

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Naomi Feger)  
MEETING DATE: February 11, 2009

ITEM: 6

SUBJECT: **Evaluation of Water Quality Conditions for San Francisco Bay Region - Proposed Revisions to Clean Water Act Section 303(d) List of Impaired Waters**  
Hearing to Consider Recommendations for Proposed Revisions

CHRONOLOGY: January 14, 2009 - Testimony Hearing

DISCUSSION: This is the second of two hearings on this Region's proposed revisions to the list of impaired waters in the Region, compiled in compliance with section 303(d) of the federal Clean Water Act (CWA). At this hearing, the Board will be asked to consider adopting a Resolution (Appendix A) approving and transmitting its recommendations for proposed revisions to the 303(d) List to the State Board. We will discuss revisions to the proposed 303(d) List recommendations, including the Staff Report (Appendix A) and Fact Sheets (Appendix B), made in response to stakeholder comments received during the public comment period, and comments raised by Board members and the public at the January 2009 testimony hearing. Additional documentation in this package includes a copy of the Comment Letters (Appendix C), our Responses to Comments (Appendix D), and the transcript of the January testimony hearing (Appendix E).

In summary, the proposed 303(d) list revisions for our Region include:

- New listings for 24 San Francisco Bay Region creeks and the shorelines of two San Francisco Bay segments for trash;
- New pollutant listings (other than trash) for creeks, including Arroyo Las Positas, Arroyo Mocho, Codornices Creek (Alameda County), Mt. Diablo Creek, Kirker Creek (Contra Costa County), Stevens Creek, Permanente Creek (Santa Clara County), San Mateo Creek (San Mateo County), and Suisun Creek (Solano County);
- Delisting three San Francisco Bay segments for nickel; and
- Changing the listing status for Castro Cove (Contra Costa County) to reflect that we have a Cleanup and Abatement order in place, and, therefore, a TMDL is not required.

Since the January testimony hearing we have considered and prepared responses to all comments received. This effort lead to some revisions to the listing recommendations. The primary changes include not listing San Leandro Creek for hexavalent chromium because the available data only reflected total dissolved chromium concentrations, and clearly identifying that the trash impairment for Alameda Creek, applies instead to Old Alameda Creek, and clarifying that Kirker Creek is listed for water toxicity in addition to pyrethroids.

The Responses to Comments document includes responses to the 26 comment letters submitted during the comment period as well as comments made by Board members

and the public during the January testimony hearing. The first section of the Responses to Comments document contains an overview of the key comments raised regarding proposed trash listings and how we resolved or propose to resolve them. Those key comments include concerns about our listing entire creeks based on data at a few locations, concerns that the trash assessment method is not scientific or reproducible enough to use for listing, concerns about the use of photographs to support listings, and requests that listings should be deferred where active or potential trash removal/control programs exist. Some commenters worry that listing entire creeks for trash will lead to wasted effort as solutions are implemented in portions of listed water bodies where trash is not a problem.

We applied the Water Board's scientifically defensible and peer-reviewed Rapid Trash Assessment method to the available data, including photographic evidence in a consistent and responsible manner. By listing entire creeks we do not mean to conclude that every inch of these listed creeks is impaired by trash. Our preferred approach at this time is to identify trash problems comprehensively rather than so narrowly that we might erroneously or prematurely suggest that impairment is isolated to just a few small creek sections.

While discussion of solutions to trash problems is beyond the scope of the listing process, we can say that solutions will be determined in accordance with the State's Impaired Waters (TMDL) Guidance. Those solutions will likely include multiple options, including standards review, further assessments, non-TMDL regulatory actions (including but not limited to stormwater permit requirements), and potentially TMDL(s). These efforts will be focused on the problem areas in listed water bodies.

Finally, other than the San Leandro Creek, Alameda Creek and Kirker Creek changes noted above, we are not changing any of the proposed listings. In response to comments and specific recommendations we have received on our assessments, we conclude that they all satisfy the Listing Policy.

**RECOMMEN-** Adopt the resolution approving and transmitting the 303(d) List revisions to the  
**DATION:** State Board

**APPENDICES:**

- A. Tentative Resolution, including Staff Report
- B. Revised Fact Sheets – available online only, see link below
- C. Comment Letters – a available online only, see link below
- D. Response to Comments
- E. Hearing Transcript from January 14, 2009, Testimony Hearing  
[http://www.waterboards.ca.gov/sanfranciscobay/board\\_info/agendas/2009/february/02-11-09\\_Board\\_Agenda.pdf](http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2009/february/02-11-09_Board_Agenda.pdf)