

RRWPC

Russian River Watershed Protection Committee

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303 (d) Deadline:
1/31/06

January 30, 2006

Tam Doduc, Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812



Subject: 2006 303(d) List Recommendations: Region I:
De-listing of the Laguna de Santa Rosa for Nitrogen and Phosphorus

Post Fax Note	Date 1-30-06	# of pages 10
To Selica Potter		
(916) 341-5620		
From Brenda Adelman		
(707) 869 0410		

Dear Ms. Doduc:

First, I would like to express my appreciation for the opportunity to speak before you on this issue at the State Water Board Workshop on Dec. 6, 2005. I admired the fair and respectful way you treated all parties. I was also appreciative of your attentiveness to the issues raised regarding the Laguna de-listing issue, for which I had traveled great distance to take part. Furthermore, I am grateful for the extension of the comment deadline to Jan. 31st.

The purpose of this letter is to briefly reiterate my verbal comments on behalf of Russian River Watershed Protection Committee (RRWPC), to expand a bit on those comments, and address a few issues that I did not comment on at the time.

As I mentioned at the Workshop, RRWPC generated the form letter that raised two critical issues that continue to be of concern to us. (We heard Craig Wilson of your staff state that as of Dec. 6th, you had received 213 signed copies of this letter. I submit five more copies with this correspondence, and note that in the meantime, more may have been mailed in directly to your office.)

303 (d) Process should not have bypassed local Regional Board....

The State's bypass of Regional Board hearings on this issue was very disturbing to us. Not only were we concerned about short-changing the public of opportunities to give public input in their own area, but we are also unhappy that State Board staff has made the record for this item virtually inaccessible to us. The record is not available on the web; it is not available at the Regional Board offices, and it is not available in CD format for us to view in the comfort of our homes and offices.

Regional Board staff responsible for this issue made an effort to obtain a copy of the record and was unable to do so. He was told he had to come to Sacramento to see the record, and even then, there was no guarantee that he would be able to obtain copies. How can this lack of easy access be justified in an era of electronic instant messaging?

Furthermore, I understand that there is a formal transcript of the meeting prepared for the Board. Yet staff has insisted that those interested in obtaining a

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Quality Limited Segments
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We need your help and leadership to correct this situation. The Water Code specifies that the State Board is to set Policy and the Regional Boards are to implement that policy. We ask that you adopt appropriate policies and take whatever other steps are necessary to ensure that the Basin Plans and the 303(d) list that are consistent with California Water Code Section 13241. This section clearly specifies establishment of water quality objectives to protect past, present, and probable future beneficial uses.

One thing that we ask you to do is to implement the request of the Los Angeles Regional Board at the January 5, 2006, workshop in Pasadena that the high flow exemption for REC-1 uses in flood control channels be recognized and reflected in the revised 303(d) List. The high flow exemption recognizes that during and immediately after a storm event that recreational use of these channels is dangerous and illegal.

We also request that you concur with the County Sanitation Districts of Los Angeles County that it is an incorrect application of the *Sources of Drinking Water Policy* to list conditional potential MUN uses on the 303(d) List. The Los Angeles River Metals TMDLs Staff Report cites a February 15, 2002, memorandum from Alexis Strauss (USEPA) to SWRCB Executive Director Celeste Cantú indicating that conditional uses are not recognized under federal law. Therefore, they are not water quality standards to be used as a basis for determination of impairments.

In addition, you could concur with the representative of the building industry at the January 5th workshop who noted that the "big elephant in the room" is Basin Plans and their water quality objectives. Several of the impairment problems discussed at the workshop were really problems with water quality objectives. We support the BIA's request to the State Board to consider how to address problems with water quality standards in Basin Plans.

We also support the Coalition for Practical Regulation's request that division of labor in which the State Board develops the 303(d) list and the Regional Boards focus on water quality standards and on the development of TMDLs and other programs to address impaired waters and ensure that beneficial uses are attained be continued. This system has resulted in improvements to the 303(d) list and should remain in place.

Thank you for the opportunity to comment on the proposed Revision to Federal Clean Water Act Section 303(d) of Water Quality Limited Segments for California.

Sincerely,



Kenneth C. Farfing
City Manager

copy must apply directly to the court reporter. It would be expected that the court reporter would charge a large fee for this service, and since your staff would already have the transcript, which could easily be put on disk, it makes no sense to force the public to have to pursue this route for access to the record.

Apparent lack of widespread support for the de-listing...

RRWPC has signed on to Nancy Kay Webb's very fine letter of Dec. 2, 2005, and we completely agree with its contents. We are grateful for her efforts and will try to not duplicate any of her comments in our letter. In addition, we are proud to sign on with a broad based coalition of groups concerned about water issues in Sonoma County and we fully support the comments of EPA and the Regional Board, all of whom oppose this action. We also support the comments of Assemblywoman Noreen Evans, the City of Sebastopol, the Russian River Chamber of Commerce, the Laguna Foundation, the Community Clean Water Institute, Robert Rawson, and probably others of whom we are unaware.

The record amply demonstrates that de-listing the Laguna for nutrients brings forth a visceral reaction from the public. Anyone who knows the Laguna from their heart, knows that this waterway is suffering dreadfully, and this proposed de-listing action is a big step in the wrong direction!

The Laguna 303(d) listing history has been a convoluted one, which we mention here since it lends credence to our allegation that this process has been energized historically more by politics, than science. In truth, we believe the underlying motivation for this and previous de-listings derives from the long time use of the Laguna for wastewater discharges by the City of Santa Rosa. The City has spent considerable sums on State and Federal lobbyists attempting to downgrade regulations that affect their discharge. Furthermore, opposition to this de-listing is so strong for good and demonstrated cause, that Dr. Smith's interpretation of the new 303(d) policy, if correct, is inappropriate and must be overruled.

I know the City attempted to get the Russian River Watershed Association to support the de-listing, but the Association's letter of Dec. 9, 2005, makes no mention of it. That group is comprised of dischargers, including the City of Santa Rosa, the Sonoma County Water Agency (SCWA) (on behalf of several County wastewater districts, which they manage), Windsor, Healdsburg, Cloverdale, Ukiah, etc., and was established by Santa Rosa and SCWA. (It's possible that the SCWA lent their support and possibly Rohnert Park, but not having seen the complete record, we are not sure.)

Historical perspective of the 303 (d) listing process...

RRWPC has tracked this issue since the early 1990's when the Laguna was the first Sonoma County stream to be put on the newly developed 303(d) list. We hereby provide a brief history of the Laguna nutrient issue from the public's perspective.

A Regional Board staff report from Aug. 28, 1997, sets the stage:
The Laguna de Santa Rosa was placed on the Clean Water Act, Section 303(d) list of impaired waterbodies in 1992 and 1994 because of occurrences of high unionized

ammonia and low dissolved oxygen. High unionized ammonia levels are the result of inputs of nitrogen in various forms. Low dissolved oxygen levels arise from inputs of organic matter, and algal growth using more oxygen than is produced in the system. Pursuant to the provisions of the Clean Water Act, the Regional Water Board prepared a Waste Reduction Strategy for the Laguna de Santa Rosa, dated March 1, 1995, which set forth estimates for the pollutant sources of concern, as well as pollutant reduction goals. The 1995 Waste Reduction Strategy (WRS) identified and provided estimates of the nitrogen sources to the Laguna de Santa Rosa, and recognizing that it may not be feasible to immediately attain the desired levels of water quality in the Laguna de Santa Rosa, established numeric interim and final goals for nitrogen compounds as well as for unionized ammonia concentrations. For dissolved oxygen, the WRS set forth a final but not an interim goal. The U.S. Environmental Protection Agency approved the WRS as consistent with Section 303(d) of the Clean Water Act on May 4, 1995.

The TMDL process for nitrogen was based primarily on estimates and lacked a true assessment of the problem (ie, no mass loading analyses) as well as lacking a nitrogen budget that addressed all sources. The goal was simply to develop a Waste Reduction Strategy that addressed the level of attainment to the USEPA criterion for unionized ammonia and Basin Plan objective for dissolved oxygen (D.O.) at four attainment sites, identification for areas in the watershed needing further reductions in nitrogen and organic matter, and to investigate the extent to which sediments and aquatic vegetation contribute to nutrient and D.O. flux. (Staff Report for Item #1 on Aug. 28, 1997, where this is described, is included with this letter.)

The report came to some interesting conclusions. It states (p. 5): *The estimates set forth in the WRS strategy are lower than the estimates calculated from the Self-Monitoring Reports. Staff tends to place more reliance in the results provided by the Self-Monitoring Reports, and proposes to use those values as a basis for comparison in the future. What they don't specify here, although the data points to it, is that there was a significant disparity between the Self-Monitoring Reports and the WRS with the former being about 60% higher than the WRS in 1995-96. The Report went on to assume that improvements to the Treatment Plant would result in achievement of WRS goals, but since the goal had been modified, they weren't at all hard to meet.*

"Progress toward achievement of interim and long-range goals will continue to be made as pollutants from treated wastewater, dairy, agriculture, and urban runoff are reduced." From this, according to Attachment I of the packet, Total nitrogen goal at Trenton-Healdsburg from wastewater is somehow anticipated to get down to "0", based simply on the anticipated treatment capacity addition at the Laguna Treatment Plant. Yet we do not believe that there is data to indicate this ever occurred and we certainly do not believe that this process can be construed to mean that any TMDL was completed. Given current conditions in the Laguna, it was probably an egregious "mistake" to adjust the original numeric goal to accommodate much higher existing nutrient contributions while sustaining the illusion that nutrient goals would consequently be attained.

It is significant that the Strategy at least attempted to focus on limiting nitrogen however, which was seen as causing the dissolved oxygen and ammonia problems. This appears contrary to Water Board staff's current recommendation that nutrients NOT be limited until specific numeric standards are established. **In fact, the current de-listing recommendation would assure that obtaining information on numeric standards could not be accomplished, leaving the problem to fester for many more years.**

In 1998, the North Coast Regional WQCB appeared to remove the Laguna de Santa Rosa from the 303 (d) list based on assertions that a TMDL had been completed, that a TMDL waste load reduction strategy was being implemented, that the Laguna was targeted for an Integrated Watershed Process, that the Laguna waste load reduction strategy was a high priority of the Regional Board, ensuring implementation, etc. As a result, the Laguna de Santa Rosa was omitted from the staff reports for the 1998 Update. No information in support of this action was placed in the record by Regional Water Board staff, and the de-listing was never approved by the Regional Board.

When I questioned staff of this omission at the October, 1998, Regional Board Meeting, I was assured verbally that the Laguna was not de-listed and that the fact that it did not appear on the list didn't really mean that it wasn't actually on the list. I should have been wary of this explanation, but I believed what I was told at the time and never challenged the situation. It was only much later that I learned of the rationale described above.

In a letter I wrote to the Regional Board in Spring of 2001, I asked the question: "What is the status of the Laguna de Santa Rosa listing?" David Leland responded in a letter to me dated April 6, 2001. I quote, "The Laguna de Santa Rosa was listed for nutrients in 1990. A nutrients TMDL was completed and approved by U.S.EPA for the Laguna de Santa Rosa in 1995. At the December 11, 1997 Regional Water Board meeting, Resolution No. 97-132 as modified by the Board was adopted, authorizing the update of the 303(d) list and 305(b) Water Quality Assessment, which included the de-listing of the Laguna de Santa Rosa for nitrogen and ammonia. In addition, a January 14, 1998 letter to "Interested Parties" transmitted the amended Resolution No. 97-132. In November 1998 U.S.EPA approved the de-listing of the Laguna de Santa Rosa for nitrogen and ammonia." While I do recall hearing that EPA approved the de-listing, I have to say there was never any hearing, nor any open process on this action nor any public testimony taken. The de-listing simply consisted of not putting the Laguna on the list of impaired water bodies.

To the casual observer, it may appear as though the nutrient problem was solved in 1998. We do not know the reason for any of these actions, except to say that none of them followed a legitimate, open, transparent process, where the public was given opportunity for comments and full review of the basis for this decision. Since that time, the Laguna has suffered dreadfully, and we must not allow a similar situation to continue to prevail.

Phosphorus becomes an issue....

Throughout most of the 1990's the issue of phosphorus was never raised. In 1998, Russian River Watershed Protection Committee (RRWPC) was involved in settlement talks with the City of Santa Rosa over litigation of Clean Water Act violations by their discharge system. We were working with Dan Wickham, Ph.D. and Bob Rawson, both of whom recommended a phosphorus study of Santa Rosa's wastewater. The City agreed and the study was published in 2000. (This report entitled, "*Phosphate Loading and Eutrophication in the Laguna de Santa Rosa*", Jan. 28, 2000, was entered into the record for the 2002 listing process and has been recently resubmitted by Ms. Webb during this current process.) The report concludes that Santa Rosa's contribution of phosphorus to the Laguna is significant and most likely is contributing to its continued degradation.

Since then we have learned that algae growth is commonly attributed to phosphorus in wastewater discharges. An article in *Testing the Waters*, put out by the River Watch Network several years ago states, "Typically, in freshwater ecosystems, phosphate is usually the nutrient that is least available for plant growth. This is called the limiting factor. If phosphate is added to a freshwater system, even in very small amounts, the plant growth usually increases significantly, having a large effect on the aquatic ecosystem." Also, "Some of the phosphate that had been deposited previously in the sediments was discovered to be dissolving back into the water."

Santa Rosa has claimed in their correspondences to the State Board that phosphorus is not the limiting factor and should not be on the 303(d) list. They claim that the level of phosphorus is so high that any time nitrogen is added, algae and plants can bloom. (Had the WRS goal for nitrogen been attained, then perhaps this wouldn't be an issue.) It is fascinating that Santa Rosa now claims that phosphorus levels are so high that they shouldn't be regulated. In reality, the issue is no longer whether nitrogen OR phosphorus are triggering excessive plant growth, but that too many nutrients are causing the blooms, which then reduce dissolved oxygen and cause severe impairment in the Laguna.

In fact, a recent article in *Journal Watch*, entitled "*Phosphorus Pollution Limits Plant Diversity*" by Robin Meadows (Jan.-Mar. 2006 Vol. 7 #1) states: "The conventional wisdom that nitrogen pollution threatens biodiversity may be wrong. Rather, the culprit might be too much phosphorus. New research shows that many more endangered plants are where nitrogen is scarce, which means these species are more likely to die out if phosphorus levels rise." While the study is limited and was conducted in Western Europe to Siberia, nevertheless, it indicates that excessive phosphorus can be every bit as damaging as excessive nitrogen and it is likely a moot point as to which predominates in the Laguna.

We also include a letter from Dan Wickham on behalf of Friends of the Russian River date Dec. 3, 2003, where he elaborates on his findings regarding phosphorus in response to Santa Rosa comments. He makes several key points, which include: "The Laguna de Santa Rosa has consistently exhibited phosphate concentrations that exceed all but a few fresh water bodies in the United States....The EPA clearly and strongly states that of the nutrients nitrogen and phosphate only phosphate is "controllable"....In over 95% of upstream-downstream sampling at Santa Rosa Subregional System release points there is a significant and measurable increase in

phosphate concentration.....Sediment stores of phosphate in the Laguna are the primary point of release to the water column during the summer growing period. Phosphate is bound to fine clay sediments. The City of Santa Rosa releases the largest portion of phosphate enriched wastewater in winter when fine sediments are prevalent in the water column where they act as foci for absorption." The letter is filled with pertinent comments that relate directly to this issue and we enter the entire letter as part of the record.

The 2002, 303(d) listing process was similarly complicated with the Regional Board listing the Laguna for nutrients and your State Board first supporting that listing and then removing it with no explanation. Instead, the Laguna was put on a "Watch List" for nutrients, a category that had no apparent standing in water law. The Regional Board opposed this alteration. I remember being invited to a meeting with Regional Board staff, Craig Wilson and others to discuss this very issue. At the time Mr. Wilson assured us that the impairment from nutrients would be addressed through the TMDL for dissolved oxygen, which remained on the list. Unfortunately, DO is the RESULT of nutrient pollution, not the cause. We believed that it was unlikely the problem could be effectively addressed by going at it by this direction.

The article in "Testing the Waters" states, "Human addition of phosphorus can stimulate great increases in aquatic plant growth...An algal bloom may cause an initial increase of dissolved oxygen....After the algae die, they break down with the help of decomposing bacteria. Because these bacteria use oxygen, the more organic matter present, the more the decomposing bacteria are active and the more oxygen they use. This ultimately decreases the amount of dissolved oxygen available to other organisms in the river system. Eventually, increased decaying matter affects temperature and other river characteristics, and the stream becomes choked with aquatic weeds and filled with vegetation. The result is that the types of plants and animals that live in the river changes...."

Excessive growth of Ludwigia illustrates problem.....

Nowhere is this more apparent than in the case with the Ludwigia growth in the Laguna. We want to call attention to a statement by the Sonoma County Ludwigia Task Force in their Feb. 24, 2005 letter to Catherine Kuhlman of the Regional Board, ".....high nutrient and sediment inputs are also likely to enhance the growth rates of invasive aquatic plants, like Ludwigia. Preliminary experimental data suggests that reducing nutrient levels in the Lagunas will increase our ability to manage Ludwigia infestations. For these reasons, the Task Force strongly recommends that the NCRWQCB move swiftly to develop a pollution control plan for the Laguna"

The Laguna Foundation, in charge of a massive and expensive effort to control Ludwigia (partly funded by the City of Santa Rosa) notes the following in their Dec. 1, 2005 letter to Craig J. Wilson: "The scale of the Ludwigia problem is immense, and has raised great public attention due to concerns over mosquito control and environmental impacts to this sensitive wildlife area, the largest tributary to the Russian River." And, "Biologists working on this system consider it unlikely that growth of the observed rate and magnitude would be possible without the biostimulatory effects of excessive nitrogen and phosphorus levels found in the Laguna."

The Regional Board's Analysis of Russian River Water Quality Conditions with Respect to Water Quality Objectives for 1988 to 1999 by Peter Otis (June 12, 2000) states, "A comprehensive monitoring program was established to track the effectiveness of the Waste Reduction Strategies effect on water quality. Data from this program indicate that the Laguna generally meets the Federal EPA's ammonia criteria....but may not consistently meet the phosphate objective of 0.1 mg/L total phosphorus...." (Current data proves this to be the case.)

It is Santa Rosa's claim, frequently repeated in the last several years (A letter from Ed Brauner of 10-5-01 states, "The 303(d) listing of the Laguna for phosphorus is not justified because the Board's recent TMDL Monitoring Data continue to support the conclusion that nitrogen, and not phosphorus, limits the growth of plants in Laguna waters." A letter from Dave Smith (EPA) on 1-22-02 states, "The assumption is made, though has not been verified through empirical studies, that an increase in nutrients in the Laguna has resulted in an increase in algae which in turn has led to a decrease in dissolved oxygen due to algal respiration." It is a matter of record that EPA reversed the State's decision on the Laguna listing and put nitrogen and phosphorus back on the list for that water body.

What else besides nutrients could have caused and/or greatly contributed to the voluminous growth of *Ludwigia* in the Laguna? While already part of the record, we would like to call special attention to Regional Board Executive Officer Cat Kuhlman's letter to the State: (Dec. 1, 2005, pg. 1)

*"One of the most widely recognized impacts to the Laguna de Santa Rosa water quality has been the exceedence of the assimilative capacity for biostimulatory substances (nutrients), primarily phosphorus and nitrogen. The level of phosphorus entering the Laguna de Santa Rosa in sediment, agricultural runoff, and effluent discharges is so great that phosphorus is sequestered into the sediment, and cycled into the biota with any additions of available nitrogen. The nitrogen levels are additionally seen in concentrations that have direct impacts on water quality, including transient levels of unionized ammonia in exceedence of wildlife criteria. Together, the excess biostimulatory substances (phosphorus and nitrogen) contribute to additional secondary water quality impairments, including nuisance plant growth (*Ludwigia* is a recent example of particular concern) impairing REC1 and REC2 beneficial uses, and low dissolved oxygen levels."*

The main argument made by the State for de-listing the Laguna is the lack of adequate data and the questionable standard of 0.1 mg/L for phosphorus. Again we see the City (unilaterally) put forth this very same argument in a letter mentioned above from David Smith of Merritt Smith Consulting (for Santa Rosa) on 1-22-02 where he states, "The US EPA criterion of 0.1 mg/L for total phosphorus is a toxicity criterion for elemental phosphorus and thus is not relevant to biostimulation or dissolved oxygen levels in the Laguna."

We are not scientists, and cannot argue the fine points of the causes of nutrient pollution and biostimulatory nutrient activity, but we wonder about the demand for numerical proof by your staff, as opposed to the narrative standard? It seems clear to us that the whole purpose of the narrative standard is to identify

problems that cannot be quantified numerically. Furthermore, it is our understanding that the listing is an indication of a problem and not necessarily complete "beyond a doubt" proof, and that the purpose of the TMDL process is to develop greater certitude of the scientific elements of the impairment.

Response to Santa Rosa's Correspondences....

The City of Santa Rosa submitted two letters in June, 2004, which appear to form the basis of this recommended de-listing and have been alluded to as part of the record. Nancy Kay Webb magnificently addresses the claims made by City staff and consultants, with which we totally agree.

We also want to include here anonymous comments from a friend who is a scientist and familiar with the issues raised in Dr. Dave Smith's two letters for the City of Santa Rosa dated June 2, 2004 and Jan. 5, 2006. We quote:

"1. It is disingenuous to contend that the high levels of algae are not a critical component to oxygen depletion in the Laguna. Lack of data supporting this contention has nothing to do with lack of obvious evidence of oxygen depletion. It simply reflects an active avoidance on the part of regulators to obtain the necessary data. Concentrations of algae have been part of the monitoring program for the Laguna and they clearly show high concentrations. These are presented in part in the Wickham (2000) report.

Similarly oxygen concentrations fluctuate widely with supersaturation at certain stations during daylight, indicating excessive algal photosynthesis, and almost total depletion by pre-dawn early morning. These are classic symptoms of hypertrophic conditions and cannot be ignored by claiming there is insufficient data due to absence of sampling.

2. The discussion presented regarding limiting nutrients in the Laguna are theoretically flawed and countered by the actual field data. Wickham (2000) discusses this in detail. The single study that is cited by Merritt Smith to identify nitrate as the limiting nutrient is artificial in design and does not reflect field dynamics. Aliquots of Laguna water were obtained from the field and held in the laboratory where they were exposed to light. Photosynthesis proceeded until plant growth stopped. Upon analysis it was found that nitrate had been depleted. While this indicates that nitrate is limiting in this artificial situation, to be expected given the extremely high concentration of phosphate, in the field nitrate is not the only source of nitrogen, and thus does not reflect the true situation.

In field conditions nitrogen can enter the water column from diverse sources, the most important being fixation by excessive blooms of blue-green algae that are stimulated by excessive phosphate. The EPA (1972) report "Role of Phosphorus in Eutrophication" EPA-R3-72-001 clearly states that controls on phosphate because of the alternate pathways for nitrogen to enter the system. Phosphorus, being a mineral, can be removed from water sources through source reduction. This is not a simple task, but it is the essential first step to reducing eutrophication according to EPA.

The discussion of N:P ratios in the Merritt Smith report is irrelevant since the data do not include the nitrogen in the system that is incorporated in the living biomass. Nitrate is taken up almost immediately, given the excessive plant growth, but that does not limit

plant growth. Instead N2 is fixed from the atmosphere directly as amines incorporated in plant protein. This source of nitrogen is not accounted for in any of the data.

Given the lack of comprehensive laboratory research the only method for examining the issue is through field correlation analysis. This is, however, an extremely powerful methodology widely used in ecological studies.

The phosphate report (Wickham 2000) presents these analyses on pages 19 and 20. Table 7 shows that there is a perfect correlation (Spearman Rank Order correlation coefficient =1.00) between dissolved P and combined plant pigments. There was a slight correlation with nitrate (CC=0.43) but this was not significant.

The above were based on averages so are less instructive. When samples obtained by the Regional Board were used and correlated as individual readings one could see the dynamics more clearly. Both ortho and total P was significantly correlated with algal cell density. Nitrate was not correlated to algal cell density. Neither was ammonia correlated to algal cell density. The Regional Board also measured TKN, and this measure, reflective of the nitrogen bound in the living plant cells, was highly correlated both with cell density and with phosphate. It is obvious from this that the nitrogen was available for plant growth and tracked phosphate concentration, even though conventional measures of dissolved nitrogen either as nitrate or ammonia taken in the City's samples did not show its presence.

The arguments presented in the Merritt Smith report are a simplistic restatement of earlier conclusions that were found to be unconvincing by the EPA and the Regional Board staff during the original listing arguments. They are no more convincing today. The Laguna remains a water body that is seriously impacted by excessive nutrients and with the advent of the Ludwigia problem, exacerbated by the nutrient load, is in even greater need of remediation."

RRWPC comments on Dave Smith letter of Jan. 5, 2006.....

In this letter, Dr. Smith emphasizes that there is no numeric standard for nitrogen and phosphorus and that it is extremely difficult to translate a narrative standard into a numeric one. Dr. Smith concludes that without a numeric standard, no listing can take place. We wonder if the intent of the new 303(d) listing policy is to never allow listings without extensive proof that a numeric standard is being violated?

We believe that narrative standards should carry equal weight to numeric ones in the Basin Plan and that almost every responder in this matter makes the argument that narrative standards in this case justify the listing. The listing is only the first step toward the TMDL, which perhaps will help to set a numeric standard for nutrients. It will dictate the necessity for appropriate data collection to justify TMDL allocations. Out of the process will come the information which is now being stated as necessary for the listing to occur.

It is unreasonable to expect that the numeric standard should be established before a listing could occur. As we said before, that seems backwards. City officials have been candid about not wanting to have to pay for treatment plant

alterations that would be necessary to meet numeric standards. The real truth is that they are afraid that this listing will actually lead to numeric standards, which they would like to avoid at all costs. The letter states, "Some commentators have suggested incorrectly that it is appropriate to list the Laguna for nitrogen and phosphorous, and THEN complete the studies to determine whether they are the limiting pollutants in the Laguna. Aside from being contrary to the State Board's Listing & De-Listing Policy, this approach is likely to have real-world and very expensive implications for dischargers such as the City of Santa Rosa." The letter goes on to complain that the City's discharge permit may require limits of nutrients that are difficult to meet.

Dr. Dave Smith claims that the City would be willing to help fund the appropriate study of the Laguna to determine limiting pollutants. We wonder if this will follow the path of the Mixing Zone Study, which the City helped fund, and then withdrew funds when the Regional Board stated that they needed more time to carry out the appropriate studies. It appears as though the City and the State don't always see eye to eye on the definition of "appropriate" studies.

We believe that the last paragraph of Greg Scoles Jan. 5th letter to you expresses Santa Rosa's genuine concerns. That is, what the City is really worried about is nutrient limits in their discharge permit. It is always our experience however, that when new limits are placed in a permit, such as with California Toxics Rule requirements, the dischargers always seem to be given very generous (from our view) interim requirements which allow the entity plenty of time and leeway to meet the new regulations.

We urge you to not de-list the Laguna for nitrogen and phosphorus.

Sincerely,

Brenda Adelman for RRWPC

CC. Craig J. Wilson: State Board
Cat Kuhlman and John Short: Regional Board
David Smith: EPA

List of Attachments:

1. Staff Report, "Update on the Waste Reduction Strategy for the Laguna de Santa Rosa" August 28, 1997 Item #1
2. Letter to Brenda Adelman from David Leland re: Response to Questions April 6, 2001
3. Letter to David Leland, Matt St. John, Craig J. Wilson from Marcie Commins and Dave Smith, Jan. 22, 2002
4. Daniel E. Wickham letter to Arthur G. Baggett, Jr. Dec. 3, 2003 (5 pages)
5. Article on Phosphorus from "Testing the Waters" published by River Watch Network, date unknown
6. "Phosphorus Pollution Limits Plant Diversity" by Robin Meadows *Journal Watch*: Jan.-Mar. 2006 Vol.7 #1

707 869 0410

FROM : BRENDA ADELMAN-RRWPC

FAX NO. : 707 869 0410

Jan. 30 2006 06:56AM P11

1-30-06

Selena:

Please see that
Craig Wilson gets a
copy of my comments
letter and attachments
are being mailed today.
Can you respond to me
by email and let me
know if you received
this okay? Thanks
BRENDA RRWPC @ Earthlink.net
Brenda Adelman