

September 2, 2004

Arthur G. Baggett, Jr. Chair
State Water Resources Control Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Comments regarding the "Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List" (July 22, 2004)

Dear Chairman Baggett and Members:

The Southern California Alliance of Publicly Owned Treatment Works – or SCAP as we are commonly referred to – appreciates the opportunity to provide comments regarding the July 22, 2004 draft of the "Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List" ("Draft Listing Policy"). SCAP represents 62 wastewater agencies in the seven southern California counties from Santa Barbara to San Diego County and the Inland Empire. In total, this area encompasses over 16 million people, the vast majority of which are provided sewage collection, treatment and disposal services by our member agencies.

SCAP provided comments on the prior draft of the Listing Policy. Though we identified specific concerns and recommended improvements to the December 2003 draft, we generally supported the Policy and urged its adoption. We are in agreement with the comments of CASA and Tri-TAC that this Policy has numerous revisions that seriously undermine all the work and effort that were proposed that would result in consistency, transparency and scientific rigor of the listing process.

The purpose of the Listing Policy is to provide clear direction to the Regional Boards and the public with regard to how listing decisions are to be made throughout California. The July 2004 Draft Listing Policy falls well short of that goal.

SCAP agrees with the detailed comments and recommendations provided by CASA and Tri-TAC. These recommendations restore some measure of consistency, predictability and technical merit and without them we see no improvement to the current process. This draft Policy is very discouraging after so much effort and hard work went into improving this process.

We concur with the regulated community that the use of the binomial approach and other minimum data requirements is not an illegal revision of water quality standards. Arizona, Florida, Nebraska and Texas have all incorporated this approach in their listing guidelines and policies, and it was also an accepted approach in the National Academy of Sciences Report (Assessing the TMDL Approach to Water Quality Management).

SCAP believes that federal law and the Consolidated Assessment and Listing Methodology Guidance encourages states to develop reasonable data requirements that are rationally and technically sound. Data must be demonstrably credible and the listing of waters as impaired based upon less than credible science wastes scarce resources and results in the public perception that our environment is in much worse condition than it actually is. The 303(d) listing process has been loosely interpreted over the past decades, resulting in far too many listings with very little data on file to substantiate why the listing occurred. In a state in such dire financial straits, credible data quality requirements is not only good public policy, it is good fiscal policy.

Thank you very much for the opportunity to provide our comments. If you have any questions about our comments, please contact me at either (949) 489-7676 or rmiller@rcmiller.com.

Sincerely,



Raymond C. Miller
Executive Director

cc: Members, SWRCB
Craig J. Wilson