

From: Michael Levy
To: Craig J. Wilson
Date: 12/18/01 3:49PM
Subject: Re: I'm back

Hi Craig,

I agree: CEQA and CESA do not apply. Also, I'm not sure what your reference to the APA means, but I don't believe the list is "a rule of general application," therefore it's not a reg. Re: your other questions, see below.

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>>> Craig J. Wilson 12/18/01 12:31PM >>>
Michael,

Welcome back, I hope you are doing well.

I need your help in nailing down the process we will use to adopt the 303d list in 2002. I'm assuming (1) no CEQA, CSEA, or APA compliance is necessary, (2) we will at least have Bd. Workshop and Meeting agenda items. Here are some questions:

1. Does the SWRCB need to hold a hearing? **No. We could, but perhaps it's better to just do a workshop/board meeting, to discourage introduction of new (post 5/15/01) data/information. They could argue at a workshop about the existing evidence.**
2. If so, how much notice is necessary?
3. If not so, how much notice do we have to give for the workshop? **EPA pub participation requirements require 30 days notice of the hearing and 30 days opportunity to comment on the proposal.**
4. Do we have to respond in writing to the comments received? (they did the last time.) Will verbal responses suffice? **We must prepare a Responsiveness Summary (RS) under 40 CFR 25.8 which a) identifies the public participation activity conducted, b) describes the matters on which the public was consulted, c) summarizes the public's views, and significant comments, criticisms and suggestions, and d) sets for the agency's specific responses to the comments (modification of proposal/explanation of rejection of comment). This RS is supposed to be part of the consideration materials by the board, so it should be done asap before board action (formal or workshop)**
5. Do we have to respond in writing or verbally to the comments received by the RBs? **But if something new comes up that's not in the RS, something orally on the record in the transcript addressing the comment should be sufficient.**

6. Can you think of any process pit falls we need to pay special attention?
Accidentally allowing our data or info to be contradicted by newly generated data. We should encourage the Board to stick to the 5/15/01 cutoff for this "303(d) submittal."

I'm sure I will have more to ask, but this is enough for now. **Any time.** I'll be out until Dec. 26. I hope your Holiday Season has gone well! **And happy holidays to you.**

CJW 341-5560

>>> Michael Levy Tuesday, December 18, 2001 >>>
FYI, I'm back from sick leave. Let me know if you need anything.

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