

**PAG Comments on 303(d) List and Listing Policy
Meeting Rm. 1510 on 12/2/01
From 1:30 to 4:00**

Notes:

- Do the best on the Listing policy, don't use 2002 as the basis for the policy. The policy is important, do the policy first.
- **The 1998 303(d) List was a wake up call for industry.**
- We need to use much more scrutiny on the 303(d) List this time around. SWRCB should have ...minimally acceptable data limits.
- Be more objective...
- **We need a process with more integrity. This is non-negotiable.**
- Good Science, predictability, process appeal ...
- Need to make or brake the process with the policy.
- The policy must be adaptable to RB process.
- Be extremely specific.
- Use a statistical approach for the policy...(i.e. 10 data points, 10% exceedance and 85% confidence level.)
- Set up the rules ahead of time.
- There is a need for QA/QC protection of the data.
- Numeric or narrative data either way it must be a rigorous approach
- Delisting policy: Need to get things off the List... We shouldn't take a willy-nilly approach.
- Current List : Consider Dioxin, there is over listing. Too much of the Bay is listed.
- Policy--- Dioxin--- It would make it harder for the EPA to list.
- The more specificity the less the chance for EPA to intervene with the Policy.
- EPA will have to work with the states if the state does the right thing.
- The policy should address EDW...Wet/ Dry weather conditions... Storm water events.
- Need to address beneficial use designators.
- Look at appropriateness do we have to go back to BPJ's... Lack of Data=BPJ ...2 tests is not supportable.
- The Policy commitment should be to use credible data.
- QAPP- Floor for Analysis... Ambient waters ONLY.
- Apply a 2 Part List approach: Assurance of all the data used.
- A 2 part list has a lot of merit... Use 2 lists and you can get water data for the 303(d) list
- Formally recognize 2 tiers.
- NPDES permits should lead to doing more monitoring.
- Restructure NPDES permits to get new data.
- "Acceptable Information"...SWRCB needs to define!! The stakeholders need to know what is acceptable data.
- "Watch List" gives incentive to monitor... Added benefit is that it would create more information for the TMDL... cant prove a "negative"
- Delisting Process, need a reason to walk away from a TMDL.
- "Phased Delisting" ... Off the TMDL list ... onto the Watch list.
- Quality data need to be on the Watch list too.
- The Watch List is not part of the 303(d) list.

- How high is the “bar”? Political process.
- The Watch list should clearly articulate that no regulatory constraints... gathering more data is enough.
- Make sure that the Watch list isn't the 303(d) list.
- If the data doesn't pass through the “sieve” don't give the data to SWRCB.
- Bobbi Larson has the information we need for the topic of “Translation of the Narrative WQO”
- Narrative Standards need a translator.
- Establish the credibility needed to get on the list.
- Impossible for some everything shouldn't be listed...
- No-toxics in toxic amounts should be translated.
- Judgement important with Fecal and Total coliform Standards.
- What is acceptability variance... What problems should not be considered?
- What is acceptability of Magnitude, Frequency, Duration, and Sediment.
- Narrative: pick a translator and go with it change if needed.
- What is sufficient data?
- **Data needs to be scientifically defensible.**
- Bar elevation... Use Florida's approach... Is the discussion about bar elevation?
- Definition of water segments... (RB) need to look at basins... some water segments along water body are pristine, some are not.
- *Samples should be representative.*
- Sediment problems = water quality problems? (Region 4 / 2)
- BPJ's when applied to “Sediment problems = water quality problems” come to many wrong conclusions... permit issue, not listing issue now.
- Don't link up listing with sources.
- Address the difference between sediment... Water loading, Listing policy... needs to acknowledge.
- Clarify what is impairment and what is impaired for? Is it fish consumption? Mercury down in the channel?
- Be sure to list beneficial uses... in addition to the problem.
- Look at Idaho and Florida for ideas....
- Divorce 2002 303(d) List from the Listing policy
- Core Principles...

Attendees:

Craig Johns
Mark Rentz
Kevin Bucher
Jeff Sickenger
Jim Scalin
Steve Arita
David Arrieta
David Bolland
Paul Martin

Craig J. Wilson
Laura J. Sharpe
Tim Stevens

PAG Comments on 303(d) List and Listing Policy
Chico on 1/3/02
From 10:00 to 12:30

Notes:

- **Watershed management and TMDLs should be linked.**
- Lower Priority TMDLs should be handled with Watershed Management projects, At least to get the ball rolling if a TMDL isn't being worked on. Higher priority TMDLs obviously should be completed first.
- Existing programs in place are not addressing watershed issues.
- **The 1998 listing "sucked".**
- Northern environmental caucus members want to try to do a pilot Watershed Management project.
- The SB should develop guidelines for TMDLs, and let the RB handle the Watershed management project development.
- RB 5 , Redding Office is – not proactive
 - not involving the public in decision process
 - need have not only better communication, but communication period with the people who are involved with the area's environmental concerns.
 - Not addressing known historical environmental problems , i.e. largest toxic land dump/ largest hydrological mine
 - Be more aware of their jurisdiction
 - Not making an attempt to educate the public on issues
 - Needs to begin extracting data/information/skills from regional Universities and Rural Academics (i.e. Chico State)
- Agencies need to communicate, to cooperate and share resources, and get a clear status of what's going on in the region.
- Barbara Vlamis proposed 5 listings to the RB, one was chosen, RB is very vague/unclear as to why, and no attempts were made by the RB to gather more info or to communicate with her on problems they had with her recommendations.
- "Watch list" concept okay. . . can it lead , as it should to monitoring efforts? Should it kick off Watershed Management activities?
- Areas of known problems should be classified / tiered, given a priority of concern.
- Watch List could focus on Watershed Mgt. And on Water Quality...How would AG respond?
- Perhaps GIS spatial mapping could be useful for Watershed mgt. Projects.
- Natural causes of BU's should not have TMDLs done for them, but the should be listed as areas to avoid, advisories posted.
- How long should water bodies reside on a watchlist, until some action is taken to list it?
- Delisting rules, How to delist protocols should be harder and tougher than what it takes to get on the List.
- Watershed Management Approach should be backed by the PAG again.
- Stakeholder approach VS. Watershed Management approach(WMA)-
 - Stakeholder approach is to waterdown/ wearout.
 - Watershed management approach (WMA) is to fix the problem.
 - WMA focuses on meeting/ exceeding water quality objectives, Stakeholder process doesn't.

- WMA would focus on education, options for the public to do the right thing, increase public involvement.
- **The RB process for listing is a failure.**

Attendees:

**Lynn Barris
Allen Hawthorne
Barbara Vlamis
Leah Wills**

**Craig J. Wilson
Laura J. Sharpe
Tim Stevens**

**PAG Comments on 303(d) List and Listing Policy
Meeting Rm. 1810 on 1/10/02
From 1:30 to 3:30**

Notes:

- Florida listing rules: the POTW's like what they did.
- Run the entire 303(d) List through the Policy, so that all the old listings and the new listings are on the same grounds.
- No "grandfathering" of the old list into the next listing cycle.
- **"Vicky -one data point -Conway" doesn't want listings to be based on ridiculous amounts of data.**
- The SB should spell out for the RB how to list.
- The RB should give all the data used to determine impairment to the public when they list.
- Everything and all data should be on the table.
- There needs to be a distinction in the Policy between "pollutants" and "pollution"
- Approach the Listing process from a science-based direction.
- Fair and equal treatment to all water bodies on the list
- TMDLs don't work for natural conditions, so why put them on the List? We can't fix them.
- TMDLs work for active inputs, point and non-point sources
- We should not list for natural conditions, physical alterations, legacy problems (no current input), or trash (maybe?)
- **TMDL should not be the end-all, be-all for the State...** it doesn't solve all the problems.
- Like a "planning list, tiered approach... Watch list (but they don't like the name)
- Another Process like the Watershed Management (WMI)
- Other processes like Basin plan amendments.
- Other programs that are essential to include are BMPs, Education, Monitoring, all of these are non-enforceable.
- Agencies should work together to create solutions for complex TMDLs.
- Watch Lists should encourage monitoring efforts
- Create incentives for Watershed groups, provide them with resources.
- Superfund would be an alternative to TMDLs.
- Natural conditions: like coliforms- bacteria... shouldn't be listed if they are because of bird wetland areas.

- Narrative Water Quality objectives: Need to identify them, have data to support them.
- To list the RB should provide the following:
 - identify the standard being exceeded
 - identify the source of the standard they are using.
 - Must have data/ measurements that support the recommendation and show exceedance.
 - Must explain their reasons for listing that water body as impaired.
- **Narrative WQ Objectives should be used for chemical, physical, and biological data.**
- We should always perform standards assessment before the TMDLs are done, they are flawed.
- **Should use a multiple lines of evidence for the policy.**
- Confidence should be the same for listing as de-listing. Equal.
- We should adopt new, more current standards.
- All data should pass a threshold.
- Warnings for Chemicals and Pesticides should not be provided to the public as "Chemical A"...they should be more specific other than "Group A", increasing education, increases awareness.
- Need a place to "park" water bodies...? Watchlist... so that they can be monitored more.
- Unique things occur to all areas that are 'impaired', we need to determine what's upstream / downstream, what's in the snow...
- Things to think about for the policy... QA all the data.
- More enforcement on site - specific basis for pollutants.
- **Schedule for TMDLs should be linked to the priority... reasonably , High Priority = 1st to be done.**
- Layout what the priorities are based on, how they were determined and why?
- Priority isn't as important as what the time period that it will be completed is.
- Timeframes for TMDLs completion may be too aggressive for agriculture to comply.
- Generic Listings for pollutants are very bad.
- Three tier strategy ... Watch List, Need more info.... Alternative strategy... 303(d) List.

Attendees:

Bobbi Larson
Sharon Green
Tom Grovhoug
Craig Johns
Margie
Bill Thomas
Tess Dunham

Craig J. Wilson
Laura J. Sharpe

PAG Comments on 303(d) List and Listing Policy
Los Angeles on 1/17/02
From 9:00 to 11:30

Notes:

- **Overarching principle should be to protect the environment and human health.**
- We need a robust policy.
- NAS guidance document has good and bad parts.
- Water bodies get put on the Watch List when the waters are clearly impaired WHEN there exists another program other than TMDLs that is currently in place to remedy the problem. This is not appropriate, the water bodies should be listed on the 303(d) regardless of other programs that are in place.
- Opposed to making the policy an exact copy of Florida's rules.
- The Florida policy has too many hurdles, not enough waters will get listed that need to be.
- Don't make the "bar" too high, that we can't get waters on the list...get on with it.
- You should need little info to List and a lot of info to delist.
- **A Watch List would accommodate the Discharger Community.**
- A watch list needs to be a mechanism that gets waters on the 303(d) List, not a place to hide waters.
- Standards should be met before a water body gets delisted.
- When a TMDL is completed a water body should remain on the List and not be delisted until a time when the TMDL has been proven to work to get the water body to meet standards.
- Water bodies should be kept on the list because it keeps waters tied to grant money.
- If a TMDL is completed it doesn't mean the problem is fixed.
- Critical TMDLs should be higher priority than others.
- The reality is that the 303(d) list is tied to many other programs.
- Natural Causes should be listed on the 303(d) List. They should be given low priority. Natural Causes contribute to the "load" in a water body and therefore should be listed.
- We shouldn't be concerned with "sources" when we list a water body on the 303(d) List.
- The 2002 EPA guidance allows for fewer water bodies to be placed on the list.
- What about using the CALM guidance?
- Don't set the bar to high. High Scientific credibility to get on the list will lead to a weak and short list.
- **"The DEVIL is in the DETAILS"** (LM) The Florida methodology sets the 'bar' very high.
- Any Watch List will give the Dischargers more power to keep water bodies off the 303(d) List.
- Funding Mechanisms for including water bodies on the list need to be thought about.
- The Watch List must have a way to make monitoring money available, to investigate the water bodies.
- It isn't proper to delist a water body for a reason, which was listed for other reasons.
- Antidegradation: If the pollutant is due to natural causes... don't make it worse.
- Commit to Narratives...John Marshak's Central Valley Guidelines are a good start.
- Use narrative standards for sure.
- Just list water bodies for impairment... is the water body impaired- yes or no.
Worry about the "why" it is impaired portion of the problem when the TMDL is getting written.

Attendees:

**Leslie Mintz
Conner Everts
Steve Fleischli
Shelley Luce**

**Craig J. Wilson
Laura J. Sharpe
Tim Stevens**

**PAG Comments on 303(d) List and Listing Policy
San Diego on 1/17/02
From 3:00 to 5:30**

Notes:

- Don't evaluate citizen-monitoring groups' data by a QAPP process. Do not devalue their data as when comparing it to an expensive study done by a lab.
- Public Access to waters in San Diego is a big problem... involving property owners, scientists trying to get data on water bodies, and law enforcement officers.
- Source Water protection is a listed as 'medium priority' it should be "high" it concerns drinking water quality.
- Ground Water is too difficult to list because it must be tied to a surface water source.
- County land development needs to consider future resource protection, what plans are in place for the future of the count's water supply. BMPs aren't working.
- Historical Prospective is important as anything else.
- Some say Never List on qualitative data alone & some say List on qualitative data alone (pictures)
- Narrative data is a crucial component of the list.
- Monitoring funds = Prop 13 funds, which are available once a water body gets listed on the 303(d) List... crucial need for resource dollars.
- Old data won't have a QAPP... But it is still important to consider as a piece of the puzzle.
- **ECONOMICS: List with the in-equity in mind. Make the playing field even from an economic standpoint.**
- Naturally occurring causes should be listed. No new loading of a pollutant in an area where that pollutant is naturally occurring.
- Think about alternative programs.. not just TMDLs to fix the water body problem. Thin about Watershed programs... what is happening upstream.

Attendees:

**Bruce Resnik
Laura Hunter
Suzanne Michel
Stephanie Pacey**

**Craig J. Wilson
Laura J. Sharpe
Tim Stevens**

PAG Comments on 303(d) List and Listing Policy
San Francisco on 1/28/02
From 10:00 to 12:30

Notes:

- Burden of Proof... who has the burden of proof? The Dischargers have the burden to prove that their waters are meeting standards and shouldn't be listed.
- NAS guidance document has good and bad parts
- Water bodies get put on the Watch List when the waters are clearly impaired WHEN there exists another program other than TMDLs that is currently in place to remedy the problem. This is not appropriate, the water bodies should be listed on the 303(d) regardless of other programs that are in place.
- Watch List is a good concept for setting priority for monitoring needs, however, It should completely separate from the 303(d) Process. It shouldn't be discussed in the context of the 303(d) List.
- Are the Water Quality standards impaired or not? This is the question to answer. If Yes, the standards aren't being met/ achieved than the water body has to go onto the 303(d) list.
- No where does it say in the federal law that if another program is in place to fix a water pollutant problem, than the water body can be kept off the 303(d) List... because a TMDL isn't needed to fix the problem.
- Who has the burden of proof? Does the public have to prove that standards aren't being met? That should be the Discharger responsibility.
- What is impairment? The bottom line is the standards being met or they are not.
- The data must be spatially and temporally sound.
- Pictures as qualitative data can't stand on their own, but shouldn't be discarded as useless... They should be used to strengthen the listing.
- Economics shouldn't be a consideration when the Dischargers are required to comply with their permits as a result of a water body residing on the 303(d) list.
- **DIVORCE THE LIST FROM MANAGEMENT.** The list should be separate from the concern of how would a TMDL be completed for what's being listed.
- Water bodies should be listed even if there is no pollutant known to be causing the impairment.
- Water Bodies should NEVER be delisted off the 303(d) List.
- If people want a shorter list than the Board should just focus on the High Priority water bodies on the list. That will serve as a short list.
- Just list water bodies for impairment... is the water body impaired- yes or no. Worry about the TMDL when it is time to be written and completed. These concepts should be Separate concerns.
- Regional Boards are too concerned with looking forward to TMDLs they will have to complete... they should only be concerned with the LIST itself.
- It should be very easy to list water bodies, without worrying if they are impaired or not, that should be determined down the road... when the TMDL gets completed. We shouldn't worry about listing clean waters as impaired... most of the water bodies are impaired anyway.

- Guidelines for good data:
 - QA PLAN
 - Citizen group monitoring is acceptable
 - Make sure the samples weren't biased.
 - Consider how many samples were collected.
 - Were standard methods used to collect the data.
 - Education of public is key to getting more data , that is of acceptable quality.
 - All data should ultimately be considered. Good or Bad.
- Be conservative when we list...Err on the side of protection of the environment and the public health.
- We should be listing for temperature, RB's are dropping the ball on Temp. , pH, and sediment concerns.
- There is a definite need for Narrative standards to be translated.
- Safe Harbors: Let people know that if they come forward with data from an area that they live/own the land, they will not bare the brunt of the cost of the solution to the problem.
- The 303(d) List makes the public aware of the problems existing in their waters.
- The TMDLs should hold the water bodies onto the 303(d) list , not get them off the list...
"The exercise club rule.... The challenge is to keep the weight off"... i.e. the challenge is to keep the water body to keep meeting the standards, once the standards have been met via the TMDL process.
- Immediate effects of getting a water body on the 303(d) list are things like, education that a problem exists, may get more money from federal resources for that water body, city councils may take action to clean the water body before a big TMDL gets inflicted upon them.
- A statistical approach is a good one, but it can't be a solve all solution.. it won't work for bio-cumulative data for example.
- Natural Causes should be listed on the 303(d) List.
- **Bottom Line: Are the standards being met?**
- Toxicity should be listed every time, *no toxics in toxic amounts*.... There should not be need to identify the pollutant responsible for the toxicity results.
- **Once you are on the 303(d) List "you are on the hook"**

Attendees:

Linda Sheehan

Teri Olle

Lena Brook

Jonathan Kaplan

Jean Choi

Tim

Craig J. Wilson

Laura J. Sharpe

15801

Storm Water Task Force Meeting
Comments on the 303(d) List and the Listing Policy
San Diego 1/18/02
From 2:00 to 3:00

Notes:

- The Dual list idea is a good one. 303(d) List and a Watch List
- We should focus on big water bodies first and then look at the smaller ones.
- We should look at the upstream contributors of the water body and then target the entire watershed area.
- QAPP should be needed for data to be used. The data should show an exceedance of standards.
- Use direct measures of beneficial uses to determine impairment... biological, toxicity, chemical.
- Do not address trends leading to a problem, address the real problem.
- Use multiple lines of evidence to list.
- Connection between tri-ennial review process and the 303(d) listing process.
- Base the 303(d) Listing on QUADRIPOD, 4 legs...
 - Numerical Standards
 - Toxicity Data
 - Benthic, fish community
 - Beneficial uses (measurement of use itself)
- Watch List may lead to a compromised list. If a water body gets put on the Watch List than if no new info exists the next cycle time, than it should be listed in the 303(d) List.
- Data should be rigorous.
- The San Diego RB did a consistent listing job. Applied the data equally, and considered frequency of exceedances.
- First step should be to develop standards. New data is always need.
- Go with a rule of thumb.
- Policy Comment: 303(d) List is a priority... State should be rigorous on listing.
- High Confidence in the data should be needed to use it for listing.
- Data is highly variable, as far a quality of the data goes.
- Lay out the entire process to the public, or as much as you can, reach out to the community before the listing. Lay out all the evidence to the public.
- Transparency is very important.
- A watershed focussed approach is a good one.

Attendees:

Storm Water Task Force Members (30 People)

**Craig J. Wilson
Laura J. Sharpe
Tim Stevens**

EPA Meeting w/ Dave Smith and Sharon Lin
Comments on the 303(d) List and the Listing Policy
Cal/EPA Building 1/25/02
From 10:00 to 1:00

Notes:

- Big... 10% Exceedance.
- Tailor to the way the standards are set up.
- Draft Guidance on how to do it from HQ.
- Strength: Streamline the process... categorize... simplify.
- EPA Guidance: We need to monitor all waters of the State. Every water body goes on some list...(one of the 5 below)
 1. All waters that meet the standards.
 2. Some uses are being attained / partially supporting
 3. Don't know anything about the water body
 4. a.) Waters that are impaired.
b.) Programs are in place- TMDLs/ NPDES permits
c.) List of waters that are impaired by natural causes.
 5. Waters on the 303(d) List, waters that are impaired and need a TMDL.
- Still unclear how EPA should crosswalk between 305(b)—GEOWBS—303(d) List.
- CALM Guidance... resource for future lists.
- SB469: Listing Policy written and approved by 2004.
- What to send to EPA? Send documentation of records—Summarize Data—Checklist of Sorts
- We need to explain why we aren't revisiting the 1998 list.
- The Watch list isn't required by EPA, it's just a status for future monitoring... send it.
- We need to articulate why water bodies don't make it onto the 303(d) List.
- Information is needed on how all the data was considered. Not only why we listed a water body.. But also who/ why we didn't list something that was recommended to us to list.
- Naturally Occurring Causes: If you don't list for natural causes you are changing standards... Do we really want to be changing standards? CA doesn't have a natural causes exemption to list.
- 130-7(b) List water bodies that need TMDLs .. Natural causes can't be fixed by creating a TMDL.
- We should list natural causes and set them as low-priority.
- Can data be proposed to us if it wasn't channeled through the regional boards first? Legally we may have to allow people to be able give us data directly after the April 15th deadline has passed, for submittal of data to the Regional Boards.
- Weight of Evidence approach seems OK.
- Perhaps we could Color Code the high/ medium/ low ratings for quicker use of the checklist.
- We should have the Binomial approach reviewed scientifically by some expert outside the Board.
- EPA differs on the Toxic rule estbl. By Florida and Arizona... 2 hits in 3 years?
- Binomial Approach should balance error rates. ... Type 1 error/ Type 2 error.
- Using a Watch List will help us to balance the approach.
- This methodology isn't an "underground regulation or policy" because.. it is only going to be used this one time for 2002 List.
- A numeric target is not a numeric objective, we need to clarify that with the RBs.
- We must use all the data available to us... "Information is broader than data" ... photos, smells, anecdotal... and we need to consider it all.

SCAP

949.489.7876

E-mail address: kris@scap.occocxmail.com

949.489.0150 (FAX)

AGENDA WATER ISSUES COMMITTEE

THURSDAY, FEBRUARY 21, 2002
10:30 A.M. TO 3 P.M.

CITY OF LOS ANGELES- HYPERION PLANT
12000 VISTA DEL MAR, PLAYA DEL REY, CA

1. Call to Order and Introductions

2. Presentation

Craig Wilson, Sr. Scientist, State Water Resources Control Board

- State's 2002 303(d) List
- Development of New State Policy for Future 303(d) Lists
- Update on SWRCB's Proposed Advisory Committee on TMDLs

3. Discussion points – Clayton Yoshida

There will be a brief PowerPoint® presentation listing the following items. Since time is limited, we will select which items to discuss. We can also add items. All members are encouraged to provide written comments to cover all topics of interest, including comments on specific waterbody listings.

- a. General Scope of the Listing Procedure
- b. Public Participation
- c. Beneficial Use Designations (waterbodies with restricted access)
- d. Criteria (properly reviewed and promulgated)
- e. Data Quality/Quantity
- f. Watch Lists (a.k.a. preliminary lists, or planning lists)
- g. Pollutant Identification (associating impairments with pollutants)
- h. Site Specific Objectives
- i. Threatened Waterbodies
- j. Biological Data
- k. De-listing
- l. Non-point sources
- m. Availability of raw data and fact sheets for each listing, with justifications, thought process, citation of peer-reviewed studies and qualified consultants
- n. Involvement of all stakeholders- addressing all concerns in the fact sheets
- o. The U.S. EPA proposed "Integrated List" (combined 303[d] list and 305[b] assessment)

SCAP

949.489.7676

E-mail address: kris@scap.occoxmail.com

949.489.0150 (FAX)

- p. Comments on specific listings
- q. Other concerns
- r. Deadlines and upcoming milestones

4. Open Discussion Period

5. Adjournment