

## **AB 982 Public Advisory Group**

California State Chamber of Commerce  
1215 K Street  
Sacramento, California

### *Meeting Summary*

Friday, February 15, 2002

**Convene Meeting:** Co-Chairs Craig Johns and Linda Sheehan (substituting for David Beckman) opened the meeting at 10:35 a.m. and declared a quorum.

**Introductions:** Steve Ekstrom, PAG facilitator, asked members to introduce themselves. He also noted that the primary purpose of this meeting was for PAG to comment on the 2002 list, offer advice on listing/de-listing policy development, and comment on the update of the TMDL action plan.

**Summary of the October 10, 2001 meeting:** The summary was accepted as presented.

**The Clean Water Act, Section 303(d) 2002 list:** Craig J. Wilson gave a brief presentation on the 2002 list, noting that staff plan to release their report in early April, 2002. There will be hearings on the report in mid to late May in northern and southern California. Finally, there will be a workshop in September 2002, as well as a Water Board meeting on this topic in the same month. The 303(d) list will be submitted to U.S. EPA in October 2002.

Of particular interest to members were the 14 items staffs propose to use to assess water bodies, and the concept of a watch list.

Comments and questions from the PAG included:

- Why is pollutant source (item 13) used when it's not a criterion for listing?
- Showing the pollutant source could help with prioritizing.
- The state shouldn't prioritize, but the regional boards should.
- There's a difference between how to list and how to prioritize. Listing should be done first, then bring in other information in order to prioritize.
- How will you memorialize the assessment of these criteria? Fact sheet? Spreadsheet?
- Are the 14 items weighted?
- Perhaps staff could categorize the 14 items into a shorter list.
- The listing process is supposed to be precautionary – fewer assessment items should be used.
- Look to the language of the CWA for help.
- Items 1, 2 and 3 are the main focus; the others could perhaps be folded into these three.

- In item 14, the word “alternative” is problematic.
- It’s appreciated that this will be a transparent process to the public.
- A “watch list” could turn into a loophole. How can it be used with being abused?
- Perhaps the watch list could be used as a placeholder list for items where compromise may be needed.
- If an item is on a watch list, it warrants monitoring.
- The environmental caucus supports the plan to use the 1998 list in its entirety.
- A possible watch list compromise: create one; state the information that’s needed to pull a water body off the watch list; if no information is forthcoming for two years, put it on the 303(d) list.
- We should make sure that we are sticking to the Federal regulations closely in the 303(d) process.
- If alternative enforceable programs that have kept water bodies off the 303(d) list in the past haven’t worked, the water bodies should be listed and a TMDL should be completed.
- What TMDL priority should be given to waters that already have programs in place to handle pollutants?
- The key question to ask during the listing process: Is the water body meeting or in violation of the standards?
- The State Board should include as much information as possible for the listing of a water body.
- A lot of best professional judgements (BPJ) will be made, can’t the State Board give new ideas to how the process could get away from having to rely on BPJ?
- Tier the criteria for listing so the process sides on the side of protection.
- Either the water body is impaired or is it not? Too much information given on a water body in question could also be bad for the State Board decision making process.
- The State Board should “standardize” the Regional Board’s listing processes.
- How will the State Board show exceedances of narrative water quality objectives for biological factors?
- What are the criteria going to be to place a water body on a Watch List? How will funding be tied the monitoring that would be needed for watch-listed water bodies?
- Documenting the decision making process is an important step forward for the State Board, as is the transparency of the process.

Members of the public were invited to comment.

***Consensus point: The PAG agrees that the listing process should be transparent.***

**Update on Implementation of the TMDL Initiative and Action Plan:** Tom Mumley reviewed the implementation of the TMDL Initiative and Action Plan.

There was a concern about last year’s report to the Legislature and the fact that PAG hasn’t seen it, nor do they know how or whether their comments were incorporated. Following discussion, Tom Mumley stated he would distribute the action plan to PAG

members, indicating how the Water Board responded to PAG's comments. Tom Howard will look into distributing the entire report to PAG.

A question arose about how much money is available for TMDLs in FY 2001-02. A total of \$11.4 million (combined federal and state) is available for TMDL development and \$2.97 million for TMDL implementation.

Members of the public were invited to comment.

**Concepts for the Listing/De-listing Policy:** Craig asked the PAG for input to aid the development of a listing/de-listing policy, stating that the goal is to have the policy completed by January, 2003. He then presented four of six topics for discussion, including comments he'd received from interviews held with the environment and regulated caucuses and other groups. At the end of each topic presentation, the PAG held a discussion and looked for consensus points.

#### Policy Scope

No consensus items were reached on this item.

#### Listing Concepts

**Consensus point:** *The public participation process should be transparent; in addition it should be a) specific and b) well advertised with active outreach to diverse geographic areas and those with environmental justice interests.*

**Consensus point:** *To the greatest extent possible, there should be a consistent, standardized set of tools and principles used across Regions to evaluate data. Additionally, site-specific information should be taken into consideration.*

#### De-listing Concepts

**Consensus Point:** *Assuming a water body is listed for the right reasons, it should not be de-listed before water quality standards are achieved.*<sup>1</sup>

#### Weight of Evidence

The following points were made:

- This is the core of the list/de-list policy
- Use the highest level of certainty we can afford.

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<sup>1</sup> Please note that this consensus item was rescinded at the April 8, 2002 AB 982 PAG meeting. The April 8, 2002 meeting summary will reflect the discussion, where it was agreed that this item would no longer be considered a consensus point.

Discussion on “weight of evidence” will be continued at the next meeting.

**Wrap-up and Next Steps:** It was felt that another meeting was needed to complete the input on list/de-list policy development, and possibly address other items. It was agreed that the PAG will meet all day on April 8, 2002, in Sacramento.

An agenda will be developed with the co-chairs shortly and distributed to PAG members.

**Public Comment:** Members of the public were invited to address the PAG.

**Adjournment:** The meeting was adjourned by the Co-Chairs at 4:30 p.m.