

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

STAFF SUMMARY REPORT (Naomi Feger)
MEETING DATE: January 14, 2009

ITEM: 7

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 Proposed Revisions (no action will be taken)

DISCUSSION: This is the first 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). Public notice of this hearing occurred in October, and the proposed revisions and supporting fact sheets (Appendix A) were circulated for public comment, ending on December 4, 2008. This testimony hearing provides an opportunity for the public and all stakeholders to communicate their interests directly to the Board and for Board members to ask questions of staff and stakeholders and provide direction to staff. The adoption hearing at which the Board will consider approving the 303(d) list revisions is currently scheduled for February.

One of the Board's functions is to evaluate the water quality condition of all waters in the Region. Under CWA regulations, the State is required every two years to report to the U.S. EPA on the status of water quality in the State (CWA Section 305(b) water quality assessment) and provide a list of impaired water bodies (CWA Section 303(d) list). The last review and revision of the 303(d) list occurred in 2006.

We have completed an assessment of water quality conditions in all water bodies for which there were available data. As a result of these assessments, we have prepared recommendations for additions, deletions and changes to the existing list of impaired water bodies. These recommendations were developed consistent with the State Board's *Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List* (Listing Policy). The 303(d) list also notes where TMDLs are needed to resolve pollution problems.

The water quality assessments also result in the identification of water bodies where water quality standards are met or where not enough information is available to assess water quality. The results of each Regional Water Board's assessment, including modifications to the section 303(d) list, will be compiled into an Integrated Report for submission to the U.S. EPA by the State Board later in 2009.

In summary, 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, (Alameda County), Mt. Diablo, Kirker Creek (Contra Costa County), Walker Creek (Marin 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 to reflect that we have a Cleanup and Abatement order on the water body, and therefore, a TMDL is not required.

We received 26 comment letters (Appendix B) on the proposed 303(d) list revisions. Comments were received from stormwater management agencies, including county agencies and municipalities, environmental organizations, concerned citizens, and associations representing dischargers. Some of the comments reflect support for the listings and some comments recommend changes that we agree with. However, the majority of the comment letters, submitted by stormwater management agencies, voice disagreement with the new listings, most of which is directed at the proposed listings for trash.

Comments on the trash listings are generally similar from watershed to watershed. Frequently stated specific concerns include: listing entire creeks based on data from a few downstream locations, criticism of the trash assessment methodology used to determine impairment, active trash control or removal programs exist and therefore the creeks need not be listed, and photographic evidence should not be relied on as the sole basis for listing. We feel we have the appropriate rationale to address these concerns.

After this testimony hearing, we will review and prepare responses to all written and oral comments, and, as appropriate, modify the proposed listing revisions. We plan to present final recommendations for Board consideration at its February meeting.

RECOMMENDATION: As this is a testimony hearing, no action is necessary at this time.

APPENDICES: A. Staff Report on Water Quality Assessments, including Proposed List Revisions Recommendations, and Fact Sheets
 B. Comment Letters – due to size available online at http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2009/january/Jan_14_2009_Agenda.pdf