

January 26, 2006

Selica Potter, Acting Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



303 (d) Deadline:
1/31/06

Subject: Proposed 303(d) Listing of Entire San Diego Bay for Polychlorinated Biphenyls (PCBs)

Dear Ms. Potter:

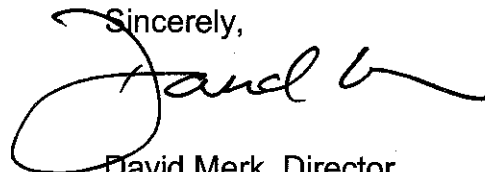
This letter is in regard to your request for comments on the revision of the Clean Water Act Section 303 (d) list of water quality segments.

The San Diego Unified Port District ("District") respectfully objects to the staff proposal that would add the entire San Diego Bay to the federal Clean Water Act Section 303(d) list for PCBs. The District is committed to improving the water and sediment quality of San Diego Bay. Significant improvement has been achieved through our stormwater, pollution prevention and environmental restoration programs. Throughout these efforts our emphasis has been on using scientifically defensible, transparent processes for addressing our environmental issues. The San Diego Regional Water Quality Control Board (SDRWQCB) has done a thorough job of using the latest multiple line of evidence approach for determining water and sediment quality corrective actions necessary for San Diego Bay.

As explained in the attached specific comments, the proposed 303(d) listing of San Diego Bay for PCBs does not appear to have been done using this same rigorous approach. Therefore, the District requests that this proposed addition to the list be deleted and that the ongoing cleanup process by the SDRWQCB be allowed to address the issue of PCBs in San Diego Bay.

I may be reached at 619-686-7239 to discuss this further.

Sincerely,



David Merk, Director
Environmental Services

DM:jh
Attachment
Docs #163730

Attachment:

Port of San Diego

Technical comments on proposed 303(d) listing of San Diego Bay for PCBs

1/26/2006

1. It is generally inappropriate to include an entire water body on the 303(d) list.

Section 303(d)'s purpose is to focus on segments of water bodies that are not meeting applicable water quality standards.¹ By focusing on segments, site-specific analyses can take place. It is inappropriate to add an entire water body without evidence that the entire water body is impacted. Current listings for PCBs throughout the State are illustrative of this point. The San Diego Region has several listings for PCBs. All are related to specific shoreline areas.² The San Francisco Bay Region's listing for PCBs also focuses on segments, such as the Oakland Inner Harbor and the Carquinez Strait.³ In accord is the Los Angeles Region, with PCB listings for segments involving several beaches, coves, and harbor areas.⁴

2. The "screening level" used to justify the listing is not an appropriate basis to show an impairment.

The listing of San Diego Bay for PCBs is based on exceedances of a "screening level" of 20 ppb. This "screening level" does not come from any government adopted regulations, standard, guideline or advisory. Rather, it comes from a study performed in 1999 by two Office of Environmental Health Hazard Assessment (OEHHA) scientists. The study was summarized in a final report entitled "Prevalence of Selected Target Chemical Contaminants in Sport Fish from Two California Lakes: Public Health Designed Screening Study." The "screening values" calculated by the staff scientists were designed merely as guides to identify when more sampling may be appropriate. It is not defensible to base a finding of impairment on exceedances of these "screening values."

3. The line of evidence used to support the proposed listing is extremely limited.

The decision to list the entire San Diego Bay apparently rests on just one line of evidence.⁵ That line, in turn, is based on only 11 fish tissue samples from 1999 and 2000. The tested fish were collected from just four shoreline stations. Use of this

¹ Federal Clean Water Act Section 303(d).

² State Water Board 2002 Section 303(d) list.

³ *Id.*

⁴ *Id.*

⁵ Draft 2006 303(d) List Fact Sheet, Region 9, Water Segment: San Diego Bay, Pollutant: Polychlorinated

Attachment:

Port of San Diego

Technical comments on proposed 303(d) listing of San Diego Bay for PCBs

1/26/2006

single, limited line of evidence to support a listing for an entire large water body in inappropriate.⁶

4. All readily available evidence was not utilized.

The San Diego Regional Water Quality Control Board ("Regional Board") has collected a considerable body of evidence regarding PCB levels in San Diego Bay sediments. The Regional Board has derived sediment chemistry levels for use in evaluating the feasibility of shoreline cleanups to background sediment conditions from a pool of San Diego Bay reference stations.⁷ This pool of reference stations was sampled during three independent sediment quality investigations: (1) Southern California Right 1998 Regional Monitoring Program, (2) 2001 Mouth of Chollas Creek and Mouth of Poleta Creek TMDL studies, and (3) 2001 NASSCO and Southwest Marine Sediment Investigation. Eighteen stations within San Diego Bay made up the Baseline Pool. Analysis of the data from this sampling pool shows background levels for PCBs averaging 84 ug/kg. This level is dramatically below the PCB sediment guideline values in the State Water Board's Listing Guidelines, which range from 400-676 ug/kg. Thus, major portions of San Diego Bay have dramatically lower levels of PCBs in sediments than the guideline values of the Listing Policy. Based on this evidence, the listing is inappropriate.

5. The single line of evidence used to support this proposed listing does not constitute the "weight of the evidence."

The single line of evidence used to justify the listing for the entire San Diego Bay suffers from several obvious deficiencies: (1) the small number of samples, (2) the small number of stations, (3) the fact that the stations appear to have been located at the shoreline, (4) the lack of correlation between where the fish were collected relative to the entire Bay, (5) the age of the data, and (6) the fact that the data only relates to fish tissue, rather than sediment or water column quality. Given these deficiencies, it can be readily stated that the evidence does not contain enough weight, by itself, to even tip the scales at all to support the proposed listing. These deficiencies, coupled with the readily available evidence of low sediment levels of PCBs in the Bay, lead to the conclusion that the "weight-of-the-evidence" approach has not been satisfied. To the contrary, the weight of the evidence weighs against the proposed listing.

⁶ State Water Board Resolution No. 2004-0063, Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy). All available lines of evidence shall be assessed. Page 2. The State shall evaluate all existing, readily available, water quality-related data and information. Page 4.

⁷ See tentative San Diego Water Board Cleanup & Abatement Order R9-2005-0126, findings 15 and 31. This Order can be found at the Regional Board's website, homepage, Shipyard Sediment Site Cleanup Project and Cleanup & Abatement Order No. R9-2005-0126.

Attachment:

Port of San Diego

Technical comments on proposed 303(d) listing of San Diego Bay for PCBs

1/26/2006

6. The decision to test the entire San Diego Bay for PCBs is not scientifically defensible.

On December 19, 2005, the State Water Board published a report entitled "Role of Science and Engineering in Decision Making Within the State and Regional Water Boards" (Report). The Report states that a 303(d) listing decision "relies heavily on science." Decisions "must be based on sound science and engineering practices." The evidence used to support this proposed listing does not provide the requisite scientific underpinnings. To the contrary, the data developed by the Regional Board on PCBs in San Diego supports a decision not to make this listing.

7. The State Water Board's development of Sediment Quality Objectives is a more appropriate approach to sediment issues for entire water bodies, such as the San Diego Bay.

The State Water Board is required by statute to adopt Sediment Quality Objectives as part of a comprehensive program to protect existing and future beneficial water uses within California's enclosed bays and estuaries.⁸ These objectives must be adopted by February 28, 2007.⁹ Given this statewide effort, a decision to list an entire water body for a sediment water quality problem is premature.

⁸ California Water Code Section 13191.3.

⁹ See State Water Board Resolution No. 2003-0034.