



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

# State Water Resources Control Board

---

## Division of Water Quality

901 P Street • Sacramento, California 95814 • (916) 657-1108  
Mailing Address: P.O. Box 944213 • Sacramento, California • 94244-2130  
FAX (916) 654-8375 • Internet Address: <http://www.swrcb.ca.gov>



**Gray Davis**  
Governor

September 6, 2000

Members and Alternates:

### MEETING OF THE AB 982 PUBLIC ADVISORY GROUP

The AB 982 Public Advisory Group (PAG) will meet on September 13 through 15, 2000 in the Metropolitan Room of the Bristol Court Hotel, 1055 First Avenue, San Diego, California.

Please find enclosed the meeting agenda and the documents prepared to support many of the agenda items. If you are planning to have handouts, please bring at least 50 copies for the PAG members and audience.

If you have any questions regarding the PAG or the meeting, please call me at (916) 657-1108. You may also call Gita Kapahi, the staff liaison to the PAG, at (916) 657-0883.

Sincerely,

Craig J. Wilson, Chief  
Bays and Estuaries Unit  
Division of Water Quality

Enclosures

cc: Interested Parties

# AB 982 Public Advisory Group

Wednesday, September 13, 2000, 10 a.m. to 5 p.m.

The Metropolitan Room  
The Bristol Court Hotel  
1055 First Avenue  
San Diego, California

## A G E N D A (DAY 1)

---

1. *Convene Meeting – Co-Chairs* 10:00 a.m.—10:05 a.m.
  - Welcome by Art Baggett, Chair of the SWRCB
  
2. *August 11, 2000 Meeting Summary* 10:05 a.m.—10:15 a.m.

Action Item: Consider approval of Meeting Summary (Attached)
  
3. *Revised Public Advisory Group Workplan (Johns/Beckman)* 10:15 a.m.—10:30 a.m.
  - Assumptions
  - Schedule
  - Products

Action Item: Agreement to move forward with the steps outlined in the workplan.
  
4. *Continued Dialogue on Issues Related to Total Maximum Daily Loads* 10:30 a.m.—11:45 a.m.
  - Issue: Implementation plan to achieve pollutant reductions
    - Regulated Community Perspective (Johns) 5 minutes
    - Environmental Community Perspective (Beckman) 5 minutes
    - Dialogue
    - Issue paper will be created for further discussion on next day

- |                                                                                                                                                                                                                                                                                 |                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| 5. <i>Lunch Break</i>                                                                                                                                                                                                                                                           | 11:45 a.m.—1:00 p.m.                          |
| 6. <i>Approach for developing the report on TMDLs (Ekstrom)</i> <ul style="list-style-type: none"><li>• Method for reviewing major issues</li></ul>                                                                                                                             | 1:00 p.m.—1:15 p.m.                           |
| 7. <i>Issue: Listing Sites on the Section 303(d) List</i> <ul style="list-style-type: none"><li>• Regulated Community Perspective (Johns)</li><li>• Environmental Community Perspective (Beckman)</li><li>• Dialogue</li><li>• Summary of consensus or agreement</li></ul>      | 1:15 p.m.—2:45 p.m.<br>5 minutes<br>5 minutes |
| 8. <i>Break</i>                                                                                                                                                                                                                                                                 | 2:45 p.m.—3:00 p.m.                           |
| 9. <i>Issue: Appropriate Time Periods for completing TMDLs</i> <ul style="list-style-type: none"><li>• Environmental Community Perspective (Beckman)</li><li>• Regulated Community Perspective (Johns)</li><li>• Dialogue</li><li>• Summary of consensus or agreement</li></ul> | 3:00 p.m.—4:45 p.m.<br>5 minutes<br>5 minutes |
| 10. <i>Wrap-up and Public Comment</i>                                                                                                                                                                                                                                           | 4:45—5:00 p.m.                                |
| 11. <i>Adjourn until 9:00 a.m. on September 14, 2000</i>                                                                                                                                                                                                                        | 5:00 p.m.                                     |

# AB 982 Public Advisory Group

Thursday, September 14, 2000, 9 a.m. to 5 p.m.

The Metropolitan Room  
The Bristol Court Hotel  
1055 First Avenue  
San Diego, California

## A G E N D A (DAY 2)

---

- |                                                                                  |                       |
|----------------------------------------------------------------------------------|-----------------------|
| <i>12. Reconvene Meeting—Co-Chairs</i>                                           | 9:00 a.m.—9:05 a.m.   |
| <i>13. Issue: Confirmation of Impairment</i>                                     | 9:05 a.m.—10:30 a.m.  |
| • Regulated Community Perspective (Johns)                                        | 5 minutes             |
| • Environmental Community Perspective (Beckman)                                  | 5 minutes             |
| • Dialogue                                                                       |                       |
| • Summary of consensus or agreement                                              |                       |
| <i>14. Break</i>                                                                 | 10:30 a.m.—10:45 a.m. |
| <i>15. Issue: Stakeholder and Technical Advisory Group; Public Participation</i> | 10:45 a.m.—12:00 p.m. |
| • Regulated Community Perspective (Johns)                                        | 5 minutes             |
| • Environmental Community Perspective (Beckman)                                  | 5 minutes             |
| • Dialogue                                                                       |                       |
| • Summary of consensus or agreement                                              |                       |
| <i>16. Lunch Break</i>                                                           | 12:00 p.m.—1:15 p.m.  |
| <i>17. Issue: Implementation Plan to Achieve Pollutant Reductions</i>            | 1:15 p.m.—3:00 p.m.   |
| • Continue dialogue from agenda item #4                                          |                       |
| • Summary of consensus or agreement                                              |                       |

<i>18. Break</i>	3:00 p.m.—3:15 p.m.
<i>19. Issue: Role of Science in Preparing TMDLs</i>	3:15 p.m.—4:45 p.m.
• Regulated Community Perspective (Johns)	5 minutes
• Environmental Community Perspective (Beckman)	5 minutes
• Dialogue	
• Summary of consensus or agreement	
<i>20. Wrap-up and Public Comment</i>	4:45 p.m.—5:00 p.m.
<i>21. Adjourn until September 15, 2000 at 9:00 a.m.</i>	5:00 p.m.

# AB 982 Public Advisory Group

Friday, September 15, 2000, 9 a.m. to 3 p.m.

The Metropolitan Room  
The Bristol Court Hotel  
1055 First Avenue  
San Diego, California

## A G E N D A (DAY 3)

---

- |                                                                         |                       |
|-------------------------------------------------------------------------|-----------------------|
| 22. <i>Reconvene Meeting—Co-Chairs</i>                                  | 9:00 a.m.—9:05 a.m.   |
| 23. <i>Issue: TMDL Targets, Wasteload Allocations, Load Allocations</i> | 9:05—10:30 a.m.       |
| • Environmental Community Perspective (Beckman)                         | 5 minutes             |
| • Regulated Community Perspective (Johns)                               | 5 minutes             |
| • Dialogue                                                              |                       |
| • Summary of consensus or agreement                                     |                       |
| 24. <i>Break</i>                                                        | 10:30 a.m.—10:45a.m.  |
| 25. <i>Issue: Legacy Contributions of Pollutant Loads</i>               | 10:45 a.m.—11:15 a.m. |
| • Regulated Community Perspective (Johns)                               | 5 minutes             |
| • Environmental Community Perspective (Beckman)                         | 5 minutes             |
| • Dialogue                                                              |                       |
| • Summary of consensus or agreement                                     |                       |
| 26. <i>Issue: Offset Programs</i>                                       | 11:15 a.m.—12:00 p.m. |
| • Environmental Community Perspective (Beckman)                         | 5 minutes             |
| • Regulated Community Perspective (Johns)                               | 5 minutes             |
| • Dialogue                                                              |                       |
| • Summary of consensus or agreement                                     |                       |

27. *Lunch Break* 12:00 p.m.—1:15 p.m.
28. *TMDL Report Writing Assignments (Ekstrom)* 1:15 p.m.—1:30 p.m.
- Draft report needs to be completed by 10/14/00
  - Introduction (who will write?)
  - Background (who will write?)
  - TMDL Recommendations (who will write?)
29. *PAG Report on Ambient Monitoring* 1:30 p.m.—2:45 p.m.
- The Draft Report will be distributed at the meeting.
  - Regulated Community Perspective (Johns) 5 minutes
  - Environmental Community Perspective (Beckman) 5 minutes
  - Dialogue
  - Action Item: Consider approval of Report
30. *Wrap-up, Public Comment, Adjourn* 2:45 p.m. — 3:00 p.m.

## AB 982 Public Advisory Group

Meeting Held August 11, 2000  
Hearing Room, State Water Resources Control Board  
Sacramento, California

### Meeting Summary

August 11, 2000

**Welcome and Convene Meeting:** Co-chairs Craig Johns and Steve Fleischli (David Beckman's alternate) convened the meeting at 9:15 am and declared a quorum.

Co-Chair Fleischli noted that Greg Karras had announced his resignation and that Lynn Barris would assume his position on PAG. Craig Wilson noted that Karras should submit his resignation in writing to Ed Anton, Executive Director of the SWRCB.

**Summary of June 16, 2000 meeting:** Several amendments were made to the Summary, which was then approved by consensus. The revised Summary will be made available to PAG members.

**Proposal for a Comprehensive Surface Water Quality Monitoring Program – Update on the Scientific Advisory Group (SAG) meeting held on August 10, 2000:** Concerns were expressed by several members (from both caucuses) that their views are not being adequately captured by staff, especially those views that received consensus support. For example, PAG has reached consensus that the monitoring plan should be needs-driven (as opposed to budget-driven), i.e., a baseline analysis of all waters needs to occur, from which certain polluted waters are listed. This stands in contrast to the staff approach which, according to PAG, is to attend to known polluted waters based on current available funding. PAG argued that this approach will not result in the identification of clean or threatened waters.

The outcome of the discussion was an agreement reached by consensus that Vicki Conway and Leslie Mintz will write a letter to the Board expressing their concern that many of PAG's consensus items are not being taken seriously and requesting a meeting with the Board. The letter will also highlight areas where PAG has been successful in its efforts.

It was also agreed to by consensus that there should be space in the monitoring report (not the appendix) for specific PAG comments.

**Workplan to Organize the PAG Review of the SWRCB Activities:** A few revisions were made to the proposed workplan:

- On goal #3, it should read, "Provide timely written input...."



- On task #4 line one, replace “the final” with “another.” At the end of the sentence, add “Provide written comments.”
- Task #7 should receive high priority at the September meeting.

Also, it was acknowledged that PAG will need more meeting time to accomplish its goals of advising the SWRCB on the two reports to the Legislature in November. The following schedule changes were made:

- The September meeting (originally scheduled for 9/14 and 9/15) will now be a three day meeting, to be held on September 13, 14 and 15.

**Note: The September meeting will be in San Diego. A block of rooms is being held at the Bristol Hotel (619/232-6141).**

- The October meeting (originally scheduled, if needed, for 10/12 and 10/13) will now be a three day meeting to be held on October 18, 19 and 20<sup>1</sup>. This meeting will be held in Northern California, location to be determined.

Subcommittees were formed to write PAG sections for the two reports to the Legislature. The subcommittee to write the PAG section for the Structure and Effectiveness report are: Dave Paradies, Donna Meyers, Linda Sheehan, Vicki Conway, Jim Scanlin and Mark Rentz. The subcommittee to write the PAG section for the Monitoring report are: Bobbi Larson, Tess Dunham, Dave Tucker, David Beckman, Bruce Resnik and Leslie Mintz.

**Presentation by EPA Staff (David Smith) on their “California TMDL Program**

**Review:** David Smith indicated that California needs to embark on two “paradigm shifts” – (a) it needs to learn to develop and adopt TMDLs on schedule, and (b) it needs to do this within its budgetary means. Smith went on to identify several barriers that California should address, including:

1. Institutional Barriers:

- The Basin Plan approval process is inefficient (California has the most onerous TMDL process in the country).
- There’s a lack of accountability to get decisions made at the institutional level.
- There’s an open ended and imprecise commitment to watershed management to develop TMDLs.
- There’s uneven senior leadership commitment.
- Accountability systems are not in place – they must come from the top.

---

<sup>1</sup> After discussions with the PAG Co-Chairs, the meeting dates will be **October 25, 26, and 27**.

- It's good that California has acquired more funding, but funding is not the fundamental barrier – the main barrier is the inefficiency of the TMDL process.
- But clearly more funding for listing is needed.
- Efficient contracting mechanisms are not in place in order to spend “real money.”
- The State needs to figure out how to complete moderately complex TMDLs.
- The State has not allocated enough funding for the listing process.

## 2. Technical Barriers

- TMDLs are complex, but don't expect expert, brilliant science because in many cases it doesn't exist. There's not time or resources for “cutting edge” science.
- TMDLs are basically an engineering exercise and sometimes TMDLs will have to be completed without full understanding.
- There are great limitations in the amounts and kinds of data available for listing and TMDL development.

Smith offered the following recommendations:

- Recognize improvements that have been made.
- Underscore the urgency for decision-making, e.g., listing. The State needs to set and follow clear decision processes in order to be more predictable. The State should avoid making up the process as we go.
- Determine early in the TMDL process how much stakeholder input is needed.
- California needs to educate/inform Board Members better so there is better policy leadership.
- Develop tighter accountability mechanisms so that money is spent wisely and with fewer delays.
- Provide adequate training for new staff.
- Streamline the decision-making process (e.g., the Basin Planning process is tedious). Perhaps the State should use a process for developing TMDLs that is similar to the NPDES permitting process.

- Don't overreach, i.e., don't try to fix problems that other programs are responsible for.
- Do not complicate the listing process
- Do not expect water quality standards to result from TMDLs.
- Do not precede all TMDL development with confirmation work especially those associated with TMDLs required by consent decree.
- Do not recommend a detailed stakeholder process.
- Be realistic about the level of science that can be used in TMDLs.

Smith concluded by saying that the EPA has no plans to do TMDLs in California. While it holds that option it feels California is heading in the right direction.

Discussion with PAG followed Smith's comments.

**Draft Staff Report on the Structure and Effectiveness of the State's Water Quality Program as it Relates to Implementation of Clean Water Act Section 303(d):** PAG members' comments on the draft report included:

- The report is still more of an outline than a report.
- There should be more emphasis on effectiveness and next steps, and less emphasis on structure.
- It appears that there's a reluctance to commit to a course of action – the tone should reflect ownership and commitment.
- Be candid about the goal of the program, and honest about what's wrong with the current program. Be introspective. Include more evaluation.
- Why aren't PAG consensus reports conspicuously written into the report? Suggestion: look at the report and insert in the appropriate places PAG's consensus points.
- There could be a more logical structure to the report, emphasizing the main subjects: structure, effectiveness/evaluation, and next steps.

Two decisions were reached: (1) as soon as possible staff will issue another draft to PAG; PAG members will turnaround their comments in two days; the next iteration of the report, incorporation of PAG's comments, will be available for the September meeting, and (2) Leslie Mintz and Tess Dunham will write a letter to the SWRCB indicating where they think PAG's consensus items could be inserted and will suggest a different structure for the report.

**Continued discussion of Issues Related to TMDLs:** Guided by the workplan adopted earlier in the meeting, selected topics were discussed. The PAG showed their level of agreement by a show of hands of the members present. The facilitator estimated the level of agreement.

### Role of Science in Preparing TMDLs

There was consensus agreement that the State Board and Regional Boards need an efficient process for the acquisition and retention of necessary scientific and technical expertise.

#### 1. High agreement

- Adaptive management is a mechanism to allow additional “science” to enter the system or process.
- There needs to be a sound base of information in decision making.
- We do not need ultimate science, just adequate science.
- “SWAT Teams” of scientists may help make scientific information more available.

#### 2. Moderate agreement

- Use best science readily available.
- Zero discharge may not solve perceived problems.
- If we do not understand science well enough, discharging should not be allowed.

#### 3. Low Agreement

- New science should be developed to the extent deadlines are met.
- Assess what science is being used.

### Public and stakeholder participation in the development of TMDLs

There was consensus agreement to the following statement: “Publish schedules for the start of stakeholder opportunities or process.”

1. High Agreement

The public/stakeholders should be involved at the scoping stage of TMDL development.

2. Moderate Agreement

- Cannot do TMDLs without stakeholder opportunity.
- Need opportunity to present information into stakeholder opportunity.

**Public Forum:** Members of the public were asked to comment. None chose to do so.

**Adjourn:** The meeting was adjourned at 4:30 p.m..

**AB 982 PUBLIC ADVISORY GROUP****WORKPLAN****AUGUST, ~~OCTOBER~~, 2000 – JANUARY, 2001*****Goals***

1. Provide ~~comments and~~ advice and recommendations to the State Water Resources Control Board (SWRCB) on the structure and effectiveness of the State's efforts to implement Clean Water Act Section 303(d).
2. Provide timely written input to the SWRCB on the structure and effectiveness ~~report~~ of the State's Total Maximum Daily Load (TMDL) efforts.
3. Provide timely written input to the SWRCB on the ~~proposal for a~~ comprehensive ambient surface water monitoring program.

**Assumptions**

1. The structure and effectiveness report (TMDL report) required by AB 982 will be submitted by January 30, 2001, instead of November 30, 2000.
2. The report on a comprehensive surface water quality monitoring program will be completed by the SWRCB for submittal to the Legislature by the November 30, 2000 deadline.
3. The Public Advisory Group (PAG) will develop reports presenting its recommendations to the SWRCB that are separate and apart from the reports being developed by the SWRCB.
4. The PAG will submit two separate reports: one report presenting recommendations on surface water quality monitoring and one report presenting recommendations on the TMDL efforts.
5. The PAG's reports will be appended the SWRCB's reports to the Legislature without changes but the SWRCB's reports cannot be shared or released until they have been approved by the Administration.

***Tasks***

Each of the following tasks will be implemented between August, 2000 and ~~October~~ January, 2001. The tasks to be accomplished are:

1. At the August meeting (August 11, 2000 in Sacramento), review the first draft of the SWRCB's report on the structure and effectiveness of the implementation of Section

303(d). Provide comments and feed back on listing, TMDL elements, process for developing TMDLs, TMDL implementation, and assessment of TMDL effectiveness.

2. At the August meeting, establish a PAG subcommittee to write the PAG findings and recommendations to the SWRCB.
3. At the August meeting, develop comments, consensus points, and/or options on the following issues:

Role of science in preparing TMDLs  
~~Implementation Plan to Achieve Pollutant Reductions~~  
 Stakeholder and Technical Advisory Groups  
 Public Participation in the development of TMDLs

4. ~~At September meeting (September 14-15, 2000 in San Diego), review the final draft of the SWRCB's proposal for a comprehensive ambient surface water monitoring program. At September meeting (September 13-15, 2000 in San Diego), review and revise, as needed, the PAG's report to the SWRCB on their recommendations on ambient monitoring. Approve the PAG report.~~
5. ~~At September meeting, review the second draft of the SWRCB's report on the structure and effectiveness of the implementation of Section 303(d). Provide comments and feed back on elements of the report. At the September meeting, develop comments consensus points, and/or options on the following issue: Implementation Plan to Achieve Pollutant Reductions.~~
6. At September meeting, review ~~comments developed on the various issues discussed over the past three months. The PAG will assess areas of agreement and disagreement. The discussion and consensus points for the following issues will be discussed: ~~comments developed for:~~~~

Legacy contamination  
 Offset Programs  
 Targets, Wasteload Allocations, Load Allocations  
 Appropriate timeframes for completion of TMDLs  
 Role of science in preparing TMDLs  
 Implementation Plan to Achieve Pollutant Reductions  
 Stakeholder and Technical Advisory Group  
 Public Participation

7. At September meeting, begin development of a ~~review~~ draft ~~report to the SWRCB on the~~ PAG findings, recommendations, and/or conclusions on the State's TMDL efforts. ~~to be submitted to the SWRCB and included in the State's report.~~

8. The PAG co-chairs and/or selected members will formally present the PAG's report to the SWRCB on ambient monitoring. The report will be presented at the October 4, 2000 SWRCB Workshop in Sacramento.
9. In October (meeting scheduled for October 12 and 13), submit final recommendations and review final draft of the State's Report. At October meeting (October 25-27, 2000 in the San Francisco Bay area), review and revise, as needed, the PAG's report(s) to the SWRCB on their recommendations on TMDLs. Approve the PAG report(s).
10. The PAG co-chairs and/or selected members will formally present the PAG's report to the SWRCB on TMDLs. The report will be presented at a SWRCB Board Meeting scheduled for November 16, 2000 in Sacramento.
11. If needed, a meeting the PAG will be scheduled in January 2001. This meeting will take place subsequent to the release of the SWRCB reports to determine if the PAG wishes to develop additional comments for public release.



## **ISSUE PAPER: AGENDA ITEM 7**

### **Listing Sites on the Section 303(d) List**

#### **Consensus Points**

1. The State Water Resources Control Board should formally adopt a Policy, and a means to implement the Policy, for the Regional Water Quality Control Boards on what constitutes reasonable minimum acceptable credible information. The Policy should also include the methods for determining whether to list or delist water segments on the Section 303(d) list consistent with Federal law.
2. The State Water Resources Control Board should formally adopt a Policy to maximize the Regional Water Quality Control Boards consideration of existing data during the 303(d) process.

## ISSUE PAPER: AGENDA ITEM 9

### Appropriate Time Periods for Completing TMDLs

#### Discussion Points

1. Long timeframes in the new TMDL rule are too long.
2. Need to carefully lay out schedule to get TMDLs completed (may not have time for a stakeholder process).
3. Could use stakeholder process during implementation phase.
4. Cannot compromise good scientific peer review process though.
5. Use appropriate stakeholder process (1-2 meetings).
6. Approximately 1,400 TMDL's must be completed. RWQCBs beginning to group pollutants for TMDLs (e.g., Los Angeles Region has grouped pollutants into 60-70 groups).
7. Full stakeholder process takes a tremendous amount of time but that's how cities and counties do business in the 21<sup>st</sup> century.
8. Discussions were held on TMDL groupings (addressing multiple drainages in one TMDL) so TMDLs can be done more quickly. There were objections to this idea.
9. Complexity of TMDLs requires input of interested parties (but stakeholder consensus not required or frequent group meetings are not required).
10. Stakeholder process could be based on CEQA approach.
11. Proposal: The Boards would take comments on a scoping document on the TMDL, then the Board would develop and then take comment on the actual TMDL.
12. TMDLs should not be based on consensus, but everyone needs to be heard.
13. Stakeholder processes have a strong "public outreach" benefit. Stakeholder processes can be misused, can be inequitable, and can be inefficient and subversive.
14. Other way to assist in completing TMDLs more quickly:
  - A. Training (such as EPA's Water Quality Academy),

- B. “Tech Centers” (which would allow RWQCBs to share information and approaches), remove the SWRCB from the TMDL approval list,
- C. “Strike forces” or teams of SWRCB staff with specific expertise (e.g., nutrients, metals, sedimentation, etc.) that could address TMDL development in Regions,
- D. Bring in staff from other agencies to assist in TMDL development (e.g., on pesticide issues), and
- E. Start some difficult TMDLs early as opposed to tackling the easy ones only at first (makes schedule more realistic).
- F. Send completed TMDLs to OAL and EPA unless there is an appeal (this would require a change in the Water Code).

## Consensus Points

1. TMDLs should be established and implemented in accordance with the Clean Water Act, and where applicable, the Porter Cologne Water Quality Control Act and other relevant state and federal laws.
2. State and Regional Boards should accelerate the development of high priority TMDLs and the legislature should provide adequate funding to accomplish that goal.
3. PAG finds that there are inadequate resources for the state to fulfill its obligation under the TMDL program. Therefore, PAG recommends there be adequate resources for the development and implementation of effective TMDLs statewide. Further, PAG recommends that the Regional Boards assess and request resource needs for an adequate 303(d) listing process and TMDL development/implementation through the State Board from the Legislature.
4. Regional Water Quality Control Boards must maintain active oversight over TMDL development sufficient to assure unbiased technical assessment.
5. The PAG encourages the RWQCBs to consider TMDL development when approving Supplemental Environmental Projects (SEPs) not otherwise legally required of dischargers.
6. The SWRCB and RWQCBs should allocate adequate resources and staff positions to develop and maintain appropriate TMDL expertise in-house.
7. The SWRCB and RWQCBs need an efficient process for acquisition and retention of necessary scientific and technical expertise.

8. The SWRCB should establish an integrated, complementary and not conflicting approach to implement the State's Section 303(d) responsibilities and to attain water quality standards.

### Point Approved by Vote

PAG supports immediate establishment of high priority TMDLs in accordance with law, and requests appropriate funding from the Legislature.

## ISSUE PAPER: AGENDA ITEM 13

### Confirmation of Impairment

#### Discussion Points

The SWRCB should develop specific guidance on TMDL problem statements.

Range of Considerations:

1. If the data are old, make sure the impairment is still there.
2. If the listing is based on a small amount of information, reaffirm the problem in the problem statement.
3. The problem statement should substantiate/discuss the water quality impairment determination.
4. No confirmation of impairment is appropriate or necessary.

Need clear, consistent listing criteria Policy in the future. The Policy should contain pre-TMDL delisting criteria to allow the regulated and environmental communities to evaluate the existence of the water quality problem.

The TMDL process is established in the CWA and cannot be used for all purposes. The TMDL process is separate from other processes such as triennial review, site-specific objectives, and use attainability analysis.

#### Consensus Points

None.

## **ISSUE PAPER: AGENDA ITEM 15**

### **Stakeholder and Technical Advisory Group; Public Participation**

#### Discussion Points

1. High Agreement

The public/stakeholders should be involved at the scoping stage of TMDL development.

2. Moderate Agreement

A. Cannot do TMDLs without stakeholder opportunity.

B. Need opportunity to present information into stakeholder opportunity.

3. Low Agreement

SWRCB and RWQCBs should use the legal process for Basin Plan amendment only.

#### Consensus Points

1. Develop a mechanism, including funding, to encourage and maintain balanced stakeholder representation, and assure that stakeholders are afforded the opportunity to participate meaningfully, in accordance with TMDL deadlines.
2. Publish schedules for start of stakeholder opportunity or process.

## **ISSUE PAPER: AGENDA ITEM 17**

### **Implementation Plan to Achieve Pollutant Reductions**

To be completed after discussions related to Agenda Item 4.

## **ISSUE PAPER: AGENDA ITEM 19**

### **Role of Science in Preparing TMDLs**

#### Discussion Points

1. High agreement
  - A. Adaptive management is a mechanism to allow additional “science” to enter the system or process.
  - B. There needs to be a sound base of information in decision making.
  - C. We do not need ultimate science, just adequate science.
  - D. “SWAT Teams” of scientists may help make scientific information more available.
2. Moderate agreement
  - A. Use best science readily available.
  - B. Zero discharge may not solve perceived problems.
  - C. If we do not understand science well enough, discharging should not be allowed.
3. Low Agreement
  - A. New science should be developed to the extent deadlines are met.
  - B. Assess what science is being used.

#### Consensus Points

1. Encourage, where appropriate, early external peer review.



## ISSUE PAPER: AGENDA ITEM 23

### TMDL Targets, Waste Load Allocations, and Load Allocations

#### Discussion Points

There is an absolute requirement for considering economics in the implementation of agriculture program and water quality objectives.

“Economics” needs to be considered in development of TMDLs.

“Economics” does not/may not be considered.

Range of Options:

1. Do not consider economics (to do so would make adoption of TMDLs too slow, not a part of the Clean Water Act (CWA) process for developing TMDLs).
2. Reconsider adopted water quality objectives with respect to Water Code Section 13241.
3. Consider economics (Section 13241) for water quality objectives when the TMDL target is developed.
4. Consider economics in the development of targets, waste load allocations, and load allocations.
5. Consider economics at the implementation stage. No economics analysis in TMDL (if to be considered at all, belongs at end of process).

#### Consensus Points

None.

## **ISSUE PAPER: AGENDA ITEM 25**

### **Legacy Contributions of Pollutant Loads**

#### **Discussion Points**

It is very important to address legacy sources of pollution or contamination in the Regional Board's decision process in developing waste load allocations and load allocations.

Range of Options:

1. Include legacy contamination in establishing waste load allocations and load allocations (split load among nonpoint source/point source).
2. Address legacy contamination as a separate source. If responsible discharger is unknown, government agencies should address the problem.

#### **Consensus Points**

None.

## ISSUE PAPER: AGENDA ITEM 26

### Offset Programs

#### Discussion Points

1. Both the environmental and regulatory communities do not like Offset Programs but for different reasons.
2. Offset Programs can be a voluntary option.
3. Many accountability issues need to be resolved: How do they work? If goals are not met, who receives enforcement action?
4. The State should not propose any specific offset program but should not hobble RWQCBs from using them.
5. State should be “constructively silent” with respect to offset programs.
6. Dairy industry apprehensive but will look at it.
7. An agency needs to manage offset program.
8. Offsets should focus on the “orphan share” pollutants or problems. Should not be able to offset the share an individual discharger is responsible for anyway, i.e., you would not be getting “something extra” if this were allowed.
9. If done at all, offset program should be in the same watershed.

#### Consensus Points

None