

# Bay Area Clean Water Agencies

Leading the Way to Protect Our Bay  
A Joint Powers Public Agency

P.O. Box 24055, MS 702  
Oakland, California 94623

October 20, 2006

Song Her  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



**SUBJECT: Proposed 2006 Federal Clean Water Act Section 303(d) List of Water Quality Limited Segments for California for Nickel**

Dear Ms. Her:

The Bay Area Clean Water Agencies (BACWA) appreciates the opportunity to comment on the proposed 2006 Federal Clean Water Act Section 303(d) List of Water Quality Limited Segments for California. BACWA is an umbrella organization that represents nearly all Publicly Owned Treatment Works (POTWs) in the San Francisco Bay Area. BACWA's mission emphasizes the protection and enhancement of the natural resources of the San Francisco Bay Estuary. Our POTW community works daily to ensure that sanitary and industrial wastewater flows receive treatment that meet and often exceed water quality standards that protect the Bay's natural resources. The 2006 proposed 303(d) listing of impaired waterbodies lists the following segments of San Francisco Bay as impaired for nickel: Lower San Francisco Bay, San Pablo Bay, Suisun Bay, and the Sacramento San Joaquin Delta. It is BACWA's position that all these segments should be delisted for nickel.

During development of the 2002 303(d) list, both the San Francisco Regional Water Board (Regional Water Board) and the State Water Resources Control Board (State Board) supported delisting the San Francisco Bay north of the Dumbarton Bridge (NDB) based on a comparison of ambient data to the California Toxics Rule (CTR) 8.2 ug/L dissolved nickel water quality objective (WQO). However, USEPA in its July 23, 2003 final 2002 section 303(d) approval letter did not approve delisting nickel for Lower San Francisco Bay, San Pablo Bay, Suisun Bay, and the Sacramento/San Joaquin Delta. USEPA asserted that the applicable standard to assess the ambient data was the 7.1 ug/L nickel objective contained in the Basin Plan at that time. The 7.1 nickel WQO was exceeded in 102 of 467 ambient samples collected between March 1993 and April 2001. The CTR 8.2 ug /L WQO was only exceeded four times during that time frame, hence the reason for the Regional Water Board and State Board delisting recommendations (all four excursions were at

mouth of the Petaluma River). USEPA did establish a low priority TMDL ranking for their nickel listing noting that "the State is in the process of developing site specific water quality standards for nickel that will likely be attained. Therefore it is most reasonable to proceed with water quality standards modifications that will likely obviate the need to complete a nickel TMDL for the Bay."

The Regional Water Board subsequently amended the Basin Plan on January 21, 2004 to update the WQOs (including nickel) from total metal concentrations to be identical to the CTR dissolved WQOs (except for cadmium). The State Board approved the Basin Plan amendment on July 22, 2004, the Office of Administrative Law on October 4, 2004, and USEPA on January 5, 2005. Therefore, the 8.2 ug/L nickel WQO in the Basin Plan has been fully approved. Using the same data and rationale submitted for the 2002 listing, all San Francisco Bay segments north of Dumbarton Bridge should be delisted for nickel.

In addition, nickel impairment in the San Francisco Bay has been extensively studied since it was first identified as a pollutant of concern. An abundance of technical work has been performed in San Francisco Bay in accordance with USEPA site-specific criteria guidance that has been used to justify the adoption of site-specific water quality objectives (SSO) for both copper and nickel in the Lower South Bay segment. In May 2002, the Regional Water Board adopted a Basin Plan amendment to establish site-specific objectives for copper and nickel in Lower South Bay. These objectives were approved by USEPA in January 2003.

Recent technical studies and ambient water column monitoring conducted in San Francisco Bay north of the Dumbarton Bridge have determined that aquatic life impairment due to water column levels of dissolved copper and nickel in San Francisco Bay is unlikely. (See Clean Estuary Partnership, *North of Dumbarton Bridge Copper and Nickel Site-Specific Objectives State Implementation Policy Justification Report* -- March 2005, *North of Dumbarton Bridge Copper and Nickel Conceptual Model and Impairment Assessment (CMIA) Report* -- March 2005, and *North of Dumbarton Bridge Copper and Nickel Site Specific Objective (SSO) Derivation* March 2005.) These technical studies documented that the 11.9 ug/L dissolved nickel SSO approved for the Lower South Bay was applicable to the entire San Francisco Bay. Using the results of these studies, the Regional Water Board is in the process of developing a Basin Plan amendment to adopt copper and nickel SSOs for the bay north of the Dumbarton Bridge.

BACWA submitted the above technical information with a request to delist nickel to the State Water Board in its comment letter dated January 31, 2006 regarding the September 2005 draft 303(d) list. This correspondence was identified as comment number 127 in the September 2006 Draft Final Staff Report Response to Comments Volume IV. BACWA respectfully requests reconsideration of the denial of our request for delisting nickel, as indicated in the response to comment number 127.3 on page 164 of the Response to Comments:

"Because the actual data was not submitted with the comment communication, the data could not be evaluated; consequently a determination to delist, could not be conducted."

The Regional Water Board submitted their nickel delisting analysis, recommendations, and the supporting Regional Monitoring Program ambient San Francisco Bay nickel data as part of the 2002 303(d) list development (see attached February 26, 2002 memorandum from Loretta Barsamian, Executive Officer San Francisco Bay Regional Water Quality Control Board to Stan Martinson,

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Chief Division of Water Quality State Water Resources Control Board, Table 2 page 4). Therefore, BACWA believes that the information and data necessary for a delisting decision is already in the administrative record. However, BACWA has attached the above referenced memorandum to our comments for the administrative record.

Furthermore, the Staff Report under Faulty Listings (page 13) includes as one of the criteria for removal from the list if:

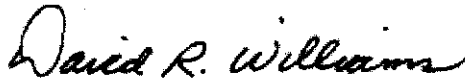
"The evaluation guideline used originally would lead to improper conclusions regarding the status of the water segment."

As noted above, the 7.1 ug/L total metals nickel WQO in the 1995 Basin Plan cited by USEPA as the basis for their 2002 listing decision was replaced by the 8.2 ug/L dissolved nickel WQO in the 2004 amendments to the Basin Plan. Therefore it would be improper and lead to "improper conclusions" for the State Water Board to use the superseded 7.1 ug/L total metals WQO as the basis for the continued nickel listing of San Francisco Bay water segments.

The State Water Board September 15, 2006 proposed 2006 303(d) list tables currently carry forward the 2002 303(d) nickel listings for applicable Bay segments with the notation "This listing was made by USEPA" and "Source Unknown." Based on the above information and documentation in the existing 2002 303(d) listing administrative record, BACWA respectfully requests that the State Water Board remove nickel from the 2006 CWA Section 303(d) List of Water Quality Limited Segments for the Sacramento San Joaquin Delta, Lower San Francisco Bay, San Pablo Bay, and Suisun Bay.

BACWA appreciates the opportunity to provide these comments and thanks you for your consideration. If you have any questions, please call me at 510-547-1174.

Sincerely,



David R. Williams, Chair  
Bay Area Clean Water Agencies

Attachments - 4