

## California Sportfishing Protection Alliance

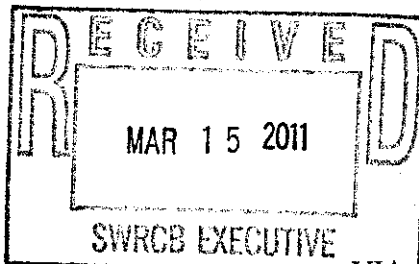
*"An Advocate for Fisheries, Habitat and Water Quality"*

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14 March 2011

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 "T" Street, 24<sup>th</sup> Floor  
P.O. Box 100  
Sacramento, CA 95814  
commentletters@waterboards.ca.gov



VIA Electronic Submission  
Hardcopy if Requested

**RE: Comment Letter – Sediment Quality Objectives Amendment**

Dear Ms. Townsend and Members of the State Board:

The California Sportfishing Protection Alliance (CSPA) appreciates the opportunity to comment on the State Water Resources Control Board's (State Board) proposed Amendments to the Water Quality Control Plan for Enclosed Bays and Estuaries of California, Part 1, Sediment Quality Objectives (SQOs). We incorporate by reference the comments submitted by Dr. G. Fred Lee and Associates and San Francisco Baykeeper.

In summary, staff has developed an elaborate, unwieldy and unnecessarily expensive triad approach to evaluating sediment quality that is scientifically unreliable, less protective of the environment and human health and unlikely to ever be implemented. Studies by the Board's own contractors demonstrate that there is little or no relationship between total concentration of chemicals in sediments and resultant toxicity and bioaccumulation. Co-occurrence based approaches and methods using total contaminant concentrations as the basis for evaluating sediment quality and toxicity or employing statistical correlations as a means of identifying causes of sediment toxicity are unreliable and should be abandoned. Toxicity testing followed by Toxicity Identification Evaluations (TIEs) and bioaccumulation testing is more scientifically defensible and offers a relatively simple, economical and effective approach to evaluating sediment toxicity and excessive bioaccumulation of chemicals that are a hazard to the health of those who use aquatic life as food. The list of pollutants addressed in the current SQOs should be expanded to include other constituents that have been extensively identified as causing sediment toxicity.

We note that the State Board is obligated, pursuant to a court enforceable settlement agreement with Bill Jennings and San Francisco Baykeeper, to have adopted and submitted to OAL all Phase II SQOs and related implementation policies, including a final SQO for indirect effects on fish and wildlife in all bays and estuaries in the state, by 29 April 2011. While we appreciate staff's efforts to include a narrative objective addressing wildlife and resident finfish within the

scope of Phase I, this fails to satisfy the requirement to have completed all Phase II SQOs and related implementations policies by the agreed upon date.

California Water Code, Section 13393 requires the State Board to adopt sediment quality objectives (SQOs). The proposed amendments to the Water Quality Control Plan for Enclosed Bays and Estuaries, Part 1 Sediment Quality Objectives would expand the SQOs to supersede narrative objectives related to protection of fish and wildlife and human consumers of fish. For example, laboratory testing confirmation of sediment toxicity would no longer by itself be considered an exceedance of the narrative toxicity objective. These changes are not given adequate analysis in the Staff Report and are identified as merely a correction of an omission in the WQCP. These changes are substantive, backslide from previous standards and must be fully analyzed in terms of their impacts on the Water Boards ability to control pollution and related potential environmental impacts.

Specifying that the narrative fish and wildlife objective must be implemented through an ecological risk assessment is unnecessary, needlessly expensive and unreasonably burdensome. Such an approach will likely hinder timely protections being implemented. Laboratory testing confirming sediment toxicity is in itself sufficient to show sediments to be toxic and exceeding the narrative objective. The revised SQOs would in many cases be less protective than the existing narrative standards and implementation provisions.

The amendments should not contain any provisions that unnecessary make water quality standards more difficult to implement. This is especially true given the lack of implementation of the SQOs thus far, which is likely due to the impracticability of implementing existing SQOs. Sediment toxicity testing has long been validated as an appropriate methodology for assessing sediment toxicity. Requiring additional concurrent chemical testing and an assessment of the overall conditions of the benthic community make it impracticable, in the real world, to assess protection of beneficial uses. Instead of superseding existing standards, the SQOs should set a consistent minimum level of protection and maintain and comply with existing narrative objectives.

The wording of the proposed amendments also appears to expand the SQOs to supersede protections for human consumers of contaminated fish. This change would be well beyond the stated scope of the project. In any case, bioaccumulation testing is a far more direct and effective method of assessing bioaccumulation and potential threats to wildlife and human health.

The proposed changes to the "CSI" metric in the chemical line of evidence in an effort to correct a blatant error underscores the lack of review given the chemical line of evidence before it was previously brought before the Board. More importantly, this change to the chemical line of evidence fails to address the primary flaws of the chemical line of evidence previously adopted. Not only does it ignore the fact that abstract statistical correlations, gradient analysis and co-occurrence based sediment quality approaches are scientifically unreliable; it fails to consider and indeed seems to preclude information on the presence of all but a very limited number of pollutants. This omission is especially glaring considering the fact that SCCWRPs own research is highlighting that currently used pesticides are an important toxicant in enclosed bays and

estuaries. It also ignores the fact that ammonia and nutrient-caused low dissolved oxygen have been identified as among the most significant causes of sediment toxicity in the environment. These facts underscore the need for fundamental changes to the direct effects SQOs, as we stated in our comments on potential amendments to the 303(d) listing policy.

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Jennings". The signature is written in a cursive, flowing style.

Bill Jennings, Executive Director  
California Sportfishing Protection Alliance