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COALITION FOR PRACTICAL REGULATION

"It's about saving jobs"

Item 9
Sep 30
Bd. Mtg
cc: Bd,
DI,
email: dug
BP, CC, HHS
TH CMU

September 27, 2004

State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
Attn.: Debbie Irvin

Re: COMMENT LETTER - 09/30/04 WORKSHOP/BOARD MEETING, ITEM NUMBER 9

Dear Chairman Baggett and Members of the Board:

I am writing on behalf of the Coalition for Practical Regulation (CPR) to provide comments on the September 2004 Draft of the Water Quality Control Policy for developing California's Clean Water Act Section 303(d) List. CPR is an ad-hoc group of 43 cities within Los Angeles County that have come together to address water quality issues.

CPR continues to strongly support the State Board's efforts to develop a statewide policy for listing and delisting. We further commend the Board for improvements previously made to the statistical methodology used in the listing/delisting process. The revised binomial distribution approach in the July 2004 draft balanced Type 1 and Type 2 error rates and, as a technically sound part of the listing and delisting process, helped to enhance the scientific merit of the listing process in California. However, we are concerned that most changes since the July 2003 draft have moved the listing process further away from a balanced, sound system for listing waterbody segments as impaired. We strongly support statements made by the AB 982 Public Advisory Group Regulated Caucus in their letter dated September 24, 2004, that the September draft version of the binomial method is no longer balanced, and appears to reflect a bias in favor of listing waters.

Federal regulations require more than a mere condition of impairment for listing on the 303(d) list. The proposed Final Policy document fails to fulfill the requirement of 40 CFR 130.7(a) to provide a "list of pollutants to be regulated," and is inconsistent with 40 CFR 130.7(b)(4), which requires States to "identify the pollutant causing or expected to cause violation of the applicable water quality standards." Quantifiable pollutants, not conditions, must be identified. It is not valid to list waters for toxicity or other conditions of impairment alone, but that continues to be the approach utilized in the Policy. This is a critical inaccuracy, as impairments listed on the 303(d) list trigger development of a Total Maximum Daily Load (TMDL.) Clearly, one cannot authoritatively declare the maximum allowable limit of a given pollutant without first identifying that pollutant.

- ARCADIA
- ARTESIA
- BALDWIN PARK
- BELL
- BELLFLOWER
- BELL GARDENS
- BRADBURY
- CERRITOS
- COMMERCE
- COMPTON
- COVINA
- DIAMOND BAR
- DOWNY
- GARDENA
- HAWAIIAN GARDENS
- INDUSTRY
- IRVINGDALE
- LA CANADA FLYNN
- LA MESA
- LAKEWOOD
- LAWDALE
- MONROVIA
- MONTEBELLO
- MONTEREY PARK
- NORWALK
- PALM VERDES ESTATES
- PARAMOUNT
- PICO RIVERA
- POMONA
- RANCHO PALM VERDES
- ROSEMEAD
- SANTA FE SPRINGS
- SAN GABRIEL
- SIERRA MADRE
- SIGNAL HILL
- SOUTH EL MONTE
- SOUTH GATE
- SOUTH PASADENA
- TEMPLE CITY
- VERNON
- WALNUT
- WEST COVINA
- WHITTIER

Failure to comply with federal requirements is one of the problems with using the 303(d) list as the sole means of addressing waterbodies with possible impairments. CPR advocates the addition of a Pollutant Identification List, consisting of water quality limited segments previously listed for which pollutants have not been identified, and a Watch List (or Planning and Monitoring List), consisting of water segments suspected of being water quality limited but with insufficient data and information to place segments on the Section 303(d) list. These additions would provide the State Board with the means to actively address water quality concerns, while adhering to the requirements of the federal Clean Water Act and California's Porter-Cologne Water Quality Control Act.

The Coalition for Practical Regulation urges the Board to reject the proposed changes in the September 2004 Draft Policy related to sample populations, application of the Binomial Method, and standards for bacteria where recreational uses apply. Instead, we ask you to make changes in the Water Quality Control Policy that would allow us to focus on real, identified problems. Specifically, we ask that you delete renumbered sections 3.6 (Water/Sediment Toxicity), 3.7 (Nuisance), 3.8 (Adverse Biological Response), and 3.9 (Degradation of Populations and Communities), and all references to listing due to "toxicity" that would allow listings without pollutants being identified.

Further, we recommend that you direct staff to prepare a table of all previous listings for which specific pollutants were not identified for delisting during approval of the 2004 303(d) list. In attempting to create policy that will actually bring about the desired result of cleaner waters in California, the State Board should give Permittees workable parameters around which to frame their water quality management programs; nebulous inventories of "conditions of impairment" can only lead to frustrating expenditures of time and money without fixing the problems.

Thank you for the opportunity to comment on the Final Draft Water Quality Control Policy for developing California's Clean Water Act Section 303(d) List.

Sincerely,



Larry Forester
CPR Steering Committee
City Council Member, City of Signal Hill