



## Association of California Water Agencies

Leadership Advocacy Information Since 1910

January 31, 2006

*Via e-mail:* [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Selica Potter, Acting Clerk to the Board  
State Water Resources Control Board  
Executive Office  
1001 I Street, 24th Floor  
Sacramento, CA 95814  
Fax: (916) 341-5620



**303 (d) Deadline:**  
1/31/06

**Comments Regarding The State Water Resources Control Board (SWRCB) Proposed Revisions, Federal Clean Water Act (CWA) Section 303(d) List of Water Quality Limited Segments For California**

Dear Ms. Potter:

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide the following comments on the State Water Resources Control Board (SWRCB) Proposed Revisions to the CWA Section 303(d) List of Water Quality Limited Segments For California [Section 303(d) List]. ACWA represents over 450 public water agencies in California. Our members supply over 90% of the water delivered in California for domestic, agricultural and industrial uses. ACWA member agencies operate water conveyance facilities, drinking water storage reservoirs, and water treatment facilities throughout the state. These agencies are integrally involved in the management of surface water resources statewide to ensure that public water supply needs are adequately addressed, acceptable surface and groundwater quality is maintained, and that beneficial uses of water resources are optimized in a balanced manner.

ACWA strongly supports the efforts that the SWRCB and the Regional Boards have made to improve the transparency and scientific integrity of the 303(d) listing process between the 2002 listing cycle and the present 2005 list. In particular, we believe that the effort to develop and adopt the "Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List" (Listing Policy) has resulted in a generally more objective and defensible process to evaluate and list impaired water bodies in California. Additionally, the extensive staff work that has gone into preparing the "Water Body Fact Sheets" to support staff's listing and delisting recommendations provides the needed rationale for how the Listing Policy is applied in specific cases.

Although ACWA supports the general purposes of the Clean Water Act Section 303(d) listing process, to identify water quality impaired waters that should be the subject of detailed Total Maximum Daily Load (TMDLs) "pollutant budgets" that are calculated to result in restoration of water quality, we have serious concerns about how this process will be carried out in a number of situations that we will describe below. These problematic situations are generally associated with water quality in constructed water conveyances and water reservoirs, but can occur in natural water bodies as well.

Our conclusion is that the 303(d) listing process needs to be better integrated with a more robust and sophisticated regional water quality basin planning process to justify water quality objectives and effectively address beneficial use attainability. In many cases TMDLs may be the right tool for the job, but in other cases alternative "off-ramp" water quality management plans need to be prepared to ensure balanced protection of beneficial uses.

### **Drinking Water Reservoir Listings**

ACWA is concerned that a large number of drinking water reservoirs have been proposed for new and continued listings for various impairments in various parts of the state. These reservoirs are often listed for high Total Dissolved Solids (TDS), low Dissolved Oxygen (DO), or high levels of various naturally occurring metals or salts that either do not pose a threat to public health or are treated to achieve state drinking water standards before distribution to the public. Specific examples include several reservoirs in San Diego County, including Sweetwater, El Capitan, Miramar, Murray and San Vicente Reservoirs. This problem, however, is not limited to these cases.

ACWA is concerned that widespread listing of drinking water reservoirs for constituents that are not a threat to Municipal and Domestic Supply (MUN) uses will result in preparation of many unnecessary TMDLs, and could ultimately adversely affect the management and use of these facilities.

Drinking water reservoirs are managed to store raw water or recycled water that may come from sources that may already be high in TDS or other listed constituents (such as the Colorado River). In many cases, there are no traditional point or nonpoint sources of "loadings" of the listed pollutant to the reservoir, other than the source water itself. Although these situations may create a technical "impairment" if evaluated against current water quality objectives contained in basin plans, in fact "no water was harmed in the making of the drinking water", which is the primary beneficial use for which these reservoirs exist.

It is true that some of the reservoirs in question may support ancillary "warm water fisheries" that have been identified as beneficial uses. But the CWA provides for use attainability analysis to ensure consideration and proper balancing of the various designated uses associated with a given water body. This is where a more sophisticated and robust basin planning process is needed to augment the 303(d) listing and TMDL processes. We encourage the SWRCB and the affected Regional Boards to work cooperatively with the affected water agencies and to rectify these issues by addressing the fundamental weakness in the basin plans. ACWA supports revision of the state Listing Policy to exempt drinking water reservoirs with unavoidable

impairments associated with imported drinking water quality, natural constituents in the water body, or unavoidable natural processes like seasonal stratification that cause decreased DO levels.

### **Temperature Listings**

ACWA is also concerned about what we deem to be insufficient lines of evidence to support a proposed listing for temperature impairment on the North Feather River. Enclosed is a letter from James Pedri of the Central Valley Regional Water Quality Control Board Redding Branch office dated December 1, 2005 to Joe Karkoski of the CVRWQCB that questions the rationale for this proposed listing. This listing proposal is based on documented exceedances of an instantaneous daily maximum temperature objective intended to protect Cold Freshwater Habitat (COLD). Yet as the letter points out, daily, annual and weekly water temperature fluctuations are common in this river, and temperature also varies by elevation and river 'micro-habitat'. Additionally, the cold-water fish species that are the focus of this objective also vary in their tolerance for high temperatures by season and life stage. This appears to be a case where the water quality objective may not be suitable for determining an actual threat to the beneficial use. ACWA supports the conclusion of this letter that 303(d) temperature listings are merited only when there is additional evidence of actual beneficial use impairment due to high temperature and the impairment is the result of controllable activities. Providing additional lines of evidence to support temperature listings seems to be prudent given the complexity of the science.

This situation on the North Feather River also raises the question of where else instantaneous daily maximum temperature exceedances are being used as the sole basis to support proposed impairments for temperature. We did not review all of the "Water Body Fact Sheets" for all proposed temperature listings statewide, but wherever there are similar circumstances such a listing may not be warranted. We are also concerned with the potential for additional future listings for temperature impairment based on this type of simplistic rationale, as additional else instantaneous daily maximum temperature data become available of other waters that support COLD uses.

This is another example of where comprehensive attention to how water quality objectives are justified and supported in the basin plan is fundamental to improving the rigor and integrity of the 303(d) listing and TMDL processes. Again, we ask the SWRCB and the affected Regional Boards to focus significant attention to this matter in coming years.

### **Conclusion**

ACWA supports the state's efforts to improve the integrity of the 303(d) listing process. We believe that the concerns we have expressed in this comment letter (and likely many other concerns expressed by many others) demonstrate that the 303(d) listing process needs to be better integrated with a more robust and sophisticated regional water quality basin planning process that effectively addresses beneficial use attainability. The changes we are requesting will be a challenge to implement, but we believe that attention to our comments will further strengthen water quality planning and management in California. Ultimately these changes will

Selica Potter  
Page 3 of 4  
January 31, 2006

help better integrate water quality concerns into the wider context of state water policy in a way that can be supported broadly by water agencies, other water resource managers, and the public as a whole.

Thank you for your consideration. If you have any questions regarding these comments, please contact David Bolland at (916) 441-4545.

Sincerely,



Krista Clark  
Director of Regulatory Affairs

Copy:

Craig J. Wilson, Division of Water Quality

Marcia Torobin and Joyce Clark, Metropolitan Water District of Southern California  
Dennis Bostad & Rick Alexander, Sweetwater Authority  
Charles Yackly & Jeffery Pasek, City of San Diego Water Department