

**Beaches and Creeks TMDL Cost-Benefit Analysis
Steering Committee Meeting #2
August 27, 2015**

Committee Members Present

Jimmy Smith, San Diego Regional Water Quality Control Board
Chris Clark, San Diego County Taxpayers Association
Nabeel Qawasmi, City of San Diego Public Utilities Division (Alternate for Jeff Van Every)
Drew Kleis, City of San Diego
Todd Snyder, County of San Diego, Watershed Protection Program
Chris Crompton, County of Orange, Storm Water

Supporting Roles

Facilitator: Brock Bernstein
Bree Robertoy, Katz & Associates
Michelle Mata, San Diego Regional Water Quality Control Board
Amber Rogers, County of San Diego
Ruth Kolb, City of San Diego, Storm Water and Transportation
Cynthia Gorham, San Diego Regional Water Quality Control Board
Clint Boschen, Tetra Tech
Chris Minton, Larry Walker Associates

Aug. 6, 2015 Meeting Summary Review

- The committee did not have edits to the meeting summary.
- The action items were taken care of.
- The memorandum of understanding is being handled by a separate committee.

Charter Review

- J. Smith: The committee was not ready to approve the charter, as the members did not have sufficient time to review it. If the composition of the committee is nailed down by the next meeting, the committee may be able to ratify the charter then.
- A. Rogers is responsible for making changes to the charter.
- Changes regarding committee members or alternates should be sent to M. Mata.

Voting

- 'Quorum' needs to be defined in the charter.
 - T. Snyder: A quorum is typically half of the committee plus one.
 - Should ex officio members be counted towards the quorum?
 - J. Smith: No, it will slow the process down.
- 'Supermajority' should be defined in the charter as 60 percent of the entire committee plus one.
- Voting rules will depend on final membership.
- The San Diego Regional Water Quality Control Board (SDRWQCB) must be represented in a vote.

- If minimum participation is not met, voting should be deferred to either the following meeting or via electronic voting methods.
- J. Smith: The goal is still consensus. The final composition of the committee will also bear weight on how the Environmental Protection Agency (EPA) and state board feel about any decisions that are made.
- Interest groups are listed on page one of the charter. Each interest group has one vote. For example, the City of San Diego has more than one seat on the committee, but it only has one vote.

New Committee Members

- Matt O'Malley, Coastkeeper, declined to sit on the committee. He reached out to other environmental groups who declined to participate as well. The committee discussed alternative non-government organizations (NGOs) that might be willing to participate.
- J. Smith: Orange County Coastkeeper is larger than the San Diego chapter and might have the resources to participate in the committee.
- C. Clark: I've heard some interest from NGOs regarding participating in the committee and could assist with reaching out to them. Am I allowed to advertise that this opportunity exists?
- R. Kolb: The committee was intended to be small and to balance participation between different viewpoints, including government and non-government organizations.
- T. Snyder: Can we put a placeholder in the charter for NGOs and put "vacant" or "pending?"
- T. Snyder: Would the SDRWQCB be willing to reach out to some potential participants?
 - J. Smith: The usual players have been contacted already.
- T. Snyder: Could it be someone from the general public?
 - J. Smith: The committee would need to be careful about who it selects.
- R. Kolb: What about the Department of Public Health?
 - T. Snyder: The public could perceive that as too many County organizations.
- The San Diego State University Watershed Management Institute could be an option. Someone could reach out to Rick Gersberg or Trent Biggs.
 - R. Kolb volunteered to reach out to T. Biggs.
 - Academia is not an interest group identified in the charter.
- J. Smith: NGOs are distinct from academia in terms of the perspective they represent. Now that NGOs and the EPA are out, the SDRWQCB is the lone representative of the environmental perspective. Perhaps the charter should give the SDRWQCB veto power.
 - If another committee member can't be found, the SDRWQCB may be given veto power.
- Will the state board be satisfied if a decision is reached without NGO representation?
 - J. Smith: They've been silent so far.
- D. Kleis: It's frustrating to see such a lack of participation. The committee could reach out to water quality improvement project panel members (e.g., Trish Bose, Mike Hastings, Laura Hunter, or Eric Bolbeg), the River Park Foundation, Friends of the Canyons, or Wildcoast.
- B. Bernstein volunteered to reach out to the Los Angeles District of the Army Corps of Engineers.
- When reaching out to potential committee members, be sure to impress upon them the importance of regular meeting attendance.
- The cost-benefit analysis (CBA) will be a fairly technical product, so a potential member should have some understanding of the issues, while also being representative of the public.

Other

- C. Crompton: The charter should be revised to say non-attendance at three **consecutive** meetings is grounds for automatic withdrawal from the committee.
- T. Snyder: The charter needs to be cleaned up (e.g., remove duplications).
- D. Kleis: “Local regulatory agency” on page four of the charter should be changed to read “San Diego Regional Water Quality Control Board.”

Schedule Review

- J. Smith: The SDRWQCB feels two months is not enough time for the contractor to put together a durable and robust CBA. What is the driver behind having a tight schedule?
 - T. Snyder: The County of San Diego has planned for a 2016 reopener, and conducting the CBA is meant to help with policy decisions. The window for bacterial total maximum daily loads (TMDL) compliance is shrinking, along with the window for making decisions regarding funding.
 - J. Smith: The reopener is not a strict deadline. The SDRWQCB can write a ‘comfort’ letter to copermittees that states the board will not enforce TMDLs. The letter will not protect copermittees from third party litigation, however.
- R. Kolb: For the City of San Diego’s CBA, which was not accepted, it took two months to get the data together, which doesn’t include the time spent writing the study.
- T. Snyder: I propose that the committee aims to meet an aggressive timeline, but asks for the professional opinion of consultant.
- B. Bernstein: The schedule might be revised at steps 10 and 11, but there is no need to revise it until the committee obtains input from the consultant.
- C. Minton: The RFP needs to be worded carefully so consultants know the schedule is not fixed.
- D. Kleis: The copermittees should pull together an education program about what they are doing on the implementation side, particularly to show that they’re focusing on the most effective activities first. It could include a question-and-answer session with constituents.
- C. Crompton.: Is 30 days enough for a request for proposal (RFP)?
 - A. Rogers: That is a standard timeframe.
- T. Snyder: The process of selecting a contractor will not include a formal qualifications review, but will instead move directly to a selection committee after proposals are received. This is to streamline the process.

Strawman Scope of Work Review

- There will be an ad hoc meeting at the conclusion of the September 16 public meeting to review and finalize the scope of work (SOW).
- The committee will vote on the SOW at the next meeting on Oct. 2, 2015.
- Changes to the SOW should be sent to M. Mata who will delegate to A. Rogers as needed.
- Once the contract is awarded, the committee would work with the consultant to develop the SOW. The contractor’s first responsibility will be to identify the most important issues and process of performing the CBA.
- The SOW should include progress and work products, and identify costs and how resources will be used.
- T. Snyder: The SOW should say there might be alternatives (i.e., alternatives to compliance) and provide examples, as alternatives might not be intuitive to the consultant.

- T. Snyder: Task 2.1 seems to be a key decision point. The committee needs to identify some of the most valuable pathways prior to consultant selection to determine whether a consultant has the right experience.
- C. Minton: The consultant should provide enough documentation for the group to be able to evaluate other alternatives after the CBA is complete.
- An independent panel composed of industry and economics experts will conduct a technical review of the CBA both at the draft stage and the final stage. The same panel will be used throughout the process.
 - The selection of the independent panel should be added to the committee's schedule.
 - The panel may come from the National Water Research Institute.
 - The committee should identify the needs, skillsets and composition of the independent panel at the next meeting.
 - The panel could include the EPA or an epidemiologist.
- D. Kleis: Breadth of capabilities should be a consideration when choosing a contractor.
- C. Minton: The SOW could include an option to add subcontractors if needed.
- Is evaluating copermittee strategies part of the SOW?
- C. Crompton: The most important thing is having a flexible scope of work.

Public Meeting Discussion

- The meeting will be an open format.
- SDRWQCB should take the lead.
- An agenda should be sent out.
- D. Kleis: Titles and terms should be clear and uniform.
 - A distinction should be made between CBA and technical studies.
 - Drop "for the reasonability" from the project title in order to avoid perceived bias.
- C. Crompton: Creeks should be mentioned in addition to beaches.
- Expectations should be managed. For example, will a draft be released and subject to public comment at the end of the process? This could happen while the draft is under review by the independent panel.
- The meeting should include some general information about the schedule (i.e., components of the schedule, but not dates).
- D. Kleis is to send a potential list of items the public can provide input on at the meeting.
- Will a note taker be present at the meeting?
- Can Katz & Associates provide a facilitator?

Action Items

- All: Look for potential new environmental committee members.
- All: Review SOW and prepare comments/edits to bring to the meeting on Sept. 16. Send comments to Ruth prior to Sept. 16.
- A. Rogers: Make changes to the charter and submit to the committee at least ten days prior to the next meeting.
- M. Mata/A. Rogers: Make changes to the SOW and send to the committee at least ten days prior to the next meeting.