Newport Bay Fecal Coliform TMDL Stakeholder Group Meeting

Date and Time: July 27, 2017, 10:30 a.m. – 2:30 p.m.
Location: 3535 Harbor Blvd., Suite 110, Costa Mesa, CA 92626
Southern California Coastal Water Research Project
Large Conference Room

Stakeholder Group Members Present

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<thead>
<tr>
<th>Name</th>
<th>Organization</th>
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<tbody>
<tr>
<td>Amanda Carr</td>
<td>County of Orange</td>
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<tr>
<td>Sarah Spinuzzi</td>
<td>Orange County Coastkeeper</td>
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<tr>
<td>Sean Bothwell</td>
<td>Coastkeeper Alliance</td>
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<td>Thomas Lo</td>
<td>City of Irvine</td>
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<td>John Kappeler</td>
<td>City of Newport Beach</td>
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<td>Mark Grey</td>
<td>Building Industry Association of Southern California</td>
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<td>Wade Kerley</td>
<td>Newport Dunes Resort/Marina</td>
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<td>Dean Kirk</td>
<td>The Irvine Company</td>
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<td>Terri Reeder</td>
<td>Santa Ana Regional Water Quality Control Board</td>
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<td>Barbara Barry</td>
<td>Santa Ana Regional Water Quality Control Board</td>
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<td>Jason Freshwater</td>
<td>Santa Ana Regional Water Quality Control Board</td>
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<td>Ray Hiemstra</td>
<td>Sierra Club</td>
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Supporting Roles

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<th>Name</th>
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<tr>
<td>Lewis Michaelson</td>
<td>Katz &amp; Associates</td>
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<td>Bree Robertoy</td>
<td>Katz &amp; Associates</td>
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<tr>
<td>Steve Weisberg</td>
<td>Southern California Coastal Water Research Project</td>
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<td>Stuart Goong</td>
<td>County of Orange</td>
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<tr>
<td>Karen Ashby</td>
<td>Larry Walker Associates</td>
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<td>Danielle Potocek</td>
<td>Larry Walker Associates</td>
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Introduction and Meeting Objectives

Lewis Michaelson, facilitator, began the meeting by reviewing the status of the Stakeholder Group process, meeting agenda, next steps and meeting objectives. The objectives for the meeting included:

- Providing presentations on data assembled and analyses conducted in response to requests from the Stakeholder Group at its last meeting, and
- Discussing their significance related to defining and/or determining compliance.

Refined Analysis of Exceedances for Newport Bay Presentation

At the request of the Stakeholder Group, Orange County analyzed wet and dry weather exceedance data to determine the status of impairment at Newport Bay. Stuart Goong, County of Orange, presented the methodology and results.
Enterococcus data were analyzed for years 2010 to 2016. Dry and wet weather and upper and lower Newport Bay were analyzed separately. The results showed that wet weather was worse than dry weather, but the impact of wet weather dissipated after the storm. The study also found that Newport Bay had a lower exceedance frequency than most other reference sites evaluated by Larry Walker Associates (see next section) in dry weather, and a higher exceedance frequency than most other reference sites evaluated by Larry Walker Associates in wet weather.

To view the full presentation, visit the Regional Board’s website.

**Stakeholder Group Questions and Comments**

- T. Reeder: Is there speculation as to why the upper bay tends to do worse than the lower bay?
  - There are no data to point to for an answer to that. The Prop. 13 Newport Bay Fecal Coliform Source Identification Study by Stan Grant found bird inputs and plant-based enterococci that may result from vegetation washing into upper Newport Bay.

- T. Reeder: Has anyone analyzed contribution from the creeks?
  - Data are available, and the values are high.

- J. Kappeler: Do you have wet weather data for San Diego creek, and how do they compare to upper Newport Bay?
  - San Diego creek data are available. They are not good, particularly during storms.

- J. Kappeler: The City maintains a debris boom at upper Newport Bay. It pulled 80 tons of debris this year, and it was mostly vegetation.

- R. Hiemstra: I agree that upper and lower Newport Bay are different, but in the case of recreation, it doesn’t matter. I don’t want there to be any illusion that there should be any point in time that people shouldn’t be able to recreate in wet weather. I’m in support of gathering data, but I don’t support upper and lower Newport Bay having different TMDL requirements.

**Enclosed Bays and Estuaries Reference Site Exceedance Analysis Presentation**

At the March 30 meeting, Larry Walker Associates was asked to analyze possible reference sites for Newport Bay. The analysis considered two questions: 1) How did upper and lower Newport bay perform in comparison to other enclosed bays and estuaries, and 2) given the range of tools available, should a reference bay approach be used to determine allowable exceedance amounts in Newport Bay. Danielle Potoczek, Larry Walker Associates, presented the methodology and results of the analysis. To view the full presentation, visit the Regional Board’s website.

**Stakeholder Group Questions and Comments**

- R. Hiemstra: Almost all bays considered in the analysis are impaired. Newport Bay may be better than other impaired water bodies, but most of them are still impaired.
  - A. Carr: This analysis was conducted to provide context, not to make judgements.

- S. Bothwell: Why are there cases where multiple samples were collected at the same site on the same day?
  - It could be due to different agencies conducting sampling at the same sites.

- J. Kappeler: It would be useful if we could tease out how quickly the water cleans up after a storm.
• T. Reeder: I’m interested to see the breakdown of the zero exceedance sites. Would additional data provide clarity on that?
• B. Barry: Why was only southern California included in the analysis? The study should have included less populated areas in California.
• Is anyone using the reference beach approach?
  o Los Angeles is, but they can use the rivers that have little population/development to provide a reference.
• A. Carr: How many of the water bodies in the analysis are considered impaired?
  o All are impaired but two, if you count the entire bay impaired when one site is impaired.
• A. Carr: Water bodies in attainment should be distinguished from water bodies that are impaired.
• S. Bothwell: Isn’t there already an allowable exceedance goal in the Basin Plan?
  o Objectives are based on the TMDL, which is based on fecal coliform. The State Water Resources Control Board (State Board) issued a draft policy based on enterococci. New provisions provide for a reference system approach or a natural system approach.
• T. Reeder: Based on the State Board’s definition of a reference system, it will be difficult to follow this approach. I do want to keep both options open, however.
• B. Barry: The analysis was done well. It provided good information and brought up additional questions.
• A. Carr: The analysis served its purpose in providing context for southern California, but it will not be a fruitful regulatory option to pursue.
• S. Spinuzzi: It is interesting to see how other bodies are performing, but a reference system is not a viable regulatory option.
• S. Weisberg: It is perfectly acceptable to move on from the reference system approach, but then we don’t have an acceptable way for determining a threshold for allowable enterococci.
  o K. Ashby: You could utilize an option such as a new listing policy.
  o B. Barry: I don’t think we’re going to move away from enterococci, especially with the proposed State Board provisions.

**ACTION ITEM:** Larry Walker Associates will mark the memo as final, and Katz & Associates will distribute it to the group and post it to the online document repository.

**State Water Resources Control Board Draft Bacteria Provisions Presentation**

Jason Freshwater, Santa Ana Regional Water Quality Control Board, presented an overview of the State Board’s draft Amendments and Variance Policy for the bacteria TMDL. The draft Provisions are under public review and comment until August 16. If adopted, they can be added to regional programs without going through the Basin Plan amendment process. However, it is unclear how existing fecal coliform provisions would be handled.

Major proposed changes include:

• Use of enterococci for assessing marine waters or E. coli for freshwater, rather than total and fecal coliform
• An allowable illness rate of 32 illnesses per 1,000 recreators
• Use of a six-week, rolling geometric mean (GM) duration
• A statistical threshold value (STV) not to exceed 10 percent over 30 days
• Use of a reference system approach or natural source exclusion approach for addressing natural sources of bacteria levels within a TMDL

To view the full presentation and other information about the proposed Provisions, visit the California Water Resources Control Board website.

Stakeholder Group Questions and Comments

• S. Bothwell: Much of the new Provisions are already tools at the Board’s proposal; is that accurate?
  o The reference system approach is not in Region 8’s Basin Plan. It could be added, but it would require the Regional Board to go through a lengthy amendment process. The problem is the current TMDL is based on fecal coliform, not enterococci. The Regional Board needs the State Board to adopt enterococci to put that into the Basin Plan.

Next Steps and Approach for Developing Recommendations Discussion

The Santa Ana Regional Water Quality Control Board (Regional Board) is seeking recommendations from the Stakeholder Group regarding how numeric standards are applied to determine impairment. Another point of discussion is what path to take (e.g., permit or TMDL) if exceedances are found at certain stations in Newport Bay.

Larry Walker Associates has been working on developing a bacteria ‘flow chart’ for San Diego illustrating various options and consequences of each, resulting in a preferred approach (which may be multi-pronged. A similar approach could be taken for Newport Bay.

Stakeholder Group Questions and Comments

• R. Hiemstra: The first thing to do is analyze Newport Bay data using the State Board’s proposed provisions to find out if it is impaired.
• A. Carr: I would like some clarity on nuances not defined by the State Board. Is the STV calculated on a calendar month, static 30 days or rolling 30 days?
  o R. Hiemstra: I would be comfortable with the analysis performed for a calendar month.
  o B. Barry: We should ask State Board staff and see what direction they are going.
• S. Spinuzzi: It seems like the shellfish water quality standards have fallen into the background of this process, and those are tougher standards to meet. Coastkeeper is requesting a whole or half meeting focused on the shellfish requirement, since that will be a controlling factor. The concern is that we’ve gone quite a ways into the process and we don’t want to run out of time to address the shellfish issue. The deadline to meet the standards is quickly approaching in 2019.
  o T. Reeder: We agreed to tackle the recreation issue first and deal with shellfish after that, simply because there isn’t a coastal region where agencies can meet the shellfish requirements. The State Board is looking at changing the regulations, and the Regional Board has an extension until 2022.
  o A. Carr: The settlement agreement provides two years for this process. We are less than halfway through the meetings and timeframe. If we switch back and forth between
shellfish and recreation requirements, we won’t finish either. At the next meeting we will hopefully gain consensus on the level of impairment and the necessary regulatory steps to address that level of impairment. Then we will move on to shellfish and do the same thing.

**ACTION ITEMS:**

- Orange County will conduct a new analysis of Newport Bay under the following parameters and then distribute the results to the Stakeholder Group and Larry Walker Associates:
  - Data from 2010 – 2016 will be analyzed for enterococci using a 30 cfu/100mL GM over a rolling six-week period and 110 cfu/100mL STV per calendar month AND 30-day period.
  - If resources allow, data will be evaluated by whole bay, upper bay, lower bay, individual site, full year, wet weather and dry weather.
  - The analysis will give a straight percentage of exceedances and compare against the impairment listing policy.
- B. Barry will ask the State Board to confirm the STV time period.
- S. Weisberg will coordinate with Michael Gjerde from the State Board to address shellfish issues at the Beach Water Quality Workgroup meeting on August 9 and report back to the Stakeholder Group at the August 24 meeting. The Stakeholder Group requested information regarding next steps for the shellfish provisions and who M. Gjerde’s replacement will be at the State Board.
- Larry Walker Associates will develop a rudimentary bacteria flow chart to illustrate possible scenarios, similar to the concept being developed for San Diego.

**Next Meeting**

The next Stakeholder Group meeting is August 24, from 10:30 a.m. to 2:30 p.m.