



Agenda Date: 11/22/2005
Agenda Placement: 6I

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Hillary Gitelman - Director
Conservation, Development & Planning

REPORT BY: Jeff Sharp, Planner III , 259-5936

SUBJECT: Approval of and authorization for the Chair to sign a comment letter to the State Water Resources Control Board regarding possible listing of the Napa River on the Clean Water Act's 303(d) list for excess mercury contamination

RECOMMENDATION

Director of Conservation, Development and Planning requests approval of and authorization for the Chair to sign a comment letter to the State Water Resources Control Board (State Water Board) regarding proposed revisions to the federal Clean Water Act (CWA) Section 303(d) list that would classify the Napa River as water quality limited (i.e. polluted) due to excess mercury contamination.

EXECUTIVE SUMMARY

The State Water Board has given notice of public workshops to seek comments on proposed revisions to the federal Clean Water Act (CWA) Section 303(d) list of water quality limited (i.e., polluted) segments of California (Attachment A). Information supporting revisions to the Section 303(d) list indicate that the State Water Board is considering listing the Napa River as water quality limited due to excess mercury contamination.

Although the State Water Board is not making any decisions on the listing during their December 2005 workshops, they are requesting comments on the proposed listing and eventually will consider adoption of the Section 303(d) listing at a future meeting. Listing of the Napa River would lead to standards for the protection of beneficial uses of the river (i.e., commercial and sport fishing), including adopted water quality objectives and the State's anti-degradation policy. Ultimately, the State Water Board would consider adoption of a Basin Plan amendment that may in turn require local adoption of regulations and/or prioritization of expenditures by the County to meet mandates related to mercury source protection controls.

As directed by the Board of Supervisors during their August 23, 2005 meeting, the Watershed Information Center and Conservancy (WICC) Board has been monitoring and reviewing the San Francisco Bay Regional Water Quality Control Board's (RWQCB) development of Total Maximum Daily Load (TMDL) allocations for the Napa River to address sediment and pathogen pollutants. At its October 27, 2005 meeting, the WICC Board discussed the State Water Board's potential listing of the river for mercury and recommended that the County Board send a comment

letter questioning the limited evidence used to support the proposed listing.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On August 23, 2005 the County Board directed the Watershed Information Center & Conservancy (WICC) Board to review draft materials associated with RWQCB's proposed TMDL allocations and apprise the Board of Supervisors of opportunities in the TMDL process for local input and participation. As a part of that ongoing review, the WICC Board, during their October 27, 2005 meeting, received notice of and discussed the State Water Board's proposed further listing of the Napa River for mercury pollution. The WICC Board questioned the age, statistical integrity and limited scope of evidence used by the State Water Board to support its proposed listing. Concluding their discussion, the WICC Board recommended that the County Board send a comment letter expressing concern over the proposed listing and the need for further analysis, study and identification of the potential pollution problem. Conservation, Development, and Planning staff has prepared a County comment letter for review and approval by the Board. The end of the comment period is December 6, 2005.

The 1972 Federal Clean Water Act (sec 303d) requires that states develop a list [known as the 303(d) list] of water bodies that do not meet water quality standards, establish priority rankings for waters on the list, and develop action plans, called Total Maximum Daily Loads (TMDLs), and adopt those plans in the form of a Basin Plan amendment to improve water quality. The State's Water Resources Control Board working as the parent agency to local regional boards such as the San Francisco Bay Regional Water Quality Control Board (RWQCB) is charged with taking the lead in these endeavors.

The Napa River is currently on California's 303(d) list of impaired water bodies for excess nutrients, pathogens, and sedimentation/siltation. As a result, the RWQCB has been charged with developing TMDLs for each of these pollutants. The RWQCB has circulated two preliminary TMDL Technical Reports which summarize the sediment and pathogen impairments, analyze potential sources, suggest numeric targets and allocations for each source category, as well as propose recommended implementation plans. The scoping for the preparation of environmental documents required to meet the California Environmental Quality Act (CEQA) guidelines is now underway by the RWQCB with a December 7, 2005 deadline for comments. There will be an agenda item for the Board's December 6th meeting to consider a letter to provide comments on this matter.

If the State Water Board proceeds with the proposed listing of the Napa River for mercury pollution, the RWQCB would ultimately need to prepare another TMDL to address this issue.

SUPPORTING DOCUMENTS

- A . State Water Board Notice
- B . Mercury TMDL Comment Letter

CEO Recommendation: Approve

Reviewed By: Andrew Carey