

San Joaquin County and Delta Water Quality Coalition

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209-472-7127 ext 125

March 16, 2009

Danny McClure
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Subject: Comment letter – Proposed Revisions to the 303(d) List of Impaired Water Bodies and Consideration of an Integrated Assessment Report for the Central Valley Region

Dear Mr. McClure,

The San Joaquin County Delta Water Quality Coalition (SJCDWQC) appreciates the opportunity to comment on the 2008 proposed revisions to the 303(d) list of impaired water bodies in the Central Valley Region. The SJCDWQC has been monitoring water bodies within its boundaries as part of the Irrigated Land Regulatory Program since 2004 and has extensive knowledge of the water bodies within the Coalition's area including current land use, hydrology and water quality. Within the Proposed Revisions to the 303(d) List of Impaired Water Bodies document (2008 303(d) list) the Coalition would like to express its concern regarding the Central Valley Regional Water Quality Control Board's (Regional Board) method for listings involving metals in three water bodies. In addition, the SJCDWQC believes that a fourth water body has been assigned an incorrect source of impairment. Finally, the SJCDWQC would like to note that it disagrees with the beneficial use designation applied to many of the water bodies in the Coalition region. The following comment letter is divided into two sections: metals listings and beneficial uses.

Metals Listings

The SJCDWQC identified the following water bodies that are proposed for listing for metals using total metal data applied to the California Toxics Rule (CTR) dissolved metals criteria:

1. French Camp Slough (confluence of Littlejohns and Lone Tree Creeks to San Joaquin River): Copper
2. Lone Tree Creek: Copper
3. Pixley Slough (San Joaquin County): Copper and lead

The data collected for the above three subwatersheds were analyzed for total metals and compared against a criterion developed using a hardness-based formula outlined in the Regional Board's "A Compilation of Water Quality Goals". However, the Federal Register Environmental Protection Agency 40 CFR § 131 Water Quality Standards,

Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California, May 18, 2000 (also known as the California Toxics Rule), states:

“It is the Agency’s policy that the use of dissolved metal to set and measure compliance with aquatic life water quality standards is the recommended approach, because dissolved metal more closely approximates the bioavailable fraction of the metal in the water column than does total recoverable metal.”

Since previous EPA aquatic life criteria were based on total recoverable metals, the California Toxics Rule (CTR) includes conversion factors to express the criteria as dissolved. The EPA created translators for dissolved to total recoverable metals limits due to National Pollutant Discharge Elimination System (NPDES) regulations which may require limitation to be reported as total recoverable. This is specific to NPDES permits where it is important “to translate between dissolved metal in ambient water and total recoverable metal in effluent” (40 CFR § 131.38). The total recoverable metal data for copper and lead from French Camp Slough, Lone Tree Creek and Pixley Slough were not collected under an NPDES permit nor are inputs to these water bodies similar to inputs from a point source discharge. Therefore these metals listing are incorrect since they are improperly using total recoverable metal results with dissolved metal criteria.

Starting in the fall of 2009 under a new Monitoring Reporting Program Plan (MRPP), the SJCDWQC is collecting total and dissolved metal data for cadmium, copper, lead, nickel and zinc. The SJCDWQC recommends that the Regional Board delay any decision about listing due to metals until information on the concentrations of dissolved metals is available.

Marsh Creek

The SJCDWQC began monitoring Marsh Creek @ Balfour Rd in 2004. Due to the amount of urbanization upstream of this sampling location, the SJCDWQC moved its monitoring location to Marsh Creek @ Concord Ave in 2005. The city of Brentwood has continued to expand with urban development replacing agriculture in many areas along Marsh Creek. In 2008 the Coalition petitioned to remove Marsh Creek from their monitoring program due to the amount of urbanization and the lack of water within the creek. This was approved by the Executive Officer on August 13, 2008 (Attachment A). Marsh Creek (Marsh Creek Reservoir to San Joaquin River; partly in Delta Waterways, western portion) is a proposed 303(d) water body and is listed as impaired for boron, diazinon, *E. coli*, salinity, sediment toxicity, and unknown toxicity based on SJCDWQC data collected within this water body (this segment was previously listed for mercury using data collected by other entities). The SJCDWQC agrees that the potential source for these constituents should be listed as “Source Unknown”. The Coalition also wants to confirm that the Regional Board understands the history of the monitoring conducted within this water segment and is aware of the current status of urbanization within this area. In addition, the Coalition collected extra samples within the water body for boron and has argued that the source of boron is the geologic conditions of the Mt. Diablo region

resulting in elevated background levels of this constituent (see the SJCDWQC Semi Annual Monitoring Report December 31 2007). The SJCDWQC stated in that report:

“A special study was initiated during the 2006-2007 storm monitoring season to identify the source of boron detected in Marsh Creek. Boron has been frequently detected above water quality trigger levels, but it was unclear whether the source was agricultural. Two new sites were established on Marsh Creek a short distance upstream of the most upstream agricultural input in an attempt to distinguish between boron naturally leached from the soils of the Coast Range and boron originating from agricultural applications. Upstream sampling was conducted during three monitoring events including the first irrigation season monitoring event in April. During that monitoring event the only boron exceedance of the irrigation season occurred at one of the newly established Marsh Creek sites. The upstream sampling concluded that boron in the Marsh Creek site subwatershed is naturally occurring rather than having agricultural origins.” (SJCDWQC December 31, 2007 SAMR)

The SJCDWQC agrees that impairment to Marsh Creek is due to unknown sources and in the case of boron is due to natural conditions. The sourcing information obtained from monitoring in this subwatershed by the SJCDWQC under the ILRP should be considered prior to listing.

Beneficial Uses

Based on the San Joaquin Valley Basin Plan, the tributary rule applies beneficial uses of the San Joaquin River to upstream water bodies that do not have listed beneficial uses. This has resulted in many water bodies within the SJCDWQC region being listed on the proposed 2008 303(d) list. If these water bodies are listed based on beneficial uses applied due to the tributary rule, the result will be the implementation of a costly TMDL aimed to protect unattainable and sometimes conflicting beneficial uses. Resolution 2005-0050, Water Quality Control Policy for Addressing Impaired Waters: Regulatory Structure and Options, states that a water body may be de-listed if “incompatible uses exist” which is clearly the case for many of the agricultural drains which have been assigned municipal drinking water beneficial uses. It is the opinion of the SJCDWQC that the State and Regional Boards should prioritize the evaluation of beneficial uses during the next tri-annual San Joaquin Basin Plan amendment (2009) review. The SJCDWQC is aware of similar situations where beneficial uses have been contested by entities within the Tulare Basin Plan area during the associated Basin Plan amendment process. The entities that supplied documentation regarding inappropriate beneficial use designations were told that there are insufficient funds to review those documents. The SJCDWQC would like to take this opportunity to remind the State and Regional Boards of the importance of reviewing and updating beneficial uses. Due to the influx of obtainable water quality information through programs such as the ILRP, data are now available for water bodies that previously had little or no water quality information. As such, many of the water bodies within agricultural areas have not been assigned

appropriate beneficial uses and it is apparent that the current beneficial uses of recreation and drinking water are unrealistic and incompatible with the current hydrology and land use of those areas. This problem is more widespread than the SJCDWQC region and the Coalition hopes that the State and Regional Boards realize the importance of committing resources to thoroughly review and update currently assigned beneficial uses.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Wackman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mike Wackman

San Joaquin County & Delta Water Quality Coalition

Enclosures: 1. Attachment A: SJCDWQC request for monitoring site exchange regarding Marsh Creek.

Cc: Karen Larsen, Central Valley Regional Water Quality Control Board
Chris Jimmerson, Central Valley Regional Water Quality Control Board
Michael L. Johnson, Michael L. Johnson, LLC

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Attachment A1A1, SJCDWQC request for monitoring site exchange regarding Marsh Creek.



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Central Valley Region

Karl E. Longley, ScD, P.E., Chair

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<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

13 August 2008

Mr. Michael Wackman
San Joaquin & Delta Water Quality Coalition
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Mr. Mike Johnson, Program Manager
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SAN JOAQUIN COUNTY AND DELTA WATER QUALITY COALITION REQUEST FOR MONITORING SITE EXCHANGE

The San Joaquin County and Delta Water Quality Coalition (Coalition) submitted a proposal to Central Valley Regional Water Quality Control Board staff (Staff) on 14 July 2008 to modify its Monitoring and Reporting Program Plan. The intent in the proposal is to exchange the monitoring site Marsh Creek at Concord Ave. for one at South Webb Tract Drain at the south island pump; coordinates N 38.06322, W 121.60331. This site exchange is necessary due to the encroachment of urban development in the area of the original monitoring site. In addition, the Marsh Creek site is frequently dry.

Staff has reviewed the Marsh Creek land use maps provided in the Coalition's Semiannual Monitoring Report and recent aerial photos to verify that urban development in this subwatershed has replaced significant portions of agricultural land. Additionally, field notes from monitoring activities confirm that this site is frequently dry.

Staff also reviewed the Webb Tract site land use map provided in the Coalition's proposal for acceptability and found it to be an acceptable site. It is anticipated that the Coalition will overcome any potential ferry crossing issues to gain access to the site. The Coalition indicated that the new site will represent approximately 4,000 acres of corn.

For these reasons, I approve the Coalition's request for replacing the Marsh Creek site with the more appropriate South Webb Tract Drain.

If you have any questions or comments regarding the site exchange approval, please contact Chris Jimmerson at (916) 464-4859.

PAMELA C. CREEDON
Executive Officer

California Environmental Protection Agency

