



## California Sportfishing Protection Alliance

*"An Advocate for Fisheries, Habitat and Water Quality"*

3536 Rainier Avenue, Stockton, CA 95204

T: 209-464-5067, F: 209-464-1028, E: [deltakeep@aol.com](mailto:deltakeep@aol.com), W: [www.calsport.org](http://www.calsport.org)

28 March 2010

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 "I" Street,  
P.O. Box 100  
Sacramento, CA 95814  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

VIA: Electronic Submission  
Hardcopy if Requested

RE: **Comment Letter – State Water Quality Control Policy for Sediment Quality Objectives as listing criteria for enclosed bays and estuaries**

Dear Ms. Townsend:

Thank you for the opportunity to submit comments on the proposed amendment to the Policy for Developing the 303(d) List for sediment quality objectives. Our specific comments are as follows:

1. The implementation of the sediment quality objectives (SQOs) should be an independent test, additive to the existing policy for listing.
2. Toxic sediments or sediments with elevated pollutant levels or degraded communities should still be listed regardless of the SQOs. Anything else would be a rollback of existing protections with impacts that would have to be analyzed and likely could not be justified, especially in already impacted areas like the delta. We would certainly object to any rolling back of any existing protections.
3. The narrative SQOs themselves are inadequate as they are only written to protect at the abstract "community" level as opposed to setting the stated goal as preventing toxicity to individual aquatic organisms. The so-called multiple lines of evidence MLOE approach of the SQOs would actually really limit what information could result in a listing. This MLOE approach seems to be based on proving something is impacted with a high degree of certainty before it can be protected. The MLOE approach in the SQOs allows a strong signal of a problem from one test to be inappropriately averaged away.
4. We appreciate the idea of looking at data from all the lines of evidence, but they need to be done consistent with prudent environmental protection. There is nothing so fundamentally different with dealing with polluted water vs. polluted sediments that it justifies throwing out the fundamental protective approach that is supposed to be implemented under the Clean Water Act and Porter-Cologne in favor of a re-active

approach such as the MLOEs under the SQOs. The potential impacts of that rollback were never adequately analyzed in the development of the SQOs.

5. EPA's policy of "independent applicability" discusses why it is prudent to act when one line of evidence indicates a problem. This policy appears to have been ignored in the development and approval of the SQOs.
6. It also appears that the required endangered species act consultation was not completed prior to EPA's approval.
7. According to staff, the MLOE approach purportedly did well under scientific review, but there is little documentation of any precise statements from the science steering committee. There is also no documentation of whether the science steering committee was asked whether the SQOs implemented under the MLOEs provide enough protection to meet the mandate. There is nothing in the science reviews to justify allowing more contamination and toxic impacts to benthic communities.

To reiterate: there are serious problems with the SQOs and MLOE approach which need to be remedied. In the meantime, the Board should remember that the mandate for SQOs was to be protective of the most sensitive species. The implementation of SQOs must not result in the allowance of more toxic impacts. Therefore, the SQOs should be an additional test to existing listing provisions, not a justification for a rollback of them.

In conclusion the mandate for the SQOs was to be protective of the most sensitive species. Implementation of the SQOs must not result in an allowance for additional toxic impacts. The SQOs should be an additional test to existing listing provisions.

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Sincerely,



Bill Jennings, Executive Director  
California Sportfishing Protection Alliance