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CT# 2462

SACRAMENTO OFFICE
STATE CAPITOL ROOM 2082
SACRAMENTO, CA 95814-4900
TEL (916) 445-6747
FAX (916) 323-4529
CHIEF OF STAFF
KIP LIPPER

DISTRICT OFFICES
664 GILMAN STREET
PALO ALTO, CA 94301
TEL (650) 688-6374
FAX (650) 688-6378

100 PASEO DE SAN ANTONIO, SUITE 206
SAN JOSE, CA 95113
TEL (408) 277-9460
FAX (408) 277-9464

DISTRICT COORDINATOR
MIKE POTTER
E-MAIL ADDRESS
SENATOR.SHER@SEN.CA.GOV

California State Senate

SENATOR
BYRON D. SHER
ELEVENTH SENATORIAL DISTRICT



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February 18, 2004

Arthur Baggett, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

VIA FACSIMILE: 916-341-5621

Re: Draft "Water Quality Control Policy for Guidance on Developing California's Clean Water Act Section 303(d) List"

Dear Art:

I am writing to express my concern with the above-referenced draft policy recently issued by the state board.

As you know, implementation of the impaired water bodies/Total maximum Daily Load (TMDL) program has been a matter of keen and ongoing interest of the Senate Budget Subcommittee which I chair and which has oversight responsibilities over the state and regional water boards. The Supplemental Report of the 2001 Budget Act, in Item 3940-001-0001(e), provides the following:

(e) On or before January 1, 2003, SWRCB shall develop a policy to establish criteria for the listing and delisting of impaired water bodies pursuant to Section 303(d) of the federal Clean Water Act. The policy shall include a "weight of evidence" approach and shall include criteria that ensure that the data and information used for identification and listing of impaired water bodies are accurate and verifiable [emphasis added].

It is my understanding that the Draft Policy recently proposed by the board does not comply with this requirement. Instead, the listing and delisting factors in the Draft Policy focus on the use of a rigid statistical methodology, backed up only by a comparably rigid "alternative data evaluation" methodology, rather than by a true "weight of evidence" approach for assessing the health of individual water bodies.

Art Baggett
Page 2

I am writing to urge the board to revise the Draft Policy to reflect the express intent of the Legislature in approving expenditures for this program by the board in the Budget Act.

Thank you in advance for your assistance.

Sincerely,



BYRON D. SHER, Chair
Senate Budget Subcommittee #2
Resources, Energy, and Corrections

BDS/kl