and Safety Code section 115825(b), which prohibits all body contact recreation in drinking water reservoirs. While it is widely accepted that one of the overall objectives of the Act is to protect recreational uses, setting an unattainable beneficial use for a water body does not advance this goal.

The proposal to use "E\*" for REC-1 in water bodies such as drinking water reservoirs where there is, in fact, no existing REC-1 use runs counter to the stated goal of this amendment, which is to improve the clarity of the Basin Plan. At Stafford Lake, for example, the physical, administrative, and legal barriers that have been in place since the reservoir was constructed mean that there is not, and never has been, any body contact recreation. In addition there is not, and never has been, any non-contact recreation in Stafford Lake. Further, as a component of the NMWD water supply system, no prospective REC-1 uses exist at Stafford Lake. This would be far from clear to a public that sees REC-1 listed as an existing use of the lake. Even with a footnote on REC-1 noting that body contact recreation may be limited, there is significant risk of confusing the public. Clarity and reasonableness suggest that the "E" designation be removed from beneficial uses that do not, and never have, actually existed.

NMWD values the State Board's efforts to update and correct the San Francisco Bay Region Basin Plan listing of surface waters and Beneficial Uses. This is a step forward in ensuring that discharges to all surface waters are appropriately regulated to protect water quality. It is appropriate to add surface waters that may have been overlooked in past Basin Plans, and it is equally important to use this opportunity to remove previous listings that were made in error. Erroneously listed bodies of water create expectations of activities that are incompatible with the purpose of the facility and create more oversight work without fulfilling the purpose of the NPDES system, which is to prevent the discharge of pollutants to surface waters.

Should you choose to make the changes to Table 2-1 along with this amendment, we are appreciative. In the alternative, please accept this letter in the record documenting current status of Stafford Lake beneficial uses.

Sincerely,



Chris DeGabriele  
General Manager

Cc: Bruce Wolfe, Executive Officer, SFRWQCB  
Robert Maddow, Bold Polisner Maddow Nelson Judson