

June 17, 2009

California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street
Los Angeles, CA 90013
ATTN: Man Voong

Transmitted via e-mail to mvoong@waterboards.ca.gov

Subject: Comments on Proposed 2008 303(d) list

Dear Mr. Voong:

The participating members of the MOA Management Committee, the parties implementing TMDLs in the Calleguas Creek watershed, appreciate the opportunity to comment on the proposed 2008 303(d) list. In addition to a few general comments we feel there are a number of constituents that should be re-categorized on the 303(d) list. This letter provides a summary of the group's comments on the proposed 2008 303(d) list and additional comments previously submitted during the 2006 review detailing incorrect initial listing processes and the inappropriate application of objectives found in the Water Quality Control Plan for the Los Angeles Region (Basin Plan).

In general we are supportive of the list and the changes made to the 2008 list. However we have three specific comments for the Regional Water Board staff's consideration:

1. A number of waterbody/pollutant combinations are listed as still requiring TMDLs (category A) when they are covered by a USEPA approved TMDL.
2. The information provided to support the trash listing in Arroyo Simi is being resubmitted by the Ventura Coastkeepers to correct errors identified during the data review. We request your consideration of the revised data to ensure consistency with the Listing Policy.
3. Comments on the 2006 list that were not addressed during that listing cycle, but remain as issues on the 2008 proposed list.

INCORRECT CATEGORIZATION OF WATERBODY/POLLUTANT COMBINATIONS

In 2006, a number of listings were placed on the 303(d) list for Organochlorine Pesticides. These listings were based on information developed during the preparation of the Calleguas Creek Watershed Organochlorine Pesticides and PCB TMDL that demonstrated that some additional reaches had data that supported additional impairments. In 2006, the State Board included these additional impairments on the 303(d) list because an USEPA approved TMDL was in effect. The Fact Sheets for the constituents listed in Table 1 for the 2006 list from the

SWRCB included the following language as the rationale for including the constituents on the list:

“After review of the available information for this recommendation, SWRCB staff conclude that the water body pollutant combination should be placed in the Water Quality Limited Segments Being Addressed category of the 303(d) list because a TMDL has been approved.”

Based on this rationale, we request that the following listings be changed from category A to category B in the 2008 list. Table 1 summarizes the listings.

Table 1. 2008 OC and PCB TMDL Constituents to be moved to Fact Sheet Category B

Reach	Water Body	Constituent 2008 List	Current Category	Correct Category
1	Calleguas Creek	Endosulfan (tissue)	A	B
2	Calleguas Creek	ChemA (tissue)	A	B
2	Calleguas Creek	Endosulfan (tissue)	A	B
4	Calleguas Creek	ChemA (tissue)	A	B
4	Calleguas Creek	Endosulfan (tissue & sediment)	A	B
5	Calleguas Creek	ChemA (tissue)	A	B
5	Calleguas Creek	Dacthal (sediment)	A	B
5	Calleguas Creek	Endosulfan (tissue & sediment)	A	B
9A	Calleguas Creek	ChemA (tissue)	A	B
9A	Calleguas Creek	Endosulfan (tissue)	A	B
9A	Calleguas Creek	Lindane/gamma-HCH (tissue)	A	B
9B	Calleguas Creek	ChemA (tissue)	A	B
9B	Calleguas Creek	Endosulfan (tissue)	A	B
10	Calleguas Creek	ChemA (tissue)	A	B
10	Calleguas Creek	Endosulfan (tissue)	A	B
11	Calleguas Creek	ChemA (tissue)	A	B
11	Calleguas Creek	Endosulfan (tissue)	A	B
13	Calleguas Creek	ChemA (tissue)	A	B
13	Calleguas Creek	Endosulfan (tissue)	A	B

Additionally, the USEPA approved TMDL for salts (effective December 2, 2008) addresses the boron, sulfate and TDS listings in Fox Barranca, a tributary to the Calleguas Creek watershed. We request that the following listings be moved from Category A to Category B based on the same rationale as expressed in the fact sheets for the other reaches of the Calleguas Creek watershed which will be addressing the salts issue on a watershed scale approach. Table 2 summarizes the listings.

Table 2. 2008 Salts TMDL Constituents to be moved to Fact Sheet Category B

Water Body	Constituent List	Current Category	Correct Category
Fox Barranca	Boron	A	B
Fox Barranca	Sulfates	A	B
Fox Barranca	TDS	A	B

TRASH LISTING IN ARROYO SIMI

We would like to support the recent Ventura Coastkeepers (VCK) re-submittal of data used as the basis for the trash listing in the Arroyo Simi. Members of the MOA group identified a discrepancy in the data available on the fact sheet (Decision ID 10423). VCK staff have since identified the errors and revised the data sheet to accurately reflect the conditions observed in Reach 7 (Arroyo Simi) during the 2006 sampling period. We are supportive of this data submission and appreciate VCK staff working in a cooperative effort to help identify and revise the data. We appreciate the VCK taking a proactive approach to ensure that data is accurate and correct, and support Regional Water Board staff accepting this revised data.

We request, in light of the re-submittal of the data, that the Regional Board staff consider the information in the context of the State's Listing Policy. The FED for the Listing Policy (page 90) discusses the need to use both numeric and non-numeric data for determining a trash listing. We request that the decision to list trash be based on consideration of both numeric and non-numeric data as discussed in the FED. Although not available for review, we would request that the listing in Arroyo Simi only be listed if the resubmitted data includes one or both of the following non-numeric types of information that can be used to verify the numeric values for trash. Additionally, we request that the following information be a requirement of any data submittal used as the basis for a new trash listing, and that the information be available for review during the review process:

1. Photographic or Other Documentation Providing Evidence of the Impairment - By utilizing photographic information in the listing, the Regional Board will be better able to identify specific locations of the impairment and possibly better identify sources of impairment. Beyond the TMDL development stage, by having more detailed information contained in photos, this would assist in the development of implementation plans. If photographs are not available, field logs, survey forms, or other information should be provided to ensure the submitted results are verifiable by the SWRCB or RWQCB as required by the Listing Policy.
2. Specific *Trash* Details - Having more specific data beyond the general trash category will further assist in the development of the TMDL and the subsequent TMDL implementation effort. This information would greatly assist in both phases of the TMDL process.

The following comment was submitted during the 2006 review:

“Calleguas Creek Reaches 4 (Revolon Slough) – Trash

In 1996, trash was listed based on the 1996 WQA. The 1996 trash listing in Reach 4 in the WQA reads as follows: “Trash”. However, there is no reference to where or when the data were collected or who collected the data...The categories used for assessing field observations of trash included “none, trash observed, and significant amount of trash observed” (Table 9 of 1996 WQA). However, no objectives are

expressly stated and it is unclear whether the “trash observed” and/or “significant amount of trash observed” categories represented an exceedance of an objective.”

During our last review, the group had extensive issues in trying to obtain the original data submitted for the Revolon Slough/Beardsley Wash Trash listing. We appreciate the new approach utilized for the 2008 listing procedure with associated fact sheets that include the listing data available for review. However, we feel that data used to justify listings for impairments like trash require supporting documentation to ensure the observations are verifiable. The Regional Board needs to ensure the re-submitted data meets these requirements prior to listing trash in the Arroyo Simi.

Should Regional Board staff decide that the information is sufficient for listing per the Listing Policy requirements, we request that the listing be placed on the list with a characterization of Category C-Being addressed by action(s) other than a TMDL. As stated in the FED (page 90), the recommended alternative for addressing trash is:

“Identify trash as a problem using numerical data and non-numeric information (as described in Alternative 2) but allow existing programs to address any identified water-related trash problem.”

To allow the trash problem to be addressed by an existing program, the FED provides the following guidelines for making the determination:

- A regulatory program has been adopted and is being implemented by another state, regional, local, or federal agency, and the program will correct the impairment.
- Sufficient mechanisms exist to provide reasonable assurances that the program will address the impairment in a reasonable period of time.
- Sufficient mechanisms to enforce the program exist or the RWQCB otherwise has sufficient confidence that the program will be implemented.
- Water quality standards attainment can be demonstrated through an existing monitoring program or a future monitoring program with reasonable assurance of implementation.
- The program contains conditions that require trackable progress, and such progress is tracked.
- For alternative programs intended to control non-point source contributions to an impairment, such programs comport with the requirements of the Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program, including, but not limited to, the Key Elements of an NPS Pollution Control Implementation Program (SWRCB, 2004a).

The FED specifically acknowledges that storm water permits and associated Storm Water Management Plans (SWMP) are an existing program that can be utilized for justifying this categorization.

“If trash is a nuisance in water bodies of the State and storm drains are the major source, then existing storm water permits could be used to reduce the trash discharged via storm drains.”

The recently adopted Ventura County Municipal Storm Water NPDES Permit contains a number of provisions to address trash that can be utilized to address the trash impairment.

- Catch basin prioritization, inspection, and cleaning based on the amount of trash generated.
- Trash management at public events.
- Trash can installation and maintenance in high trash generation areas.
- Trash excluder installation on catch basins or conduct alternative BMPs to reduce trash discharges to receiving waters within two years.

These provisions are sufficient to categorize the trash listing in Category C on the 303(d) list. The permit is an adopted regulatory program that is enforceable by the RWQCB, contains a monitoring program, and reporting programs that demonstrate progress and the provisions will address discharges of trash to the Arroyo Simi within a reasonable amount of time.

2006 COMMENTS

During the 2006 303(d) list review, stakeholders from the Calleguas submitted comments concerning specific listings in the watershed, some of which have been addressed since that review. We feel we the following comments were not adequately addressed and would like Regional Water Board staff to consider the following comments during the review process for the 2008 list. These comments pertain to waterbody/pollutant combinations that were listed prior to 2002 and for which the original listings were not reviewed for consistency with the Listing Policy.

In the 2006 303(d) listing process, the State Board had appropriately taken the approach of reevaluating existing listings based on the newly established Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy) to identify faulty listings. We strongly supported this approach and the majority of the comments in the letter sent in 2006 and this letter are based on the examination of readily available information in the administrative record for the 303(d) lists developed in 1996, 1998, and 2002. We believe this information was available to the State Board during the development of the 2006 list and should have been considered during the listing cycle for identifying faulty listings as was done for other waterbodies throughout the state.

The listings developed for Region 4 in 1996, 1998, and 2002 are based on the following documents generally referred to throughout this letter as Water Quality Assessments (WQA):

- LARWQCB 1996 Water Quality Assessment and Documentation (WQA)
- LARWQCB 1998 Biennial Listing of Impaired Surface Waters Pursuant to the Clean Water Act, Section 303(d)
- LARWQCB 2002 Update: Clean Water Act Section 305(b) Report and Section 303(d) List of Impaired Waters – Los Angeles Region

Table 3 presents a summary of the comments outlined in the 2006 letter, excluding the comments we feel were addressed. The remaining portion of this letter provides the detailed discussion supporting the reasons for delisting pollutant reach combinations in Table 3.

Table 3. Summary of Comments

Reach	Constituent	Reasoning for delisting
4	Chlorpyrifos in Fish Tissue	The original listing was based solely on an EDL. The Listing Policy does not allow the use of EDLs in listing or delisting decisions. Additionally, the data do not exceed the chlorpyrifos screening value of 10,000 ug/kg set for the protection of human health from the consumption of fish/shellfish.
5	Chlorpyrifos in Fish Tissue	The listing in Reach 5 was based on the data collected in Reach 4 and should be considered for delisting for the same reasons.
5	Dacthal in Sediment	In 2002 dacthal was delisted in sediment and fish tissue for all reaches of the CCW except for Reach 5. The Regional and State Boards recommended delisting dacthal in sediment because there are no approved valid approved guidelines for Dacthal.

CCW Reach 4 (Revolon Slough) – Chlorpyrifos in Fish Tissue

In 1996, chlorpyrifos in fish tissue was listed based information presented in the 1996 WQA. The 1996 listing of chlorpyrifos in fish tissue in Reach 4 in the WQA reads as follows: “Tissue (‘93): chlorpyrifos (EDL95)³”. The “³” references that the data were collected through the California State Water Resources Board’s Toxic Substances Monitoring Program (TSMP). The EDL95 (Elevated Data Level 95%) represents the “standard” that was exceeded. Table presents fish tissue data collected by the TSMP in 1993 that are the basis for the 1996 listing. These data were collected on Revolon Slough at Wood Road from a combined sample of 22 *Pimephales promelas*. Additional data, presented in Table 4 were collected on Revolon Slough at Wood Road in 1994 and 1997.

The chlorpyrifos in fish tissue listing should be removed from the 303(d) list based on section 4 of the Listing Policy. The Listing Policy calls for the delisting of waters if the decision is found to be faulty and it is demonstrated that the listing would not have occurred in the absence of such faulty data. The original listing was based solely on an EDL. The Listing Policy does not allow the use of EDLs in listing or delisting decisions.

Additionally, the data used for the listing are well below the chlorpyrifos screening value of 10,000 ug/kg for the protection of human health from the consumption of fish and shellfish presented on page 8 of the Draft Staff Report Supporting the Recommended Revisions to the Clean Water Act Section 303(d) List Volume 1.

Based on the readily available data and information presented in the 1996 and 1998 WQAs, the weight of evidence indicates that there is insufficient justification for maintaining the chlorpyrifos listing in fish tissue. As such, the Reach 4 chlorpyrifos listing in fish tissue should be removed from the 2006 303(d) list.

Table 4. Summary of Chlorpyrifos Fish Tissue Data Collected by the TSMP in Revolon Slough at Wood Road

Sample Date	Wet Chemical Tissue Concentrations	Lipid Weight Organic Chemical Tissue Concentrations
6/20/1993	100 ug/kg	1900 ug/kg
6/23/1994	10 ug/kg	166 ug/kg
7/16/1997	18 ug/kg	250 ug/kg

Bolded indicates results believed to be the basis for the listing

Note: *Pimephales promelas* (fathead minnow) was the test species.

CCW Reach 5 (Beardsley Channel) – Chlorpyrifos in Fish Tissue

The listing of chlorpyrifos in fish tissue in Reach 5 is based on data collected in a different reach and an incorrect initial listing process. Tissue samples were never collected in what is now Reach 5. In 1996, the final 303(d) List considered Reaches 4 and 5 as only one reach. In 1998, that one reach was split into two. It appears that when the reach was split, the 1996 listings were applied to both of the new reaches without considering that the data were collected in Reach 4. The listing is based on data collected downstream from this segment and is not representative. Additionally, as discussed in the previous section, the Reach 4 listing of chlorpyrifos in fish is faulty as it based on an EDL.

The Listing Policy calls for the delisting of waters if the decision is found to be based on faulty data and it is demonstrated that the listing would not have occurred in the absence of such faulty data. The data that was used for the original listing was collected in the downstream reach (Reach 4) and EDLs, which are considered to be faulty, formed the basis of the listing. As such, the Reach 5 chlorpyrifos listing in fish tissue should be removed from the 2006 303(d) list. In a similar case State Board staff recommended delisting cadmium in Ballona Creek because data collected in a downstream reach were applied inappropriately.

Calleguas Creek Reach 5 (Beardsley Channel) – Dacthal in Sediment

Based on Regional Board recommendations for the 2002 303(d) List, dacthal was delisted in sediment and fish tissue for all of the relevant listed reaches of the CCW except for Reach 5. The Regional and State Boards’ recommendations for delisting dacthal in sediment in Reach 4, which is directly down stream of Reach 5, were as follows:

Regional Board: “Delist because there are no valid approved guidelines for Dacthal.”

State Board: “After reviewing the available data and information and the RWQCB documentation for this recommendation, SWRCB staff conclude that the water body should

be removed from the section 303(d) list because approved valid guideline for Dacthal in sediment do not exist.”

Similar delisting recommendations were made for the removal of dacthal in fish tissue listings in the remainder of the Watershed: Reaches 4, 9A, 9B, 10, 11, and 13. As there are no sediment quality guidelines published in the peer-reviewed literature or developed by state or federal agencies for dacthal, the sediment listing for dacthal in Reach 5 should be removed from the 303(d) list.

Thank you for your consideration of these comments. If you have any questions, please feel free to contact Ashli Desai, Larry Walker Associates, at 310-394-1036 or via e-mail at ashlid@lwa.com.

Sincerely,



Lucia McGovern
Chair, TMDL MOA Management Committee
Parties Implementing TMDLs on the Calleguas Creek Watershed

c. Dr. Eric Wu, Los Angeles Regional Water Quality Control Board,
ewu@waterboards.ca.gov