

MINUTES OF THE
BIG BEAR LAKE TMDL TASK FORCE MEETING

July 30, 2008

Agency

Regional Water Quality Control Board
Regional Water Quality Control Board
Big Bear Mountain Resorts
Big Bear Municipal Water District
Brown and Caldwell
California Department of Transportation
California Department of Transportation
City of Big Bear Lake
Risk Sciences
San Bernardino County Flood Control District
U.S. Forest Service
Santa Ana Watershed Project Authority
Santa Ana Watershed Project Authority
Santa Ana Watershed Project Authority

Participant

Hope Smythe
Michael Perez
Karl Klouzer
Scott Heule
Nancy Gardiner
Cathy Jochai
Gian Villarreal (RBF Consulting)
David Lawrence
Tim Moore
Matt Yeager
Robert Taylor
Mark Norton
Rick Whetsel
Marie Jauregui

Call to Order & Introductions

The Big Bear Lake TMDL Task Force meeting was called to order at 9:00 a.m. by Mark Norton at the San Bernardino County Public Works office, 825 East Third Street, San Bernardino, California.

Approval of July 1, 2008 Minutes

The July 1, 2008, Big Bear Lake TMDL Task Force minutes were unanimously approved.

Status of Task Force Agreement Approval

Matt Yeager reported that his agency's legal counsel is currently reviewing the most recent comments from both Caltrans and the Regional Board. Hope Smythe provided a hard copy of the Regional Board's comments to Mr. Norton and will email a copy to him.

Mr. Norton discussed the comments submitted by Caltrans, which were distributed to the Task Force. As stated in the previous meeting, Cathy Jochai was working with the District Cooperative Agreement staff to resolve some of their comments/suggestions internally. The comments that were distributed reflect the solutions/compromises that were reached between Ms. Jochai and the District Cooperative Agreement staff. The first comment was to *add a statement or a clause to the beginning of the Recital Section to state that the recitals are binding*. The original comment from the District Cooperative Agreement staff was to move some of the recitals (Recitals J, K, and L) into the actual agreement section. Because recitals generally are not binding, making them so will affect how the Regional Board handles the agreement (e.g., public comment) because it may imply rule-making. Rather than making the Recitals binding, the following will be done to address Caltrans' comments:

- Recital J should not affect Caltrans, and therefore should not be an issue. Recital J will remain in the Recital section.
- Recital K will be moved to Agreement Section I as Item D, and the second *as* will be removed from the third sentence.
- Recital L will be moved to Agreement Section I as Item E.
- Section I, Item D will be re-lettered as F.

Caltrans' second comment was to *add a dispute resolution clause detailing the decision tree in case of a dispute between Parties*. The options for dispute resolution are to either go to court or agree to binding arbitration/mediation. The default is contract law unless the Parties agree to mediation. It was noted that these remedies are similar to other contracts that Caltrans has signed.

The last comment that Caltrans had was to add *Except as provided herein* to the beginning of Section XV. Mr. Moore asked what the clause refers to because adding it changes nothing. Ms. Jochai will get clarification on the intent of this clause from the District Cooperative Agreement staff given the changes to the Agreement (*i.e.*, moving some of the Recitals into Section I of the Agreement).

Mr. Norton reviewed the Regional Board comments. Their first comment was to change the last sentence of Recital H to read "...authorized under state *and/or* federal law... existing *and/or future* authority or responsibility..." The Task Force agreed with these changes.

Their second comment was that the last sentence in Recital I was unclear, specifically the statement *will take into consideration*. Because the sentence was not critical to this Task Force, it was deleted. There were concerns regarding how this would affect the zoo becoming a party to the Task Force in the future. Mr. Moore said that there are other provisions to address that issue.

The third comment was that the third sentence of Recital J is unnecessary and misleading. Robert Taylor stated that the Office of General Counsel specifically added this clause to the Agreement, and if it is removed, the Forest Service will not sign it. Also, in Recital J, the last *or* in the last sentence was changed to *and*.

The fourth comment was with regards to Section V. The Regional Board's concern is whether approval from a party that has withdrawn from the Agreement will be needed for renewal. The argument is that once a party leaves the Task Force, they are no longer a party of the Task Force. Ms. Smythe will clarify the intent of the comment with her legal counsel. Mr. Moore stated that the easiest way to address this comment is to add a clause in the Withdrawals section stating that once a party withdraws from the Task Force, they are no longer a party to the Agreement. Nothing will be added until Ms. Smythe talks to her legal counsel. The intent of the current language is that once a party withdraws from the Agreement, they are no longer a party to the Agreement and their approval would not be needed to renew or extend the Agreement.

The last comment from the Regional Board was to add *and the Regional Board* to several places in Sections XV and XVI. There was a brief discussion regarding *Section XV – Indemnification* with respect to calling out both the Forest Service and the Regional Board. Mr. Moore explained that the presumption is that all signatories are considered parties to the Agreement, and with an indemnification paragraph, unless specific signatories are excluded, it applies to all.

All the comments received will be incorporated into the Agreement, which will be marked as *Final*. Additionally, the *Table of comments received to date* will be updated to reflect the changes made.

FY 07-08 and FY 08-09 Invoicing and Funding

BBMWD sent invoices for FY 2007-08. All payments have been received except for Caltrans. They require a fully executed Agreement before payments can be processed. SAWPA will send an invoice to BBMWD for the FY 2007-08 charges.

Watershed and Lake Monitoring Program Status

Mr. Moore distributed summary tables of all the raw data for the watershed sites, noting that he does not have a copy of the watershed investigation report for source nutrients. The sampling locations on the tables are similar to the sampling locations that are being proposed for the Watershed-wide Monitoring Plan. The only site that is not included on the table is the zoo site. The watershed sampling sites have two purposes – populate a model of sources to Big Bear Lake and help the Regional Board determine whether or not to delist the streams. The streams are important for the lake, but whether they are independently impaired for nutrients needs to be determined. With appropriate data, the streams could be delisted as impaired and the nutrients in the streams could be managed as sources to the lake.

The chlorophyll-a target for the lake is 10 micrograms per liter. This is the most direct measure of impairment. At no time is the measured concentration at the streams greater than 10 micrograms per liter.

Thus, this would support the Regional Board's preliminary supposition that the streams should not be listed for impairment.

Mr. Moore referred to the total phosphorus and total nitrogen numbers on the chart stating that they are listed as parts per billion. Normally, they are listed as parts per million. The impairment thresholds for total phosphorus and total nitrogen are 0.1 and 1.0 parts per million, respectively. He briefly discussed the data, noting that, even with the higher phosphorus and nitrogen concentrations, the normal consequence (*i.e.*, algae) is not seen. It was noted that the field DO data is on another spreadsheet.

At the last meeting, there was discussion regarding the need for storm runoff rather than dry weather runoff. Ms. Smythe said that the issue with the data is that there was not a wet year even though there were some storms. Rather than design the comprehensive monitoring plan that is due in 2015, it would be more prudent to spend the funds (for the first couple of years) collecting wet weather data. Doing so would have a significant impact on the budget because there will be less monitoring with more emphasis on stormwater. Some dry weather data will be collected as a means of training. Although this strategy will reduce the budget, by how much is unknown. It is anticipated that a revised monitoring plan be distributed for discussion and/or review by the next Task Force meeting.

Both the monitoring and the monitoring plan will be done in parallel. The idea was to have Brown and Caldwell train the Resorts' staff in September. Also, Mr. Yeager will check into the on-call services. Mr. Moore will provide a list of tasks for Brown and Caldwell's contract, noting that the QAPP and training are the two most critical tasks. Nancy Gardiner said that she would develop a scope of work and send it to both Mr. Norton and Mr. Yeager after Mr. Moore's review.

Watershed and Lake Monitoring Sampling Analysis Procedure

There was nothing to discuss on this item.

Big Bear Lake Management Plan

The draft of this plan is due to the Regional Board by the end of August. A draft will be sent to the Task Force by August 18th for review.

Atmospheric Deposition

The *Big Bear Lake Dry Hydrologic Conditions Nutrient TMDL Atmospheric Deposition Determination Plan/Schedule* was distributed. Ms. Smythe said that the Regional Board needs to develop an Atmospheric Deposition Plan by the end of August. She briefly discussed and reviewed the handout. There was a brief discussion regarding studies that have been done and are being done. This is the last year that the Task Force will have to do monitoring for atmospheric deposition. The Regional Board will perform the monitoring for future years. Comments on the handout are due to Ms. Smythe by August 15th.

Schedule Next Meeting

The next meeting is tentatively scheduled for Wednesday, August 27, 2008, at 9:00 a.m. at San Bernardino County Public Works.

Adjournment

There being no further business for review, the meeting adjourned at 11:10 a.m.