

MINUTES
REGULAR MEETING
Friday, July 10, 2009
Central Coast Regional Water Board

Vice-Chair Russell Jefferies called the meeting of the Central Coast Water Board to order at 8:30 a.m. on Friday, July 10, 2009, at the Watsonville City Council Chambers, 275 Main Street, Watsonville, California.

12. Consideration of a resolution approving the 2008 303(d) List of Impaired Waterbodies of the Central Coast Region..... Board Approval

Water Board Environmental Scientist Mary Adams presented the changes to the 303(d) List of Impaired Waterbodies. Staff compared all available data to all criteria relevant to Beneficial Use protection. Staff evaluated data for 347 waterbodies including beaches, streams, harbors and lakes. Staff recommended increasing the total number of waterbody pollutants on the List to 704 (from 222) and removal of a total of 49 waterbody pollutant combination from the List. Staff presented a summary of the pollutants causing impairment to Beneficial Uses including the following: 198 recommended listings for pathogen indicators (i.e. fecal coliform and *E. coli*), 213 listings for toxicants (i.e. toxicity, pesticides and nutrients), 261 listings for conventionals including dissolved oxygen, turbidity, pH and salts, 32 listings for sediment and 2 unique listings in Pinto lake (one for scum/foam and one for Microcystin, a toxin produced by blue green algae). Forty-six of the listings are already being addressed by USEPA TMDLs.

In the presentation to the Board, staff also described the spatial distribution of the water quality impairments in the Region. Beneficial Uses in all waters of the lower Salinas, Santa Maria and Pajaro watershed are impaired by multiple pollutants, primarily pathogen indicators and toxicants. There are also several waterbodies with one or more Beneficial Use impairment in the South Coast watershed area (Santa Barbara County between Rincon Creek and Jalama Creek). The majority of the impairments in this area are due to pathogen indicators and conventional pollutants. Staff prioritized the 705 listings, considering the magnitude of the problem, the number of Beneficial Uses affected and TMDL projects already in progress. As a result, staff has given high priority to Lower Salinas and Santa Maria watersheds as well as pathogen indicator listings in Santa Cruz, Pajaro and Santa Barbara watersheds. Staff presentation, which included several questions and clarifications, took 24 minutes.

During the presentation, Board Member Dr. Hunter asked if we have any waterbodies that do not have any designated beneficial use. Staff responded that all waterbodies do have beneficial uses designated. The Basin Plan states that all waterbodies are designated Municipal and Domestic Supply, Recreation and Aquatic Life beneficial uses unless they are listed in table 2-1 of the Basin Plan and are therefore designated specific beneficial uses. Board member Shallcross asked how would a person change

the beneficial uses designated for a waterbody. Staff responded that the triennial review process is the appropriate process for Basin Plan amendments such as beneficial use designation changes.

Following the staff presentation, Board members had several comments and questions. Board member Hodgin stated that he was impressed with the effort that went into developing the data and is impressed with the number of listings. Mr. Hodgin asked staff to comment on the limited resources available to staff and how we plan to proceed to address all the listings. Staff reiterated the tools we have available to us to address multiple listings at the same time, including addressing a suite of listings in one TMDL project, working with other program staff to address multiple listings in advance and in coordination with TMDL development. Most importantly, staff has already made progress on several of the individual listings based on our former List. This will take additional work but we believe we will have increased efficiency because there is coordination among programs. We're just going to have to be more efficient with the resources we have and were only going to be able to accomplish what we can accomplish, so we are trying to be thoughtful about that.

Board Member Dr. Hunter echoed the compliments to the staff for not only the enormous amount of work but also the presentation and the great organization of the information. Dr. Hunter stated that she really appreciates the summary of public comment coupled with the staff response. She asked about the comment made by Monterey Coast Keeper asking to add Monterey Bay for Dieldrin as well as comments by Paul Michele from NOAA with concerns of the shifting that occurs in prioritization as the successive list comes out and suddenly a very high priority issue for Monterey Bay is shifted down the list by something else that is going on somewhere else.

Lisa McCann responded to question about shifting priority and stated that several of the listings that are included in the suite of listings that are high priority are continuation of projects that we had already initiated.

Mary Adams responded to question about Monterey Bay Listings and stated that we did not call the waterbody Monterey Bay to be consistent with the Basin Plan, which identifies 13 coastal segments. The data mentioned in the comment letter from NOAA is for the northern most coastal section, Pacific Ocean between Point Año Nuevo and Soquel Point. This coastal segment is now listed for Dieldrin.

Board Member O'Malley complimented staff and stated he was impressed with the thoroughness of staff and the responsiveness to public comments and a good job of prioritization. Suggest for the future that staff share more with the public about the prioritization process.

Board member Shallcross stated that the staff report was "incredibly informative". He also stated that it is really important that we have a good list that is defensible as this is the kind of information we need to decide what we are going to do next and improve water quality. Mr. Shallcross thanked staff for being so knowledgeable and for doing a great job on the presentation. Staff thanked the Board Members and acknowledged the team who has contributed to the effort.

Vice Chair Jeffries began the public comment for this item.

Steve Shimek, Monterey Coast Keeper stated that working with Karen Worcester, Mary Adams and Dave Paradies has been a “complete pleasure”. Mr. Shimek stated we are supportive of the decisions with on exception, the recommendation to de-list San Vicente Creek. This is because the data that supports the de-listing was submitted 2 weeks prior to the Board meeting and there has been no public review of this. Mr. Shimek suggest to leave San Vicente Creek listed and be addressed in the next cycle as the public has not have the opportunity to review the data and information. In addition, Mr. Shimek supportive of the 1.0 mg/L nitrate guideline for aquatic life but stated that this is just a first step and this guideline will likely be improved upon and based on the literature could be even lower.

Michael Duffy, Capitola Resident, stated that in working with staff he found Mary Adams to be both professional and fair and that her decisions are based on the analysis of the data. He supports a fact based process but is concerned that the 303(d) process allows for small amounts of data to result in far reaching implications. He generally supports staff recommendations including the San Vicente Creek recommendation to de-list.

Traci Roberts, Monterey County Farm Bureau, stated “wow, what a great job”. This has given the public a better sense of what is the issue in each water way and will help a lot in participation in the TMDL process. Requests that staff expand on the stakeholder process in spite of the cutbacks and limited resources as farmers want to be involved in the planning process. Board member Dr. Hunter asked if the Farm Bureau is conducting smaller scale and issue orientated meetings to educate the stakeholders and could use this as a tool. Ms Roberts stated that yes in fact this is happening and wants to expand this role for the Farm Bureau. Working with the Water Quality Coalition is an aspect of this.

Kay Mercer, Also Comments Mary, Karen and Dave. Stated that the presentation addressed all her comments from the 2006 List. Ms. Mercer stated that she has just learned that the average cost for TMDL development is \$600,000. The question she has for staff is weather there is a cost benefit analysis in the process? Stakeholder involvement and needing to do some of their own work externally in this situation where there are financial constraints. Ms. Mercer is perplexed as to how the coalition is going to facilitate stakeholder involvement with the level of TMDL development. How do we proceed considering the enormity of the prioritization? Dr Hunter stated that cost benefit analysis is water quality and also water supply so now you are talking about a commodity that is rare and costing more and more. When you’re looking at protecting water supply the balance starts to go in one direction.

Carol Carson, Environmental Educator, Valley Women’s Club, Boulder Creek watershed resident. Ms. Carson expressed concern for delisting tributaries to the San Lorenzo River for Sediment as there is no supporting documentation for this. Ms.

Carson stated that the Valley Women's Club would be willing to collect data or information to support keeping these waters on the List. Mary Adams responded to this question and stated that this is just a misunderstanding of the information and in fact the tributaries to San Lorenzo River are not being delisted, they are being moved from the list of waters that require a TMDL to the list of waters that are being addressed by a TMDL. They will all remain on the list. This is shown in attachment 3 to the Agenda package. On Page one, Boulder Creek for example, is shown as being addressed. This means it is staying on the list, and is being addressed under the San Lorenzo River sedimentation TMDL (which included all tributaries).

Jodi Frediani, Sierra Club; Central Coast Forest Watch. Thanks staff for thorough assessment but states that it is not necessarily a good sign that we have so many listings. Ms. Frediani is very concerned about the de-listing of San Vicente Creek as she has not received any notification of this change. She is on the Lyris list and just found out about it this morning. She is concerned that the data was submitted only 11 days ago and after the close of the public comment period and that staff is recommending delisting. She has had not ability to review the data or respond. She encourages the Board to put this decision for San Vicente Creek forward to the next cycle.

Bob Berlage, Big Creek Lumber Company. Thanks staff for willingness to look at data. Big Creek Lumber strongly supports the de-listing for San Vicente Creek based on the 4 years of daily turbidity data. The 2006 decision to add San Vicente to the List of impaired waters was based on three months of daily data (December 2001, January 2002 and December 2002). In addition, Ms Frediani testified to the State Board that the source of the sediment was caused by timber harvest. The State Board changed the staff recommendation to list for sediment and add silviculture as a potential source. Mr. Berlage strongly urges the Board to support the de-listing because the listing has been used to attack timber harvest projects. If the Board waits 5 more years to revisit this and keep San Vicente Creek on the List based on the 3 months of cherry picked data this will continue to have negative impacts on Big Creek lumber company when in fact the listing is faulty.

Board member Shallcross asked staff to clarify the timefream for each revision to the 303(d) List. Staff stated that we are required to revise and submit to EPA the list every 2 years. However, there have been several delays in the past and it has often been 4-5 years. Board Member Shallcross asked when the data supporting the de-listing recommendation for San Vicente Creek was submitted. Staff stated June 29th, 2009, 10 days prior to the Public Hearing. Board Member Shallcross asked when the next update is scheduled to begin and staff stated this fall. Board Member Shallcross asked when the next update should come to the board and staff stated in 2 years for the 2010 List update. Board Member Shallcross asked what the public comment period requirement is and when it ended for this list. Staff stated that the public comment period requirement is 45 days and the public comment period ended on May 26th, 2009. Board Member Shallcross stated that therefore there had not been a 45 day public comment period for this data. Staff confirmed that to be true. Board Member Shallcross

asked if the recommendation to de-list was based solely on this data submitted on June 29th, 2009. Staff confirmed that to be true.

Roger Brigs asked staff to clarify the date window for the data used in this update to the List of Impaired Waterbodies. Staff stated that the public solicitation period ended in February of 2007. Therefore, the data assessed for this update was collected prior to February 2007. The data that was submitted for San Vicente Creek on June 29th, 2009 was for December 2002-February 2007, within the assessment time window.

Board member Shallcross stated that this does not change the fact that the San Vicente Creek data used for the recommendation to delist was submitted after the public comment period.

Gordon Hensley, San Luis Obispo Coastkeeper. Adds his kudos to staff. Stated that the recommendations are well founded both in the evidence and the science and he urges the board to approve. He closes with a quote from Dave Paradies, "water shouldn't kill the things that live in it."

Robert Ketley, City of Watsonville. Thanks staff for the productive working environment. Asks the Board to change Pinto Lake from a low priority to a high priority for TMDL development because it is a recreation area for boating, fishing etc and is listed for Blue Green Algal Toxins. Mr. Ketley showed two pictures of the algal bloom and some data of the concentration of the Microcystin toxin at more than 2 million ppb and the World Health Organization guideline for recreation is 20 ppb. Please change the priority to high for this lake.

After request from Roger Briggs to clarify the low priority for Pinto Mary Adams stated that the lake is currently recommended to be added to the List of Impaired Waters for the blue green algal toxin as well as scum, chlorophyll a, dissolved oxygen and pH. The toxin is a human health risk. Dr. Hunter asked if the City is posting the lake for health warnings. Mr. Ketley confirmed that they are. Board member O'Malley expressed concern for picking and choosing the priorities when staff has already used their own prioritization process to identify high priority listings. Lisa expressed concern for changing the priority because we will need additional resources to address this problem. Board members Shallcross and Dr. Hunter support changing the priority to high but recognize concern for balancing choices. Lisa McCann changed staff recommendation to increase the priority of Pinto Lake listings to a high priority.

Kevin Collins, Lompico Watershed Conservancy. Did not ask anything of the Board.

Katherine Hudson Webb, Santa Cruz Resident. Showed two pictures of Crystal Creek with turbid water in winter storm flow. Stated that she is concerned about conflicting issues within Santa Cruz County. She did not ask the Board to do anything.

MOTION: Monica Hunter moved to approve Resolution No. R3-2009-0053 with two changes;1) do not de-list San Vicente Creek because this decision was not made prior

to the 45 day public comment period and 2) give high priority to Pinto Lake listings as the Microcystin toxin is a human health risk.

SECOND: Gary Shallcross

CARRIED: Three votes in favor of the motion and 2 opposed.