

R9

From: Christina Arias
To: Deborah Jayne; James Smith; Tim Stevens
Date: 9/16/02 2:01PM
Subject: Re: Questions

Hi Tim,

The WQS academy was excellent; I highly recommend participation from all interested staffers. I will now attempt to answer your questions regarding the beach listings.

I think the confusion with 98 listings vs. new listings is the manner in which the beach segments were referenced in 1998. As you've discovered by now, in 1998 the beaches were listed by hydrologic units and areas, and were simply called "Pacific Ocean Shoreline." When we dug around the file room in our office, we were able to discover a much more detailed description of where these locations really were (at least most of them.) So, since the areas were listed as stretches of beach within a hydrologic segment, then in some cases, we recommended enlarging the "extent of impairment," rather than a whole "new" listing recommendation. For example, this is the case with South Capistrano Beach. The 1998 has the segment 901.27 Lower San Juan HSA listed. South Capo Beach is also within this segment, so therefore we recommend increasing the extent of impairment by 0.4 miles. Now, onto your specific questions...

1. Was Pacific Ocean Shoreline, Ocean Beach at Bermuda Ave already listed? If so, under what title?

Ocean Beach at Bermuda Avenue was not already listed. However, the hydrologic segment surrounding Bermuda Ave. was listed. As you pointed out, Pacific Ocean, San Diego HU 907.00 was listed, as well as 907.11 San Diego River mouth aka Dog Beach. Yes, these locations are one and the same. Our Table 4 is designed to be more specific and user-friendly than the one available on the internet. Perhaps it ended up being more confusing. Bermuda Ave was then a recommended addition to a previously listed waterbody. As you mentioned, there is no need to continue with this recommendation per the new listing criteria. Therefore, the existing listing should stay unchanged, as should the extent of impairment (currently at 0.5 mile).

2. If Pacific Ocean Shoreline, Ocean beach at Bermuda Avenue was already listed, shouldn't we de-list it, based on your new analysis? (However, we do not want to de-list the rest of 907.11, right?)

Bermuda Ave was not already listed; we do not want to de-list the rest of 907.11.

2-3. Also, likewise for Pacific Ocean Shoreline, San Onofre State Beach at San Mateo Creek Outlet? Are you sure that we should say HSA 901.51 was previously listed?

This one is a little tricky. Our digging around the old files led us to believe that the stretch of beach described here covered three hydrologic areas, 901.30, 901.40, and 901.50. We made this inference from looking at both the described locations and the extents of impairment. The problem was that there were two locations that were never properly identified, and we only made educated guesses as to where they were located. We thought these locations were located in 901.50. Again, San Mateo creek outlet would have been a change of the extent of impairment (identified at the specific location of 901.51).

We decided to drop the unknown locations from the face of the earth (described in our Staff Report, pages 18-20 if you have time to spare), so in essence, its not correct to say anymore that 901.50 was ever listed. That one slipped our editing, we should not have included it in our staff report Table 4 once we had decided to drop the unknowns. Also, removing San Mateo creek outlet per the new criteria results in dropping the 901.40 designation as well (this creek straddles two hydrologic areas).

Bottom line: 1998 listing should stay as it was: 901.30, extent of impairment = 3 miles.

4. Dana Point Harbor at Baby Beach. Is this a different listing then the proposed Dana Point Harbor we had in the Staff Report?

This is not a different listing than what is described in the staff report. Baby Beach is not a new reference, it is called out in our Table 4. It is a swimming area within the harbor, and this is where routine bacteriological sampling is done.

In contrast, we had more extensive spatial coverage for our copper analysis. That is why we recommended listing the entire harbor.

Feel free to give me a call to discuss this further. This is undoubtedly confusing so maybe a phone discussion is the way to go.

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>>> Tim Stevens 09/13/02 11:22AM >>>
Hi Gang,

Hope you enjoyed the WQ Academy.

As we try to wrestle the 303(d) lists into shape, I have some lingering questions. In particular, I have questions about your latest recommendations (vis a vis, the beach data). Please see the attached Word file.

We are under the gun here, so the soonest you can provide answers, the better. Any chance of a response before Wednesday (Tuesday or Monday would be even better)? Thanks for trying.

Tim
916/341-5911

CC: Craig J. Wilson

From: James Smith
To: Christina Arias; Tim Stevens
Date: 9/6/02 4:39PM
Subject: Re: Beaches Spreadhseet

Tim,
Please see my answers below in red....

>>> Tim Stevens 09/06/02 09:30AM >>>
Hi Christina,

I left phone messages with you, Jimmy, and Deborah. Since then, I've re-examined your e-mail and the spreadsheet and some of my questions have cleared up (I think).

>>>The new proposed segments for Region 9 include Baby Beach (Dana Point Harbor), South Capistrano Beach at Beach Road, Tidelands Park and Shelter Island Shoreline Park (both in San Diego Bay).

OK, got it.

>>>The remaining beaches are no longer candidates. This includes Kellogg St. (SD Bay), Bermuda Ave.(Ocean Beach), Torrey Pines, and San Mateo creek outlet (San Onofre State Beach).

OK.

>>>Please see the attached excel spreadsheet. It attempts to show roughly how the decision was constructed.

Should there be a column for exact pollutant/pollution of concern (e.g., total coliform, fecal coliform, enterococci) or is it all just bacterial indicators? If the latter, why is each beach repeated 3-4 times? You are correct - the listing is for any one of the bacterial indicators that could be exceeded. Each beach is listed multiple times to define a temporal season (annual basis). Also, sometimes the beach is listed multiple times to differentiate between year round data and data that is only for the dry season. Listing criteria differ for data from the entire year verse data for only the dry season.

Also, I am still somewhat unsure of the "Result for time period" column. It lists the results for each (unknown, to me) constituent, right? Then the "Final Recommendation" summarizes those results, right? Yes. The "Results for time period" indicate the results for that one season and considers all bacterial indicators. The "Final Recommendation" is the overall recommendation for that stretch of beach.

I hope this helps,
-jimmy

Sorry if these are dumb questions. (Diane was much more knowledgeable about bacterial issues.)
Thanks.

Tim
916/341-5911

CC: Craig J. Wilson; Deborah Jayne

From: James Smith
To: Hashim Navrozali; Paul Richter
Date: 9/6/02 6:54PM
Subject: South Bay Power Plant NPDES Permit

Gentlemen,

Since the State Board extended the deadline for submission of data and information for the 2002 303(d) list update, we are now forced to deal with the South Bay Power Plant and the information sent in by EHC (69 Public Testimonials and 2 scientific papers on halibut in SD Bay) and the Bay Council (Deadly Power). We are asking your assistance on this issue.

In particular, we would like to know:

What are the strengths and weaknesses of the current permit?

Are there any effluent limitations in the current permit?

When will the results of the new studies begin to come in?

In your opinion and regardless of the cause, do you think the beneficial uses of BIOL, EST, WILD, MAR, MIGR or SHELL are in any way impaired in South SD Bay?

I would really appreciate any input you could provide. I will be at training the week of Sep 9 - 13 and would appreciate if you could respond to not only me and Deborah Jayne, but also to Tim Stevens and Craig J. Wilson of the State Board. I have cc'd them on this email, so you will only need to "reply to all" to send your responses to them.

Thanks again,
-jimmy

CC: Craig J. Wilson; Deborah Jayne; Tim Stevens

From: Deborah Jayne
To: Craig J. Wilson; Tim Stevens
Date: 9/6/02 8:09PM
Subject: Crosby Street, South Bay, and Watch List

Craig and Tim,

I have attached to this email Jimmy's latest findings on Crosby Street and South Bay which should be very helpful as you prepare formal fact sheets for each site. Below is a very brief summary of our position on each for your consideration.

Crosby Street (extending near Coronado bridge site)

--BPTCP data for this site does not meet regional board's specific 1998 criteria for listing contaminated sediment bay sites. Although its close, the chemistry data failed to trigger benthic community analysis. Elevated chemistries and degraded communities are both needed for listing. Note there are several other bay sites which were also "close". The criteria has been rigidly and consistently applied in the past.
--New data (submitted during extended period) does not meet regional board's 1998 criteria
--possible reasons to consider making an exception for this site include high public interest, extensive recreational use, and environmental justice concerns (adjacent to urban park used by inter city low-income families)

Conclusion:

At this time, using our own established criteria, we do not have data to support 303(d) listing of this site. We recommend placing this site on the watch list.

South Bay

--Altho new information was presented indicating that WQ standards are not being attained, listing this site is inconsistent with Regional Board's position not to list when alternative regulatory mechanisms are in place.

Conclusion:

Until or unless the new statewide policy dictates a change, the Regional Board's position has always been not to list a site that is currently regulated under an NPDES permit. The permit limits are established to ensure that water quality standards are met. Should this prove not to be the case, the appropriate regulatory response is to change the permit. This is the same rationale provided to support the board's decision not to list South Bay in 1998. At this time, we recommending placing South Bay on the watch list.

Watch List

Unfortunately, we were unable to complete the rationale for, and slimming down of, the watch list. As you know, my unit is at WQS training all next week. This will be Jimmy and Christina's number one priority upon their return. Sorry.

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CC: Christina Arias; David Barker; James Smith

From: Deborah Jayne
To: Craig J. Wilson; Tim Stevens
Date: 9/4/02 11:44PM
Subject: 2002 Listing - - SWRCB's Responses to Comments

Craig and Tim, I have completed review of both your Responses to Comments on our draft 2002 listing and my staff's comments on your responses. Most of the draft document Christina sent up to you is ok "as is". There are however three important listings which remain problematic and for which we still need additional time to research or resolve. These are Crosby Street, South Bay power plant, and Caulerpa. I have asked Jimmy and Christina to further research Crosby and South Bay power plant. Regarding Caulerpa, I have been asked to ask you to provide the SWRCB's rationale for recommending listing. Altho, Jimmy, Christina, and I support listing, other staff members here, including management, do not (hence our recommendation for adding only to the watch list). Furthermore our counsel, John Richards, advised against 303d listing Caulerpa. We will try to resolve Crosby and south bay within the next couple of days and get back to you ASAP. Regarding Caulerpa, I look forward to hearing your thots.

In addition, I have five other important comments of a general nature which are provided below and a few minor questions or specific clarifications which I will ask Jimmy to convey to you folks tomorrow.

(1) Revisiting existing list upon completion of 303d policy

Altho we will obviously want to revisit the entire existing list to make it fully consistent with the new policy ASAP, resources will not allow us to do so "upon completion" of the policy or all at one time. It will most likely be done very gradually and only as the need arises (unless new resources are provided for that purpose). In fact, the policy workgroup will recommend that the policy itself specifically address how and when such re-visitation will occur. Accordingly, I request that you be very careful not to make commitments about when the list will be revisited for consistency with the policy (e.g., see response 9.9.4.). You may even want to state that making the list fully consistent with the new policy will require a great deal of time and resources.

(2) Life and definition of Watch List

Similarly, I request that you not make commitments that the regions will address each of the waters on the watch list "prior to the next 303(d) listing cycle (see response 9.20.4)". Obviously we will want to do this also ASAP, but assuming that new data is not submitted to us within that period, we may or may not have resources to obtain new data for each water. We used our watch list liberally. We put waters on the watch list that generally fell into two broad categories: (1) available data was insufficient to 303d list; or (2) staff believes that a water quality problem may exist and data is needed. As I mentioned to you, we used our watch list to document staff's collective knowledge or suspicions about problems or potential problems. In any event, it is essential that the SWRCB carefully define the criteria for the 2002 statewide watch list and depending on how you define it, we may need to make changes to our list. Also I recommend that we not commit to a specific life for the watch list because of resource constraints. (BTW, per your request, Jimmy and Christina have begun work on providing supporting rationale for each water on our current watch list.)

(3) Re-evaluating 1998 listings using draft beach workgroup criteria

The responses document seems to imply that we have re-evaluated all 1998 beach listings using the beach workgroup's draft criteria if new data was submitted (see responses 9.9.4 and 9.23.1). My understanding from Christina is that we have not; we have only re-evaluated the 2002 listings and that this was consistent with your request. We need clarification here Craig. Christina tells me that she thinks applying the beach workgroup's draft criteria to some of the existing listings may result in the need to officially de-list beaches. I do not want to delist beaches until the forthcoming policy has established very clearly the conditions under which de-listing should occur. Furthermore, we would not want to de-list based on "draft" criteria and then potentially, after the policy is final, have to re-list a beach that we have just de-listed. In any event, we all need to be clear on your intentions here and the responses document must be fully consistent with those intentions.

(4) Inconsistencies with draft policy recommendations

Jimmy will review
List
No List
from RB

As I'm sure you are well aware, the responses document contains a few statements that may end up being inconsistent with the recommendations of the regional board's policy workgroup. Similarly the draft recommendations of the beach workgroup regarding beach/bacterial listings used for the 2002 listing may likely be inconsistent with the policy recommendations. Possible inconsistent topics include sewage spills, using TMDLs to fix all 303d problems, uncontrollable sources, other enforceable mechanisms available, or pollution caused (rather than pollutant caused).

I suppose it is perfectly ok if the policy sets a new and different course as long as it can be strongly justified. But I'm a little concerned that we will encounter stiff resistance regarding our beach listings if our policy recommendations end up being very different from our 2002 recommendations. I'm not asking you to do anything here, I'm just making you aware of my concern.

(5) Adequacy of Responses

For what ever its worth, I predict that some stakeholders will find some of these responses inadequate. For example the document states that waters with Caulerpa infestations will be 303d listed in Regions 8 and 9, but provides no rationale for the addition. Other examples include Crosby and south bay. As you know, some of these issues are very charged and my sense is that certain stakeholders will demand a more thorough explanation to support the decision.

That's it for now. Looking forward to hearing back from you on these issues. Deborah

CC: Christina Arias; David Barker; James Smith