



Item No. 9 Doc. No. 8

August 27, 2008

Frank Melbourn
Regional Water Quality Control Board
9174 Sky Park, Suite 100
San Diego, CA 92123

Subject: TO R9-2008-0072
Buena Vista Lagoon Sewage Spill ACL

Dear Mr. Melbourn:

These comments on the Tentative Order are made on behalf of Preserve Calavera (PC). PC is a grassroots conservation organization whose goal is to preserve and protect the natural resources of coastal North San Diego County.

We have been working with the staff of your agency and other stakeholders to improve watershed protection through our local coalition the Carlsbad Watershed Network (CWN) for many years.

Of course, everyone who cares about these issues was devastated by last year's massive sewer spill in Buena Vista Lagoon. We appreciate the effort it has taken to respond to this spill, analyze the impacts, and come up with corrective action that both mitigates the damage, and works to reduce future occurrences.

We also appreciate the complexity of determining an appropriate penalty for impacts to a priceless resource - an already impaired coastal lagoon.

We support key elements of the proposed ACL :

- It was the result of a collaborative effort among all of the involved agencies.
- While the fine is significantly less from what is allowed- this is balanced by commitments from each city to greatly improve the rate of sewer system improvements that should result in reduced risks for future spills.
- It includes funding for a SEP to complete critical technical studies needed to restore the lagoon. We are very supportive of the planned project to restore the Buena Vista Lagoon. We recognize that this \$ 50-\$100M unfunded project is still years away, and we are fully committed to supporting this effort as long as it takes.

However, we are concerned that there are no funds directed to projects that will provide an immediate on-the-ground benefit to the sensitive resources effected by the spill in the Buena Vista watershed. Over 1,700 of our local wildlife died from this sewer spill. The protected Light-footed Clapper Rail habitat area was impacted. These were immediate, direct impacts for which the proposed ACL provides no direct offset.

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We therefore urge the Regional Water Quality Control Board to direct that \$ 395,000 of the \$ 595,000 proposed to be sent to the State Clean-up and Abatement Account instead be directed toward a local SEP for restoration in the Buena Vista Creek Ecological Reserve(BVCER). If these funds all go to the statewide account there is little chance that any will come back to this area.

The BVCER is the newest ecological reserve in coastal north county. It is owned by the CADFG and an endowment is in place for its management. However these endowment funds are not sufficient to undertake necessary restoration of the portions of the site that have been degraded by years of farming, invasive plants, and homeless encampments. This valley is part of the natural floodplain for the creek so restoration along the creek will restore natural wetlands function in an area that now just adds to the impaired conditions downstream. Silt, chemical run-off, and invasive plants will continue to spread downstream until these conditions can be addressed.

This SEP has been reviewed and agreed to by all of the parties to the settlement agreement. In their letter of June 2008 to the RWQCB the Wildlife Agencies said that they " respectfully request that RWQCB consider, as a high priority, approving the combined SEP entitled "Buena Vista Lagoon Ecological Reserve Restoration Engineering Studies & Analyses and Buena Vista Creek Ecological Reserve Habitat Restoration" for the amount of \$895,000 towards the restoration of the Buena Vista Lagoon sewage spill's impact. **This would be both of our Agencies highest preference. "**

It is also our highest preference. This habitat restoration project was identified as one that could be immediately implemented- and that would provide a direct, immediate benefit to both habitat and water quality. This area is just upstream from the lagoon so its restoration will provide both direct and indirect benefits to the area impacted by the sewer spill. It does not increase the total costs to the cities of Vista and Carlsbad. It could be administered by the CADFG, like the proposed SEP for the lagoon technical studies, thereby placing no additional burden on staff of the RWQCB.

There would be tremendous benefit to our local area by approving the proposed ACL, but with one adjustment- to allocate \$ 395k of the funds to a SEP for restoration in the BVCER.

Thank you for your consideration of these comments. We look forward to working with the RWQCB toward a future with fewer sewer spills, and a response to spills that does the best possible job of protecting our coastal resources.

Sincerely,

Diane Nygaard
Preserve Calavera

cc :