

## AB 982 Public Advisory Group

Meeting Held May 4 and 5, 2000  
State Capitol, Room 437  
Sacramento, California

### Meeting Summary

May 4, 2000

**Welcome:** State Water Resources Control Board (SWRCB) Board Member Mary Jane Forster welcomed Public Advisory Group (PAG) members and expressed her desire for a productive meeting. She then introduced the meeting facilitator, Steve Ekstrom from The Results Group.

**Convene Meeting:** Co-chairs Beckman and Johns convened the meeting at 10:15 am and declared a quorum.

**Discussion of Supplemental Language to Budget Act:** Some PAG members expressed concerns about members proposing language for legislation related to Total Maximum Daily Loads (TMDLs). These activities could be viewed as undermining the deliberations of the PAG and other AB 982 requirements. Other members of the PAG pointed out that it is unrealistic to expect any member or her/his organization to forego involvement in the legislative process while the PAG does its work. Since so much activity on ambient monitoring and TMDLs is taking place on a number of fronts, the PAG can serve as a clearinghouse for the various points of view.

**Facilitator comments:** Mr. Ekstrom advised that PAG establish a set of groundrules for conducting their meetings. After discussion, the following were adopted by consent:

1. One speaker at a time; allow people to finish; don't interrupt.
2. Be concise.
3. Keep sidebar conversations to a minimum.
4. Stay focused on the topic.
5. Be real, but in a respectful way.
6. Listen for understanding; appreciate other points of view; seek common ground.

Co-chair Beckman presented a "roadmap" for PAG that included a description of where PAG is in the process, what's been accomplished and what the likely outcomes would be, i.e., a set of recommendations to SWRCB on monitoring and TMDLs process/elements based on actions taken by PAG. Mr. Ekstrom then suggested a timetable for meetings through November 2000. PAG made some modifications to the schedule (alternate 1 and 2 day meetings; alternate meetings between southern and northern California). A member suggested that some meetings be held in areas where people fish for a living but this was not adopted by PAG.

**Written Proxy Votes:** There were proxies for Jim Noyes and Zeke Grader (good for May 4 and 5).

**Summary of March 23/24, 2000 meeting:** The summary was approved by members, with one request that they be revised to include the exact language of the vote taken on PBTs in March.

**Biomonitoring presentation:** Dave Paradies gave a presentation on water monitoring methods that covered water chemistry, sediment chemistry, water toxicity, sediment toxicity and benthic invertebrate bioassessment. The complexities of each were discussed. Greg Karras discussed bioaccumulation and the implications regarding human testing.

Several terms were used that warrant the need for a glossary. Craig J. Wilson was asked to develop such a glossary.

**SWRCB's Continuing Planning Process:** Paul Lillebo described the SWRCB's Continuing Planning Process (CPP). He pointed out that the CPP is composed of all the State and Regional Boards water quality control programs. USEPA is required under the Clean Water Act to periodically perform a review of the State's CPP. To do this, US EPA requests the SWRCB to provide a descriptive report of its current CPP. The last CPP report was requested in 1990 and subsequently submitted in 1991. The current review request was received on December 1999 and is due by June 2000. Some members were interested in an opportunity to comment on the report prior to its submittal. However, public comment has not usually been considered since this report is descriptive in nature and does not propose any action by the SWRCB. The report will be made available to the public through the SWRCB Web Site. The draft report will be provided to the PAG.

**Review of Consensus Points and Issues:** Craig J. Wilson reviewed the items that PAG had previously achieved consensus on (monitoring and listing), making the point that these items will have great bearing on the final report to the legislature in November, 2000. Wilson also pointed to the "issues to be discussed" list, indicating that this is an open list to which items are added by PAG, and deleted when they've been discussed. One member asked if the consensus items are still open for review/discussion. The response was that they are, and that this could be done at the meeting following their approval. PAG asked that review of consensus items be a standing agenda item.

**Comments on the Process for Developing TMDLs:** In the interest of time PAG asked that the presentation by staff be suspended so members could get right into discussion. Staff information items pertaining to the TMDL process, the SWIM Information System, and CWA Section 319 projects were omitted.

For the remainder of the day PAG members discussed and took action on several items related to the TMDL process. These included: pacing; science; public input; and state/federal policy guidance.

Two motions failed to carry. They are:

1. All TMDLs, including high priority TMDLs, must be based on sound science and involve public stakeholder input. (Moved/seconded by Friedman/Rentz; motion failed, with 12 in favor and 12 opposed.)
2. Where there is a state or federal policy in effect that calls for a standard of elimination or zero discharge, the TMDL should be established and implemented immediately. (Moved/seconded by Kaplan/Caustin; motion failed with 12 opposed and 10 in favor.)

The PAG asked that the SWRCB provide the legal opinion regarding state and federal law with respect to cost considerations. PAG agreed that the subject of the economics of state and federal law should be taken up later.

For the exact language of the actions approved on May 4, 2000, see the attached document titled "Actions Approved by the Public Advisory Group."

**Adjourn:** The meeting was adjourned by the co-chairs at 4:45 pm.

May 5, 2000

**Welcome:** Art Baggett, Chairman of the SWRCB, welcomed PAG and encouraged them to work hard to find areas where they can agree.

**Reconvene meeting:** Co-chairs Johns and Beckman reconvened the meeting at 9:05 am and declared a quorum.

**Meeting dates:** The following dates were established for future PAG meetings. Single day meeting times will be from 9:00 am to 5:00 pm. Two day meetings will be from 9:00 am to 5:00 pm on the first day, and 9:00 am to 4:00 pm on the second day:

- June 16 (northern CA)
- July 13 and 14 (in Los Angeles area)
- August 10 (northern CA)
- September 14 and 15 (southern CA)

If more meetings are needed they are likely to be on:

- October 12
- November 9 and 10

Staff was asked to select specific locations for all meetings, which might be held in different cities.

**Groundrules:** Rules of governance were modified by consensus based on the previous day's experience. Number 4 was modified and numbers 7 and 8 were added:

1. One speaker at a time; allow people to finish; don't interrupt.
2. Be concise.
3. Keep sidebar conversations to a minimum.
4. Stay focused on the topic; if a member speaks on another matter it's OK for another member to request they return to the topic.
5. Be real, but in a respectful way.
6. Listen for understanding; appreciate other points of view; seek common ground.
7. When discussing issues, don't vote (motion/second/discussion/vote) too early in the process. Have dialogues to understand the various perspectives, then see if consensus is possible.
8. Take straw votes from time to time.

**Written Proxy Votes:** There were proxies for Jim Noyes and Zeke Grader (good for May 4 and 5).

**Process and elements of TMDLs:** In the interests of time, two items were suspended, "State Water Information Management System," and "Update on the CWA Section 319 Projects."

To determine what issues PAG would discuss on this day, the regulated community and the environmental community were asked to caucus for 10 minutes to develop a prioritized list of topics on TMDL process and/or elements that they thought the full group could achieve consensus on. Upon return from caucus the following were presented:

Regulated community:

- Interim permits
- NPS management plan, and implementation
- Role of environmental and economic impact analysis
- Narrative Standards/numeric targets
- Science and monitoring (adaptive management)

Environmental community:

- Staff for TMDLs/303d
- Allocation of dollars
- Who does TMDLs?

June 16, 2000

APPROVED

After discussion it was agreed that it was more likely to achieve consensus on the list the environmental community developed. Several topics were discussed (staffing; resources; oversight; peer review). For the exact language of actions approved on May 5, 2000, see the separate document titled “Actions Approved by the Public Advisory Group.”

**Adjourn:** The meeting was adjourned by the co-chairs at 1:45 pm. Because the meeting ended late there was no time for the Public Forum.

Attachment: “Actions Approved by the AB 982 Public Advisory Group, May 4-5, 2000”

## ACTIONS APPROVED BY THE PUBLIC ADVISORY GROUP

### May 4, 2000

- “PAG supports immediate establishment of high priority TMDLs in accordance with law, and requests appropriate funding from the Legislature.” (Moved/seconded by Beckman/Kaplan; motion carried with 13 in favor and 10 opposed.)
- “TMDLs should be established and implemented in accordance with the Clean Water Act, and where applicable, the Porter Cologne Water Quality Control Act and other relevant state and federal laws.” (Moved/seconded by Johns/Tucker; motion carried with 23 in favor and 1 abstention.)
- “State and Regional Boards should accelerate the development of high priority TMDLs and the legislature should provide adequate funding to accomplish that goal.” (Moved/seconded by Kaplan/Johns; motion carried by consensus.)

### May 5, 2000

- “PAG finds that there are inadequate resources for the state to fulfill its obligation under the TMDL program. Therefore, PAG recommends there be adequate resources for the development and implementation of effective TMDLs statewide. Further, PAG recommends that the Regional Boards assess and request resource needs for an adequate 303(d) listing process and TMDL development/implementation through the State Board from the Legislature.” (Approved by consensus.)
- Regional Water Quality Control Boards must maintain active oversight over TMDL development sufficient to assure unbiased technical assessment.” (Approved by consensus.)
- “Encourage, where appropriate, early external peer review.” (Approved by consensus.)
- “Develop a mechanism, including funding, to encourage and maintain balanced stakeholder representation, and assure that stakeholders are afforded the opportunity to participate meaningfully, in accordance with TMDL deadlines.” (Approved by consensus.)