California Regional Water Quality Control Board

Los Angeles Region

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Arnold Schwarzenegger
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January 31, 2006

303 (d) Deadline:
1/31/06

Tam Doduc
Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

SUBJECT: COMMENTS ON DRAFT 2004/06 303(d) LIST

Dear Chairwoman Doduc:

We acknowledge the tremendous amount of work that State Board staff has put into the draft 2004/06 303(d) List. As you know, the Los Angeles Regional Board provided a detailed assessment of the Los Angeles/Long Beach Harbors and Dominguez Channel listings as well as comments on early drafts of the 2004/06 303(d) List. Regional Board staff also gave oral testimony at the public workshop held in southern California on January 5, 2006. We have reviewed the draft 303(d) List and have both general comments and specific recommendations for certain waterbody-pollutant combinations.

First, we strongly support some of the individual listing recommendations, including the recommendation to list the Los Angeles River estuary for trash; the retention of the algae listing for Malibu Creek; and the listings for DDT and PCBs in portions of the LA Harbor and the Ventura Marina jetties.

Our concerns focus on four general areas:

- Listing determinations for bacteria
- Listing determinations for metals
- Listing determinations based on sediment chemistry data
- Listing determinations based on the P* MUN beneficial use
- Listing determinations where a TMDL is in effect

Each of these is discussed in detail below.

Santa Monica Bay Beaches

A number of beaches along Santa Monica Bay were originally placed on the 1998 303(d) List as a result of beach closures. Until very recently, many of these beaches were not routinely monitored and, therefore, direct measures of bacterial water quality did not exist on which to base an assessment. These beaches were subsequently included in bacteria TMDLs for Santa Monica Bay beaches because the water contact recreation use (REC-1) use was not fully supported due to beach closures. Per the Listing Policy, State Board staff now recommends delisting many of these beaches where they were initially listed due to beach closures.

However, because a TMDL is in effect for these beaches, the State should be thorough in its evaluation of all readily available data during the listing process. As a result of these TMDLs, since November 2004 additional data are routinely collected on a weekly basis for many of these beaches, but to our knowledge were not evaluated in the 2004/06 listing process. Given the potential impact of the State's recommendations on the Santa Monica Bay Beaches Bacteria TMDLs, these recent data should be evaluated in the listing process. The Regional Board has these data in house and staff is willing to work with the State Board to ensure that these data are considered. (The data are too voluminous to include as an attachment to this letter.)

When evaluating these data during this listing cycle, the allowable exceedance frequency should match that set forth in the TMDL, since Region 4's bacteria standards are to be implemented using a site-specific exceedance frequency based on the lesser of a reference system or existing water quality at a beach location. No exceedances of the water quality objectives are allowed at any beach during the period from April 1st to October 31st.

Until these analyses are done, no beaches should be delisted.

Application of High Flow Suspension of REC-1 and REC-2 Uses

In certain engineered water bodies in Region 4, the Regional Board has established a high flow suspension of the recreational beneficial uses (REC-1 and REC-2) and the associated bacteria objectives during large rain events (>= ½ inch and the 24 hours afterward) (Attachments 1a and 1b). This amendment to the Region's water quality standards has been fully approved and is in effect. The draft list recommends listing for bacteria indicators in some of these engineered channels, but also notes that the majority of samples were collected during wet weather. Rainfall data from a local gage should be evaluated to determine whether the high flow suspension would have been in effect at these times and, if so, whether the number of samples exceeding the objectives would still meet the listing policy criterion. The waterbodies potentially affected included Aliso Canyon Wash, Burbank Western Channel and Dominguez Channel above Vermont Avenue.

Applicable Bacteria Objectives in Freshwaters

For freshwater, Region 4 has objectives for E. coli and fecal coliform, not for total coliform or enterococcus (Attachment 2). In several cases, the draft 303(d) List improperly compares bacteria data from freshwater systems to total coliform and enterococcus objectives applicable to marine water. Waterbodies affected included Aliso Canyon Wash where a total coliform line of evidence is used and Dominguez Channel above Vermont Avenue where a enterococcus line of evidence is used.

Comparison of Total Recoverable Metals Data to CTR Criteria

For a number of waterbodies, only total metals data were submitted. In these cases, State Board staff did not evaluate the data against the dissolved metals criteria set to protect aquatic life contained in the California Toxics Rule (CTR). While the CTR criteria are expressed in terms of dissolved metals, default translators are provided in the CTR to convert the criteria to total recoverable metals. These total metals data should be evaluated; if they are not, we may overlook some waterbody impairments.

Regional Board staff has already made such adjustments when evaluating some of the listings for the San Gabriel River as part of the TMDL data assessment currently underway. Staff took the approach of adjusting the CTR dissolved criteria using default translators and compared the total recoverable metals data to the CTR criteria. Using this approach and applying a weight-of-evidence approach, staff found copper, lead and zinc impairments in the San Gabriel River Estuary (Attachments 3a, 3b and 3d).

Treatment of Wet and Dry Weather Data in Southern California

Regional Board staff disagrees with the use of the binomial distribution for assessment of toxicants as inconsistent with the allowable frequency identified in the water quality standards themselves. However, if applying the Listing Policy as written we do not feel it is appropriate to aggregate the wet- and dry-weather data because these data represent very different conditions in the Los Angeles Region. During TMDL development staff routinely evaluates impairments during these two distinct conditions in Southern California. If the binomial approach to determining impairment is used for toxicants, this distinction between wet- and dry-weather data should be applied in listing decisions as well. This affects several waterbody-pollutant combinations, including the Coyote Creek listing for zinc and San Gabriel River Reach 2 listing for lead and is discussed in detail in Attachments 3a and 3c.

Sediment Chemistry Data

It appears that if only sediment chemistry data were available, State Board chose to not assess the waterbody for that pollutant. However, the Listing Policy does not preclude using a single line of

evidence (e.g. sediment chemistry data alone) to support a listing decision. This approach is justified by the fact that the sediment quality guidelines used in the Listing Policy are set to be protective, using sediment toxicity as an endpoint. Therefore if sediment chemistry data show exceedances of sediment quality guidelines above that allowed in Table 3.1 of the Listing Policy, the waterbody should be listed for sediment impairment. This affects several waterbodies including areas of the Los Angeles/Long Beach Harbor and the Dominguez Channel estuary. See attached comments on individual waterbody-pollutant recommendations (Attachment 4).

DDT in Sediments

Given that DDTis pervasive and levels are highly elevated in many areas of Region 4, the State Board should not delist DDT in sediments merely because the Listing Policy does not identify an appropriate guideline. The Listing Policy relies upon sediment quality guidelines for protecting the benthic community; these guidelines are not set to protect higher trophic levels from bioaccumulatives such as DDT. The Los Angeles Basin Plan contains a narrative objective for bioaccumulation that must be utilized in water quality assessments.[1] Therefore, the Regional Board strongly recommends that State Board maintain the current listings due to DDT in sediment using the weight of evidence approach outlined in the Listing Policy and available fish tissue data until a suitable benchmark/guideline is identified at which point the listings can be re-evaluated. A more detailed discussion of this issue for Dominguez Channel Estuary is provided below.

DDT in Dominguez Channel Estuary

In 1992, the Toxic Substances Monitoring Program (TSMP) collected one fish sample in Dominguez Channel. The 1998 and 2002 303(d) lists utilized this data to identify the freshwater portion of Dominguez Channel as impaired due to high levels of organics in fish tissue. For the 2006 draft 303(d) list, Regional Board staff carefully reviewed the TSMP sampling report, which indicates the results were reported for one fish (white croaker) collected in the estuary segment, downstream of Vermont Avenue. The Maximum Tissue Residual Level (MTRL) for this fish tissue sample was reported as 6,487 ppb compared to an OEHHA screening value of 100 ppb. The 2006 draft 303(d) list has suggested the previous conclusions of impairment based on one fish collected in 1992 were subject to misinterpretation due to inadequate sample representation and an aging data record. We concur the TSMP fish tissue results do not identify any specific impairments in the freshwater segments of Dominguez Channel. However, it is useful to include this fish tissue sample from Dominguez Channel estuary in a weight-of-evidence approach that considers other data including sediment chemistry. Sediment chemistry data previously submitted as part of the data record indicate elevated levels of DDT (>1 ppm). These data in

[1] *Toxic pollutants shall not be present at levels that will bioaccumulate in aquatic life to levels which are harmful to aquatic life or human health.* (Los Angeles Basin Plan, 1994, p. 3-8).

combination provide sufficient evidence of impairment based on the Region's bioaccumulation narrative objective.

Santa Monica Bay Chlordane

Based on an evaluation of recent data conducted by US EPA and reviewed by Regional Board staff, we recommend delisting Santa Monica Bay for chlordane. The Regional Board recommends that State Board supplement the data record in this particular case. We believe this is justified given that a TMDL is scheduled for development in the immediate future and therefore if more recent data are not considered resources may have to be spent unnecessarily.

Recent data for chlordane in sediment and fish tissue were compiled to supplement results presented in the draft 303(d) factsheet (Attachments 5a and 5b). All data used in this evaluation were collected between 1998 and 2004, and are the most recent chlordane data readily available. The sediment data had very few total chlordane values above the Listing Policy screening value. The combined sediment datasets yield 4 out of 307 sediment samples exceeding the Listing Policy screening value. Two fish tissue datasets were also evaluated, and 0 of 434 total chlordane results were greater than the California Office of Environmental Health Hazard Assessment (OEHHA) tissue screening value. These data indicate attainment of narrative water quality objectives for the sediment and tissue lines of evidence.

Potential Municipal and Domestic Supply (MUN) Beneficial Use Designations with an Asterisk (*)

A number of proposed listings are based on impairment of the MUN use; however, in many cases, the waterbodies in question are identified in the Los Angeles Basin Plan as only conditionally designated as MUN (i.e., those identified with a P*). The US EPA concluded in its 2002 approval of the 1994 Los Angeles Basin Plan that, therefore, these waters do not have MUN as a designated use until such time as the State undertakes additional study and modifies its Basin Plan.

Consistent with the Regional Board's approach in the 2002 listing cycle, we recommend that State Board take the following approach. If a waterbody is conditionally designated as MUN (identified with a P*), but has a GWR (Groundwater Recharge Beneficial Use), the data should be assessed using Title 22 MCLs. However, if the waterbody is conditionally designated as MUN and has no GWR beneficial use assigned, the data should not be assessed using Title 22 MCLs. This affects several listing recommendations. Dominguez Channel, Los Cerritos Channel and Malibu Creek should not be listed for Aluminum and Malibu Creek should not be listed for Sulfates. All fact sheets including those in the "Do Not List" category should be revised to reflect this conditional designation.

Process for Re-evaluating Waterbodies Included in Completed TMDLs

The State Board has included several assessments of waterbodies for which TMDLs have already been completed. In Region 4, many TMDLs include additional requirements for additional monitoring and special studies early in the implementation phase *prior to* requiring any pollutant reductions. The Regional Board recommends in these cases that a re-assessment decision is deferred until the findings of the monitoring and investigations are available. This will provide a more robust data set and more clarity prior to making a re-assessment decision in the next listing cycle.

In conclusion, we appreciate the effort of State Board staff in preparing the 2004/06 303(d) List. We would like to work with State Board staff to resolve the concerns discussed above. If you have any questions concerning our comments, please call me at (213) 576-6605 or Renee Purdy DeShazo at (213) 576-6783.

Sincerely,

/ ORIGINAL SIGNED BY /

Jonathan S. Bishop
Executive Officer

Enclosures