



## A COOPERATIVE STRATEGY FOR RESOURCE MANAGEMENT & PROTECTION

December 22, 2014

Electronic Submission: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

**Subject: Comment Letter –Proposed Amendment to the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List**

Dear Ms. Townsend:

The Stakeholders Implementing Total Maximum Daily Loads (TMDLs) in the Calleguas Creek Watershed (Stakeholders) appreciate the opportunity to provide comments on the proposed amendment to the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List (Listing Policy).

The development and implementation of TMDLs is a significant investment of resources and it is critical that the Listing Policy support effective evaluation of data in accordance with the latest science to ensure listed waterbodies are impairing beneficial uses. The Stakeholders are currently implementing six effective TMDLs, five of which were developed through a third party TMDL development process. During TMDL development, several listings that were developed prior to the Listing Policy were found to have been based on outdated or erroneous data. Significant resources were needed to evaluate and delist those waterbodies and some have yet to be delisted due to the data requirements and delay since the last 303(d) list was developed. Based on this experience and in order to ensure that the Listing Policy is as clear and effective as possible at providing direction for when to list a waterbody, the Stakeholders are requesting a few modifications to the proposed amendment.

The Stakeholders recommend modifying several sections of the Listing Policy to better incorporate and make clear the need to follow the methodologies of the Water Quality Control Plan For Enclosed Bays And Estuaries Plan Part 1: Sediment Quality (SQO Part 1). The SQOs are structured around assessing the risk to aquatic life and human health via multiple lines of evidence characterizing the quality of the sediments in question. The three lines of evidence for SQOs include sediment toxicity, condition of benthic biota, and sediment chemistry. This thoroughness of analysis required by the SQO Part 1 should be incorporated where appropriate in the Listing Policy. In addition, the current language in the Listing Policy related to causality should be modified where appropriate to reference the stressor identification process described within the SQO Part I. This change will help to ensure that proper causal assessments are performed prior to linking stressors to impairments of sediment quality.

Specific recommendations to modify the draft Listing Policy are outlined below.

### 3.6 WATER/SEDIMENT TOXICITY

**Comment #1:** Sediment toxicity data collected in waterbodies where SQOs apply should be interpreted in accordance with procedures in the SQO Part 1.

**Recommendation:** Add language at the end of paragraph one.

“Where SQOs are relevant and apply, toxicity data shall be interpreted in accordance with the multiple lines of evidence approach as outlined in the SQO Part 1.”

**Comment #2:** Sections A – C are not applicable where a triad of data (chemistry, bioassessment, and toxicity) is available. Causal assessments should be focused on the stressor identification requirements contained in the SQO Part 1 (Section VII.F). For clarity, Sections A – C should not apply where the sediment quality objectives apply.

**Recommendation:** Where sediment quality objectives apply, the following language should be included in lieu of Sections A – C.

“Where impairments of sediment quality are identified through the multiple lines of evidence approach as described in the SQO Part 1, listings should be only for the impairment of sediment quality. Upon performance of the stressor identification process per the SQO Part 1 and identification of the specific stressor, the listing may be modified to reflect the pollutant contributing to or causing the observed impact.”

### 3.9 DEGRADATION OF BIOLOGICAL POPULATIONS AND COMMUNITIES

**Comment #3:** Biological data collected in waterbodies where SQOs apply should be interpreted in accordance with procedures in the SQO Part 1. In addition, causal assessments should be focused on the stressor identification requirements contained in the SQO Part 1 (Section VII.F).

**Recommendation:** Add language at the end of the section.

“Where SQOs are relevant and apply, bioassessment data shall be interpreted in accordance with the multiple lines of evidence approach as outlined in the SQO Part 1. Where impairments of sediment quality objectives are identified, listings should be for the impairment of sediment quality. Upon performance of the stressor identification



process per the SQO Part 1 and identification of the specific stressor, the listing may be modified to reflect the pollutant contributing to or causing the observed impact.”

#### 4 CALIFORNIA DELISTING FACTORS

**Comment #4:** The policy should directly address the methods to be used to delist water bodies that are listed for impairment of sediment quality but have more recent data demonstrating that there is no impairment. Because the SQO Part 1 encompasses chemistry, biological, and toxicity data, it is not clear which binomial distribution would be applicable. Further, due to the rigor of the SQO Part 1, it is unreasonable and impractical to require collection of the amount of data necessary to delist based on the binomial distribution. Lastly, where a stressor identification has been performed and the stressor has been identified, the sediment quality listing should be removed.

**Recommendation:** Add a new section under Section 4 to address delisting factors related to sediment quality objectives.

“Waterbodies listed for an impairment of sediment quality that no longer show impairment as defined in the SQO Part 1 shall be removed from the Section 303(d) list. Where a stressor identification study has been performed as required under the SQO Part 1 and the stressor has been identified, the sediment quality listing shall be removed from the Section 303(d) list.”

#### 6.1.3. EVALUATION GUIDELINE SELECTION PROCESS

**Comment #5:** Additional language should be added to clarify that procedures developed within SQO Part 1 should be followed and should supersede previous listing analysis where the required data is available under the SQO Part 1.

**Recommendations:**

- a. Language should be added to Section 6.1.3.1.A to clarify that the SQO Part 1 is used as appropriate.

“If sediment quality objectives apply, the Regional Water Boards shall use the methods and procedures that were adopted to interpret the objective in accordance with the SQO Part 1. Analysis to support listing decisions conducted utilizing the SQO Part 1 methods and procedures supersede previous analyses conducted utilizing one or more of three lines of evidence independently.”

- b. Add language to Section 6.1.3.1.B to clarify the use of sediment quality guidelines:

“If no applicable sediment quality objectives apply, or insufficient data exists to interpret sediment quality objectives, the Regional Water Boards may select sediment quality guidelines that have been published in the peer-reviewed literature or by state or federal agencies. However, once sufficient data exists to interpret sediment quality objectives, previous analyses utilizing sediment quality guidelines will be superseded and independent lines of evidence shall no longer be considered. Acceptable guidelines include selected values (e.g., effects range-median, probable effects level, probable effects concentration), and other sediment quality guidelines. Only those sediment guidelines that are predictive of sediment toxicity shall be used (i.e., those guidelines that have been shown in published studies to be predictive of sediment toxicity in 50 percent

or more of the samples analyzed). Note that effects range-low values are predictive of sediment toxicity in 10 percent of samples analyzed and are not appropriate sediment quality guidelines.”

#### 6.1.5.8 EVALUATION OF BIOASSESSMENT DATA

**Comment #6:** As noted previously, biological data collected as part of the triad approach under the SQO Part 1 should be interpreted in accordance with procedures in the SQO Part 1.

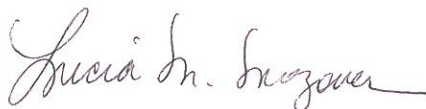
**Recommendation:** Add a fifth bullet.

“Where SQOs are relevant and apply, bioassessment data shall be interpreted in accordance with the multiple lines of evidence approach as outlined in the SQO Part 1.”

In addition to the comments on the incorporation of the SQO Part 1, the Stakeholders request utilizing all available data in the California Environmental Data Exchange Network (CEDEN) during the upcoming integrated reporting efforts. Utilizing only the data submitted as part of the 2010 solicitation, as suggested in the November 12, 2013 letter from Nick Martorano<sup>1</sup> to interested parties, would result in at least five years of additional data being left out of the analysis for the Los Angeles Region. Through successful implementation of TMDLs, the Stakeholders have a number of waterbodies that could now be delisted. However, much of the data has been collected subsequent to the last data request. Not including the more recent data in the next 303(d) listing would result in these waterbodies not being delisted until at least 2018.

Thank you for your time and consideration of these comments. If you have questions, please contact me at (805) 388-5334 or [lmcgovern@ci.camarillo.ca.us](mailto:lmcgovern@ci.camarillo.ca.us).

Sincerely,



Lucia McGovern

Chair Stakeholders Implementing TMDLs in the Calleguas Creek Watershed

---

<sup>1</sup> Chief, Surface Water Quality Assessment Unit, State Water Resources Control Board, Division of Water Quality.