



**Santa Clara Valley  
Urban Runoff  
Pollution Prevention Program**

Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto,  
San Jose, Santa Clara, Saratoga, Sunnyvale, Santa Clara County, Santa Clara Valley Water District

October 19, 2006

Ms. Song Her  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

**Subject: Comment Letter – 2006 Federal CWA Section 303(d) List**

Dear Ms. Her:

This letter is submitted on behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) regarding the *2006 Revision of the Clean Water Act Section 303(d) List of Water Quality Limited Segments*. The SCVURPPP is an association of 13 cities and towns in the Santa Clara Valley, the Santa Clara County and the Santa Clara Valley Water District. Program participants share a common NPDES permit to discharge municipal stormwater to South San Francisco Bay.

The SCVURPPP appreciates the opportunity to submit comments regarding the suggested 2006 revisions to the 303(d) list for the State of California. Our comments are related to the proposed listing of three water bodies (i.e., Anderson and Stevens Creek Reservoirs, and Stevens Creek) located in the Santa Clara Valley.

**Stevens Creek - Toxicity**

The SCVURPPP opposes the proposed listing of Stevens Creek as impaired due to toxicity because the pollutant/process responsible for the observed toxicity has not been identified, as required by 40 CFR § 130.7. Pollutants causing or expected to cause violations of the applicable water quality standards must be identified to list a water body on the 303(d) list. Numerous naturally occurring processes result in periodic episodes of toxicity in water bodies, and there is no evidence presented that the observations were not the result of such processes.

**Anderson Reservoir – Mercury and PCBs  
Stevens Creek Reservoir - Mercury, PCBs, Chlordane and Dieldrin**

The SCVURPPP opposes the proposed listing of the Stevens Creek Reservoir as impaired due to mercury, polychlorinated biphenyls (PCBs), Chlordane and Dieldrin; and Anderson Reservoir as impaired due to mercury and PCBs. Each of the proposed listings is based on data from extremely small sample sizes of fish ( $n < 9$ ) that has not been determined to be a statistical

<sup>1</sup> Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale

representation of the concentrations of mercury, PCBs, Chlordane, or Dieldrin in fish consumed from either reservoir. As described in the U.S. EPA's *Consolidated Assessment and Listing Methodology* (2002), smaller sample sizes are more prone to yield erroneous assessment decisions because they have a lower probability of detecting WQSs exceedances, unless the exceedances are large and pervasive. In the case of Stevens Creek and Anderson Reservoirs, the exceedances were not "large and pervasive".

Additionally, in the report that developed screening values (SV) for which OEHAA adopted (Brodberg and Pollack 1999), the authors state that, "The SVs are not intended as levels at which consumption advisories should be issued, but are useful as a guide to identify fish species and chemicals from a limited data set, such as this one, for which more intensive sampling, analysis or health evaluation are to be recommended". Therefore, the authors themselves acknowledge the fact that additional sampling is warranted prior to fish consumption advisories being issued and subsequent actions (i.e., 303(d) listing) based on these advisories.

Lastly, the SCVURPPP is not clear on the use of the proposed guidance levels and screening values when developing the proposed 303(d) list. These proposed levels/values were issued by OEHAA in February 2006 (Klasing and Brodberg 2006) and appear to have updated SVs presented in a previous report (Brodberg and Pollack 1999). Changes to SVs will likely affect both consumption advisories issued by OEHAA and the proposed 303(d) listings that are based on these advisories. The SCVURPPP recommends that State Board staff consider using the revised SVs presented by Brodberg and Pollack (1999) when developing the final proposed 2006 303(d) list.

Thank you for the opportunity to comment on the proposed 2006 303(d) list. If you require additional information or have questions regarding these comments, please contact me at (510) 832-2852.

Sincerely,

  
Adam Olivieri  
SCVURPPP Program Manager

cc: SCVURPPP Management Committee  
SCVURPPP Monitoring AHTG  
SCBWWI WAM Subcommittee  
BASMAA Executive Board

#### References

Brodberg, R. and G. Pollack (1999). *Prevalence of Selected Target Chemical Contaminants in Sport Fish from Two California Lakes: Health Designed Screening Study*. Final Project Report. Prepared for Office of Environmental Health and Hazard Assessment, California Environmental Protection Agency. June.

Klasing, S. and R. Brodberg (2006). *Development of Guidance Tissue Levels and Screening Values for Common Pollutants in California Sport Fish: Chlordane, DDTs, Dieldrin, Methylmercury, PCBs, Selenium and Toxaphene*. Draft Report. Prepared for the Office of Environmental Health Hazard Assessment. California Environmental Protection Agency. February.

United States Environmental Protection Agency (2002). *Consolidated Assessment and Listing Methodology: Toward a Compendium of Best Practices First Edition. Office of Wetlands, Oceans, and Watersheds*. July.