

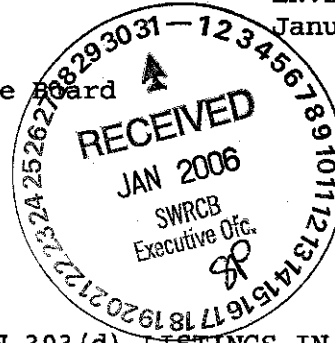


UNITED STATES MARINE CORPS

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5090.7
ENVSEC/42
January 31, 2006

Ms. Selica Potter, Acting Clerk to the Board
State Water Resources Control Board
Executive Office
1001 I Street
Sacramento, CA 95814



303 (d) Deadline:
1/31/06

Dear Members of the Board:

SUBJECT: COMMENTS ON PROPOSED SECTION 303(d) LISTINGS IN THE SANTA MARGARITA RIVER AND DE LUZ CREEK

In accordance with the Board's Memorandum of January 9, 2006, Camp Pendleton hereby submits written comments on the subject proposed listing of impaired water bodies in the Santa Margarita River (SMR) watershed.

1. Proposed Listing for Mercury in the Lower SMR

On Page 255 of the Listing Fact Sheet, Board staff recommends that the Lower SMR¹ be listed as impaired for mercury because two of eight fish screening samples collected between 1979 and 1999 exceeded the putative "fish consumption standard." The drafter of the fact sheet cites the TSMP, 2002 Database as the source of the exceedance data. The proposed listing for mercury is erroneous and legally insufficient for the following reasons:

a. Our review of the TSMP, 2002 Database (which we confirmed with SWRCB staff) seems to indicate that only one of 130 fish tissue samples in the SMR watershed exceeded the OEHHA screening value for mercury - not two as the fact sheet mentions. Table 3.1 of the Listing Policy requires a minimum of two² or more samples above the OEHHA Screening Level to place a water segment on the section 303(d) list for toxicants.

b. Assuming for the sake of argument that the eight samples referenced in the fact sheet were properly collected and documented (to reiterate, our records indicate just the opposite), it would still be inappropriate to assume impairment in the Lower SMR because the

¹ The lower SMR is not identified by a specific hydrologic sub-area (HSA) in the San Diego Basin Plan.

² Table 3.1 indicates that, for a sample size of 130, 12 or more exceedances are necessary to place a water segment on the section 303(d) list for toxicants.

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data is stale, allegedly taken between 1979 and 1999, and unlikely to reflect current mercury loadings (if any) in the Lower SMR.

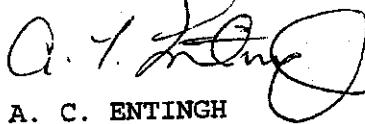
c. We know of no likely sources of mercury contamination on Camp Pendleton or anywhere else in the SMR watershed.

2. The Board also proposes listing De Luz Creek as an impaired water body for iron, manganese, and sulfates. However, these constituents alleged to have exceeded numeric water quality standards are, to the best of our understanding, entirely naturally occurring in the watershed. We do not know of any anthropogenic source for these substances, and as such have no mechanism for controlling loadings in the event that the proposed listing results in the development of a TMDL. Moreover, the fact sheets supporting the proposed listings indicate that all of the De Luz Creek sampling sites are located off of Camp Pendleton. It is quite possible that, given the largely undisturbed nature of much of Camp Pendleton's landscape, impairment for these substances does not occur in the Camp Pendleton segments of DeLuz Creek. There is simply no data indicating impairment for iron, manganese, or sulfates in the Camp Pendleton portions of DeLuz Creek.

Though we also have general misgivings about the quantum of data that is being used to support other proposed listings in the SMR watershed, we will not formally comment on listings that occur entirely outside Camp Pendleton's boundaries.

If there are any questions, please do not hesitate to contact Dr. Khalique Khan at (760) 725-9753.

Sincerely,



A. C. ENTINGH
Major, U.S. Marine Corps
Environmental Compliance Dept Head
Assistant Chief of Staff,
Environmental Security
By direction of the
Commanding Officer

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Region 9 RWQCB