

California Regional Water Quality Control Board
Santa Ana Region

May 31, 2002

ITEM: 26

SUBJECT: Executive Officer's Report

DISCUSSION:

1. Schedule of Milestone Dates for Board Consideration of Basin Plan

Amendments for N/TDS Objectives– We are now in the final stages of development of proposed Basin Plan amendments to implement the findings and recommendations of the N/TDS Task Force. In fact, an important component of that work, the waste load allocations, is the subject of a separate item on today's agenda. The purpose of this Executive Officer's Report item is to discuss proposed dates for a workshop and a hearing for the basin plan amendments. We need to determine board member availability before locking any dates into our schedule.

We are proposing to schedule a workshop for the proposed basin plan amendments for the regular board meeting scheduled for Tuesday, December 3, 2002. You will recall that the December board meeting was scheduled on a Tuesday, in order to have a date that maximizes board member availability in December. We expect that there will be a number of interested parties who will take this opportunity to provide input to the board. As a result, we believe that the December 3rd regular board meeting will last most of the day. This meeting is scheduled for Loma Linda.

We are currently scheduled to release the draft basin plan amendments for public review and comment late in October. We will ask for written comments by December 6th. This will give stakeholders six weeks to review the proposed amendments and provide written comments to the board.

Public notice requirements then dictate that the hearing for consideration of adoption of the amendments be scheduled after mid-January, 2003. On May 31st we will discuss potential meeting dates that maximize board member availability for a hearing.

2. State Board Hearing on NRDC Petition Related to Vila Borba –

At its hearing on May 16, 2002, the State Water Resources Control Board adopted an Order regarding the Vila Borba project. The Order was adopted in

response to the petition by the Natural Resources Defense Council (NRDC), Defend the Bay, Paulette Hawkins et al. challenging the Regional Board's June 1, 2001 decision to grant Clean Water Act Section 401 water quality standards certification for the project, contingent on the submittal of additional technical information. The petition argued principally that the Regional Board had failed to comply with CEQA. The State Board Order agrees with this assertion and directs the Regional Board to assure CEQA compliance and to consider regulation of the project via waste discharge requirements, if the project applicant (Mary Parente) elects to pursue the project. (No fully approved project is pending. If Ms. Parente wishes to pursue a project, she will need to restart the approval process with the City of Chino Hills. The City would be the lead agency for CEQA purposes. We understand that the City is aware of and intends to address the deficiencies evident in its CEQA processing of the original Vila Borba project.)

Consideration of the State Board Order was not without some controversy. Ms. Parente's attorney made a number of arguments that there was no need for the Order, in light of the facts that (1) there is no pending project, and (2) the Corps of Engineers has issued a Clean Water Act Section 404 permit for the project. He recommended major substantive changes to the Order. The State Board accepted some of these changes, but rejected most. The State Board also accepted the recommendations of NRDC to include explicit language that CEQA requirements had not been met.

3. **Children's Drinking Water Festival** – During the week of May 6th, Regional Board staff again participated in one of our most important annual public education outreach efforts, the Children's Drinking Water Festival. Our participation is consistent with and implements an important strategic project in the State and Regional Boards Strategic Plan. The Festival is jointly sponsored by the Orange County Groundwater Guardians (public water supply agencies led by Orange County Water District), the Disney Corporation and other public and private organizations. This is an enormous undertaking where an estimated 7,000 students (3rd through 5th grades), over 3 days, are taught about various aspects of water quality and potential sources of water pollution. There are dozens of stations under large party-type tent shelters where classes of 20-25 students participate in hands-on activities. At the regional board "booth" (Water Cops on Duty), staff worked with the kids to build ground water aquifers in pans, including wells made from soap pumps. Colored water "pollutants" were then added to the aquifer, and the students saw how ground water can become polluted and how water moves in an aquifer. Other demonstrations at the Festival dealt with recycling, endangered habitat, wetlands, wastewater treatment and many other water quality related topics. The presentations by the many public and private water quality and environmental organizations appeared to be very well received by the students, and the efforts and dedication of the presenters were inspiring.

- 4. Chino Basin Water Quality Briefing for USDA Deputy Under Secretary R. Mack Gray** – On May 15th, I participated in a briefing concerning water quality, dairies, cleanup strategies, and inter-agency cooperation in the Chino Basin for Deputy Under Secretary R. Mack Gray of the USDA. Deputy Under Secretary Gray was appointed by the Bush administration to address issues of urban-agriculture conflicts, and he has particular interest and expertise in dairy water quality and air quality matters. Presentations were made by John Rossi, the Chief Executive Officer of the Chino Basin Watermaster, Rich Attwater, General Manager of the Inland Empire Utilities Agency, Bob Feenstra of the Milk Producers Council, and a very thought-provoking talk was given by Geoff Vanden Heuvel, a local dairyman. I was asked to speak about the regulatory issues in the Chino Basin and the maximum benefit approach being developed for new water quality objectives in the basin. My comments included a discussion of the general NPDES permit for dairies, the similarities of the board's approach to that which will be taken by USEPA-USDA when the national regulatory program for confined animals is promulgated, and the board's engineered waste management plans. Deputy Under Secretary Gray made a presentation comparing the Chino Basin problems to those being experienced by the urban-agriculture interface throughout the county. He made particular comments expressing his support for the approach taken by the Regional Board in regulating dairies in the region.

- 5. Orange County Sanitation District (OCSD) Board Meeting Presentations of Findings from Scientific Investigation of Beach Closures in Orange County** – For the past two years, OCSD has spent over \$5 million on a number of scientific investigations concerning the potential that bacteria from the OCSD outfall are responsible for beach closures in Huntington Beach. They have also led a number of other efforts investigating potential on-shore sources of bacteria. Among the principal investigators for these studies are the most respected researchers in the country in the fields of physical oceanography, transport and dilution processes, and bacterial and virus measurement and modeling. In June, the OCSD board will be asked to make a decision concerning the level of treatment that they will be seeking for the renewal of their NPDES permit. The existing OCSD NPDES permit expires in June, 2003.

On May 15th, the investigators and researchers presented to the OCSD board more than three hours of testimony concerning their findings to date. The report was broken up into two independent segments. The first segment was presented by the researchers and investigators, and the second was a report from an independent peer review panel established just to independently review the work of the principal investigators. The bottom line is that there appears to be no one main source or cause for the beach bacterial contamination. Further, the investigators reported that, "We have not yet found a connection between coastal ocean processes and bacterial contamination on the beaches." These studies

were developed with the input of all of the stakeholders who wished to provide scientific, engineering or environmental input. There were more than 50,000 samples collected from the surf zone and off shore, both up coast and down coast of the outfall. The plume was pretty clearly tracked, but bacteria from the outfall were never found at the surface closer to shore than one-half mile, and Ocean Plan standards were not violated in that instance. It was, however, found one time at depth within one-quarter mile of shore in the Newport Canyon, but it did not reach the surface.

Regardless of these findings, the District has committed to proceed to implement disinfection. This decision is independent of the treatment level that will eventually be requested by the District. They have reported that they will disinfect to achieve Ocean Plan standards at the zone of initial dilution (at depth around the outfall discharge point). If Ocean Plan standards are met at the zone of initial dilution, bacteria concentrations will be significantly lower as the plume migrates from the discharge point.

At the OCSD board meeting in June, the OCSD directors will be asked to make a decision on the level of treatment that will be included in their application for renewal of their permit. We will continue to closely follow this decision.

6. **Prioritization/Problem-Solving Pilot Project** – On May 13-14, staff attended a session with Malcolm Sparrow, a professor at Harvard's John F. Kennedy School of Government and author of "The Regulatory Craft." The purpose of the session was to help the Regional Boards further develop their specific projects as part of the State Board's Prioritization/Problem-Solving Pilot Project (this was discussed at the Board's April 26th meeting). As part of the session, staff selected a single project for additional development. That project would involve control of bacterial contamination of ocean waters in the Huntington Beach area, and by the end of the session staff developed a draft problem statement and performance measures for the project. We received positive feedback from Dr. Sparrow on the problem statement and performance measures. Based on the success of this preliminary work, we propose to proceed with this project. The next milestone in project development will be the preparation of an action plan by June 30th. We will report to the Board regularly on the progress of this project.