

Department of Water and Power



the City of Los Angeles

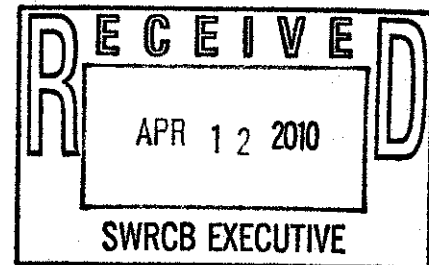
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April 9, 2010

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 "I" Street  
Sacramento, California 95814



Dear Ms. Townsend:

Subject: Comment Letter - State Water Quality Control Policy for  
Sediment Quality Objectives as Listing Criteria for Enclosed Bays and Estuaries

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the amending of the Clean Water Act §303(d) Listing Policy (Policy). The LADWP recognizes that the Policy is an important tool that allows for transparency and consistency when listing or de-listing waters from the §303(d) list of impaired waterbodies. A waterbody on the 303(d) list requires a Total Maximum Daily Load (TMDL) study, which involves source identification, identification of the beneficial uses provided by the waterbody, assimilative capacity of a pollutant that causes the waterbody to be listed, an analysis of both dry and wet weather pollutant loading, determination of water effects ratios and other site-specific criteria, and ultimately the TMDL, which is the maximum amount that each source of pollutant may discharge without harm to the beneficial uses.

The State Water Resources Control Board (SWRCB) is considering including the sediment quality objectives (SQOs) as a part of the Policy. The alternatives are 1) No action, 2) Amend the Listing Policy to ensure consistency with the SQOs, and 3) Use the SQOs as an evaluation guideline, instead of amending the Listing Policy for consistency (other alternatives may be added in the future). It is LADWP's understanding that a draft amendment has not yet been released to the public, and the SWRCB is considering the impacts of developing an amendment to incorporate SQOs.

At this time, LADWP recommends Alternative 3, until further details on the use of the SQOs for listing and de-listing are released.

Additional concerns can be found in Enclosure 1; LADWP appreciates SWRCB's consideration; SWRCB should address these concerns during the incorporation of the SQOs into the Policy.

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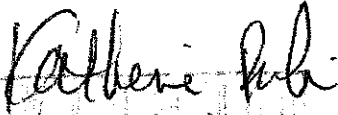
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Thank you for the opportunity to submit comments. If there are any questions, please contact Mr. Clayton Yoshida at (213) 367-4651.

Sincerely



Katherine Rubin  
Manager of Wastewater Quality and Compliance

CY:rp  
Enclosure  
c/enc: Mr. Clayton G. Yoshida

## ENCLOSURE 1

### Los Angeles Department of Water and Power Comments on the CWA §303(d) Policy Amendment to Incorporate Sediment Quality Objectives

#### 1. How to develop the amendment to the Policy

SWRCB should develop the listing policy amendment in phases or stages so stakeholders may identify issues and have their concerns addressed properly. Stakeholders would like to obtain more details from the SWRCB about the alternatives being considered and be given time to review the alternatives and provide a response.

LADWP recommends that the SWRCB provide the public with draft amendments showing the SWRCB's strategy for using the SQOs during the §303(d) listing and de-listing process. Without more detail, the purpose of the public scoping meeting cannot be realized, and it is difficult to determine which alternative to select. Therefore, LADWP recommends Alternative 3, the use of SQOs Part 1 as a guideline, separate from the Policy, until further details are released.

#### 2. Impact of Multiple Lines of Evidence on Listing and De-listing

Since SQO Part 1 requirements use a multiple lines of evidence (MLOE) strategy, it is unclear how this will fit with the binomial listing method found in the Listing Policy. The binomial procedure relates the number of exceedances of a criteria to the number of samples collected in order to determine whether the listing or de-listing decision is statistically valid.

It is not clear to the reader if the intent of the SWRCB is to deviate from the binomial listing method. The results of the MLOE assessment include terminology such as "likely impacted," "possibly impacted or inconclusive," and "likely unimpacted." It is unclear how this terminology as a "result" will affect the listing or de-listing decision. Since the Policy makes it more difficult to de-list than list a waterbody, there is a possibility that fuzzy results of the SQO evaluation may make an unimpaired waterbody stay on the 303(d) list indefinitely.

LADWP recommends the SWRCB make clear how these categories of "impact likelihood" can be credited towards listing or de-listing. Furthermore, the Policy should not list a waterbody where a Total Maximum Daily Load (TMDL) cannot be applied, i.e. where a specific pollutant cannot be identified or wasteload allocation cannot be calculated based on the results of a SQO analysis of a waterbody.

#### 3. Affinity of Pollutants to Sediment Particles

One advantage of studying sediment concentrations of pollutants is that many pollutants that may or may not be detectable in the water column have an affinity for adsorbing and concentrating onto the surface of fine particles. Currently the SQOs have a systematic procedure for applying MLOE to determine impact, but it is difficult to relate the impact to the adsorption rate of the pollutants to the sediment particles. This makes it difficult to determine TMDL wasteload allocations in the water column.

LADWP recommends the SWRCB not allow 303(d) listings to occur based on SQOs until a procedure is developed to relate the impact intensity of the sediment to the concentrations of pollutant in the water column and each pollutant's affinity to grain size.

In summary, the SWRCB should not incorporate the SQOs into the Policy unless using the SQOs are capable of positively identifying the underlying pollutant for the 303(d) listing and be able to provide a calculable assimilative capacity and wasteload allocations for the waterbody. The SQOs must also provide a viable method of de-listing.