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California Regional Water Quality Control Board Los Angeles Region

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Los Angeles Regional Water Quality Control Board Minutes of September 26, 2002 Regular Board Meeting held at City of Calabasas Council Chambers 26135 Mureau Road, Calabasas

INTRODUCTION

The meeting was called to order by Chairperson Diamond at 9:15 am.

Board Members Present

Susan Cloke, Francine Diamond, R. Keith McDonald, H. David Nahai, and Christopher Pak, Timothy Shaheen

Board Members Absent

Robert Miller, Bradley Mindlin

Staff Present

Dennis Dickerson, Deborah Smith, David Bacharowski, Ronji Harris, Laura Gallardo, Robert Sams, Michael Lauffer, Jack Price, Steve Cain, Jenny Newman, Jonathon Bishop, Blythe Ponck-Bacharowski, Namiraj Jain, Paula Rasmussen, Kwang-il Lee, Gary Schultz, Renee DeShazo

Others Present

Charles Caspary, Las Virgenes MWD, Div 1 Director
Drew Bohan, Santa Barbara ChannelKeeper
Paul H. Saldano, City of Manhattan Beach
Joy Krejci, LA County Dept of Public Works
TJ Kim, LA County Dept of Public Works
Marilyn Levin, office of the Attorney General
Bonnie Teaford, City of Burbank Public Works
Paul P. Parmentier, Golden West Refining Company
Mike Boyd II, CA State Parks
Santos Marquez, City of Thousand Oaks
Cathy Chang, SM Bay Restoration Project
Steve Shesty, The Boeing Company
Joe Geever, Surfrider Foundation

Jim Colbaugh, Las Virgenes MWD
Carlos L. Rodriguez, BP Pipeline
Joshua Malbin, Freelance (LA Weekly)
Bill Kelly, CA Environmental Report
Hampik Dekermenjian
Ken Schiff, SCCWRP
Gerald McGowen, City of Los Angeles
Hayden Sohm
Bob Purvey
Sam Birenbaum
Jessica Stefan, Surfrider Foundation
Mark Gold, Heal the Bay
Dave Burhenn, County of Los Angeles

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Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Barbara Hamrick, CA Department of Health Services
Paul Thakur, CalTrans
Shirley Pak, CalTrans
Mitzy Taggart, Heal the Bay
Bob Wu, CalTrans
Ling Tseng, SWRCB
John Hunter, City of Rancho Palos Verdes
Mark Jirgal, Environmental Mgmt Strategies, Inc.
Brigid Saukaits, Santa Monica BayKeeper
Angie Bera, Santa Monica BayKeeper
Heather George, Santa Monica BayKeeper
Alex Steele, LA County Sanitation District
Kristen Ruffell, LA County Sanitation District
Steve Fleischli, Santa Monica BayKeeper
Adam Arika, LA County Department of Public Works
Donna Chen, City of Los Angeles

David Beckman, Natural Resources Defense Council
Jamal Asif
Grant Neie, Surfrider Foundation

Mark Pumford, City of Oxnard
Mandy Ng, CalTrans
Mary Setterholm, Surf Academy
Mike Shay, City of Redondo Beach
Sharon Rubalcava, City of Los Angeles
Ken Harris, SWRCB
Matt Souttere, CA State Parks
Mike Noonan
Matt Liao, CalTrans
Shaih Kennedy
Curtis Cannon, City of Oxnard
Roma Armbrust
Dave Gable, Halaco
John Haack, Halaco
Judy Wilson, City of Los Angeles
Suzanne Goode, CA Department of
Parks and Recreation

John Corso
Dave Cherney

Pledge of Allegiance

1. Roll Call
A roll call was taken.

2. Order of Agenda.

There were no changes to the order of the agenda:

3. Approval of Minutes

The Board approved the minutes from the August 29, 2002 regular meeting.

4. Board Member Communications and Ex Parte Disclosure

The Board Members had nothing to communicate.

5. Public Forum

Steve Fleischli, Santa Monica BayKeeper, provided the Board with information about the Clean Cities Clean Ocean Contest sponsored by BayKeeper, Los Angeles County and the City of Santa Monica.

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Sam Burenbaum, Malibu resident, spoke about the problem of dog waste contaminating beaches and informed the Board of 2 dog parks in Malibu, where he said there were no management practices in place to address runoff.

Mark Gold, Heal the Bay, spoke on item 8.2 regarding Malibu Pier State Park. He objected to the fact that the Board issued WDRs to Malibu Pier after the system was already in place.

6. Uncontested Items

There was a motion to approve the following uncontested items: 7.1 to 7.4, 8.2 to 8.10, 9.1, 11, 13, and 15.

MOTION: By Board Member Shaheen, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.

8.1 Las Virgenes Municipal Water District, Tapia Water Reclamation Facility/Constructed Wetlands – Continued from August 29, 2002 Regular Board Meeting

Bob Purvey, Malibu Coastal Land Conservancy, read into the record a letter from Leslie Divine, Mayor of Calabasas, and asked the Board to require Tapia to notify the public when there was a discharge.

Mark Gold, Heal the Bay, still had concerns about the monitoring issue. He felt there needed to be a monitoring program and not just a study. He said he would like to see a requirement for stakeholder involvement formalized in the WDRs. He wanted to ensure that resurfacing was not occurring during the shoulder months.

Blythe Ponek-Bacharowski, Chief, Watershed Regulatory section, stated that section 8.1-12 required Tapia to submit a workplan to conduct work with Heal the Bay staff and to have a stakeholders meeting to approve the workplan.

Mark Gold replied that there needed to be a clearer directive on the resurfacing issue.

Board Member Nahai added language to the section requiring Tapia to develop a monitoring program with stakeholder input. Mark Gold, Board staff, and Jim Colbaugh of Las Virgenes Municipal Water District agreed to the language.

MOTION: By Board Member Nahai, seconded by Board member Cloke, and approved on a voice vote. No votes in opposition.

14. Consideration of Amendment to Cease and Desist Order for Halaco Engineering Company - Continued from August 29, 2002 Regular Board Meeting

Marilyn Levin, Office of the Attorney General, spoke to the specific issue of bankruptcy in the matter. She concurred with the opinion of staff counsel given at the August 29, 2002 Board meeting. She stated that the action to amend the CDO is not in violation of the bankruptcy stay under the police regulatory and regulatory power exemption.

Board Member Nahai asked about the letter from Halaco bankruptcy counsel dated September 20, 2002 and the use of the words "mutually acceptable" when referring to changes in the CDO.

Marilyn Levin responded that she did not agree with the language and that the changes do not have to be mutually acceptable.

Dennis Dickerson, Executive Officer, went over Halaco's requested changes to the CDO, which included changes to Provision i and the placement of boundary markers, and changes to appendix A, which deals with lab technique approval by the EO.

Drew Bohan, Santa Barbara ChannelKeeper, commented on related matters. He supported the cease of discharge to the waste ponds, but was concerned that there was still storage on the waste pile, which must cease by November 30, 2002. He recommended that the Board direct staff to outline, for the community, each of the provisions of the CDO and the changes that had been made.

Roma Armbrust, commended the Board for their action and spoke on the issue of Halaco's access to the waste pile and how it would affect compliance with the CDO.

Board Member Pak spoke on the issue of Halaco not being able to place permanent boundary markers until the City filed a record of survey. He asked if Halaco would respond in a timely manner to the City's requests for changes from Halaco, once the City had filed the record of survey.

Board Member Cloke asked staff to insert a time limit for Halaco to respond to any requests from the City. Board and staff agreed on a time limit of 60 days.

Board member Nahai supported staff's recommendation but was disinclined to have this set a precedent. He asked if these changes would justify any other delays with respect to other items in the CDO.

Dennis Dickerson replied that these amendments were not intended to carry over to any other provisions of the CDO.

MOTION: By Chairperson Diamond, seconded by Board member McDonald, and approved on a voice vote. No votes in opposition.

10. Santa Monica Bay Wet Weather Bacteria TMDL

Jon Bishop, Chief, Regional Programs section, gave background and put the proposed TMDL in the context of other recent Board actions.

Renee DeShazo, Standards and TMDL unit, gave the staff presentation. She reviewed the health risks and potential sources of bacteria and described the reference system/antidegradation approach. She explained the numeric targets, and the critical condition, which is based on 1993, the 90th percentile storm rain year. She then went over the waste load allocations. Each beach/monitoring station is assigned an allowable number of exceedance days equal to the probability of an exceedance, multiplied by 75 (the number of wet days 1993), or 17 days, whichever is fewer. Ms. DeShazo also explained that there would be a re-opener to re-examine the reference system approach. She then went over the implementation schedule (18 years with interim milestones), the cost assessment, monitoring program, peer review comments, and the refinements to the original draft.

Grant Nye, Surfrider Foundation, Malibu Chapter, surfs and dives year-round and supports the TMDL.

Mary Setterholm, Surf Academy, runs her surf school year-round and supports the TMDL but would like a shorter implementation schedule.

Jessica Stefan, Surfrider Foundation, Malibu Chapter, endorsed the comments of Santa Monica BayKeeper and NRDC.

Jamal Asif, echoed previous comments and was concerned about the 18 year implementation schedule.

Bob Purvey, echoed previous comments and was concerned about the reference beach approach and the number of allowable exceedance days.

John Corso, scuba instructor, gives year round classes that are cancelled during beach closures and supports the TMDL.

David Cherney, diver, was concerned about using the 90th percentile storm year and the 18-year implementation schedule.

Judy Wilson, City of Los Angeles, strongly supports the TMDL and explained the need for an 18-year implementation schedule in order for the City of LA to implement their Integrated Resources Plan to reuse diverted stormwater.

Donna Chen, City of Los Angeles, reiterated Ms. Wilson's comments and supported the proposal to reevaluate natural variability in exceedance days.

Adam Arika, County of Los Angeles, objected to using the same objectives for the wet weather TMDL as the dry weather TMDL. He felt the cost estimate was too low and that

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the cost analysis should account for the decreased health risks in wet weather. He added that the County did not support a new designation for wet weather use, but a sub-designation.

Alex Steele, Los Angeles County Sanitation District, expressed his appreciation for staff's efforts but commented that a the diversion of storm water to wastewater treatment plants was inappropriate and unsafe. He added that the TMDL does not lower exceedance days enough to warrant not closing the beach during wet weather and therefore the TMDL offered no real change.

John Hunter, City of Rancho Palos Verdes, stated that he was worried that his city is in compliance now, but might not be after the re-opener in 5 years. He asked for assurances that his city would receive an extension if this occurred. He then asked for clarification on the terminology in the TMDL, including "major drain system".

David Burhenn, representing the County of Los Angeles, requested that the Board add a clause regarding the compliance monitoring provision. He was concerned that 75% of the testing days exceeded the water quality objectives. He added that the cost of compliance should include an additional treatment plant in the South Bay.

David Beckman, NRDC, objected to the 18-year implementation schedule, stating that it was inconsistent with the Clean Water Act. He pointed out that the City of Los Angeles had stated in previous hearings that it could achieve the TMDL objective in 10 years.

Steve Fleischli, Santa Monica BayKeeper, stated that he felt it was clear from the County of Los Angeles's comment letter that they wanted to change the level of risk during wet weather. He incorporated NRDC's comments regarding the 18-year implementation schedule and objected to the choice of the reference beach.

Mark Gold, Heal the Bay, stated that he conditionally supports the TMDL, but objects to the 18-year timeframe for all responsible jurisdictions, the 90% percentile storm year and reference beach location, and the lack of interim targets for Malibu and Ballona creeks. He supports the integrated resources approach and requested that the Board only allow an 18-year implementation schedule if a responsible party uses that approach.

Board Questions

Board member Nahai asked staff if we could do better than 18 years.

Jon Bishop replied that the although Board cannot prescribe a method of compliance, staff would like to encourage an integrated approach, and they do not want to second guess the City of Los Angeles's time estimates.

Chairperson Diamond asked how the Board could provide incentives for an integrated approach, and if they could use a tiered approach.

Jon Bishop replied that the Board could set a final compliance point at 10 years and have the possibility of an extension to 18 years. This could be decided at the review already scheduled for the reference beach in three years. He stated that this Board could not lock the hands of a future Board. He said the alternative would be to leave the timeline at 18 years and shorten it to 10 years at the three-year review.

Board member Pak stated that there should be a constant flow of updates from the City instead of waiting three years.

Jon Bishop replied that, as new information comes in, the Board could reevaluate the TMDL and update the Basin Plan as they feel.

Michael Lauffer stated that if the Board wanted to shorten the implementation schedule, staff would need to re-notice the TMDL.

Board Member Cloke stated that the City's estimate of 18 years probably includes a margin of safety, and stated that the city should report to the board in a year with a more realistic timeframe.

Dennis Dickerson stated that a one-year re-opener could be allowed for a very specific report on the implementation plan that would be separate from the reference beach evaluation in three years.

The Board discussed whether to allow an 18-year implementation schedule that could be shortened upon receipt of an updated plan from the city and other responsible agencies, or to require an implementation schedule of 10 years that could be lengthened to 18 years, but which would require that staff re-notice the TMDL.

There was a motion to continue this item to the next regularly scheduled meeting.

MOTION: By Chairperson Diamond, seconded by Board member Cloke, and approved on a voice vote. No votes in opposition.

Chairperson Diamond voiced some additional concerns about the TMDL. She asked for clarification on the joint responsibility issue and the translation of waste load allocations to permit requirements. She did not want to allow more exceedance days during the reference system evaluation and expressed concern about how it would affect the reference system evaluation for dry weather conditions.

Board Member Nahai asked if the board needed a finding about economic evaluation.

Michael Lauffer replied that the economic evaluation was addressed in the CEQA documentation and was not required by the Water Code.

Board member Cloke stated that she would like a finding that the Board supports the integration of water quality and quantity issues. She also asked for more discussion on human health risks and that staff address the comments made about Malibu and Ballona creeks.

Jon Bishop replied that Ballona and Malibu creeks had final allocations but no interim limits because they have their own TMDLs coming up and staff was concerned about competing beneficial uses.

Chairperson Diamond asked for more information on why Leo Carillo was chosen as the reference beach.

Adjournment of Current Meeting

The meeting adjourned at 3:55 pm. The next regular meeting is scheduled for October 24, 2002, at the City of Simi Valleys Council Chambers, 2929 Tapo Canyon Road, Simi Valley at 9:00 a.m.

Minutes adopted at the _____ Regular Board meeting submitted/amended.

Written and submitted by: _____