

MINUTES OF THE
BIG BEAR LAKE TMDL TASK FORCE MEETING

August 27, 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

Participant

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

Call to Order & Introductions

Big Bear Lake TMDL Task Force meeting was called to order at the San Bernardino County Public Works office, 825 East Third Street, San Bernardino, California.

Approval of July 1, 2008 Minutes

The July 30, 2008, Big Bear Lake TMDL Task Force minutes were unanimously approved.

Status of Task Force Agreement Approval

Cathy Jochai received comments from her agency's legal counsel, but feels that the comments received can be addressed internally. She needs to explain to her agency's legal counsel: 1) why the budget is the way it is; and 2) why the Regional Board is included because her agency's legal counsel feels that proprietary information would be exposed to the Regional Board. Tim Moore suggested that the agency's legal counsel look at the Agreement as a cost-sharing agreement rather than a mutual defense agreement. Ms. Jochai stated that if the Task Force did not hear from her by the end of the week, then the Agreement is acceptable to Caltrans.

Also, Caltrans' legal counsel noted that Page 8, Section 3F was in conflict with Sections 3A and 3C. Ms. Jochai thinks that her agency's legal counsel may be confused with the November 30th date in 3C. She will clarify with them that the November 30th date is the deadline for the Task Force Administrator to provide a proposed budget to the Task Force. It was decided to change *January 31st* on Section 3A to *February 1st* to match Section 3F. In addition, with regards to Section 3A, it was suggested that the first sentence be changed to read as: "Each annual BUDGET shall be adopted by a majority of the voting members of the TMDL Task Force prior to..."

Matt Yeager met with his District's legal counsel, and most everything is acceptable. The District's legal counsel commented on the recitals being binding. If there was a trial and an issue was not addressed elsewhere in the Agreement, the court would look to the recitals because the recitals show intent. They will draft language to replace what they feel is unreasonably complicated. Another comment they had was on Page 10, Section 5. Mr. Yeager explained to his District's legal counsel that the intent was to renew or extend the Agreement, and never envisioned having an Agreement term longer than five years. The Task

Force's understanding is that the Agreement can be renewed or extended for up to, but not more than five year increments. Another comment (Page 11, Section 10) was to include titles for where the notices go. For San Bernardino County Flood Control District, the notices should be address to the *Flood Control Engineer*. For the County of San Bernardino, the notices should be addressed to *Director of Public Works*. For the United States Department of Agriculture, Forest Service, the notices should be addressed to *Forest Supervisor*. For the California Regional Water Quality Control Board, Santa Ana Region, the notices should be addressed to *Chief of Inland Planning Section*.

The District's legal counsel had concerns with Page 13, Sections 15 and 16. They think that Section 15 is unnecessarily complicated and will provide alternative language. Further, they think that each agency should bear its own costs for consultant fees because the way that Section 16 is written encourages people to sue each other. One option is to delete the section about legal fees (Section 16), and let it be decided on a case-by-case basis on prevailing law. Both SBCFC and Caltrans will ask their respective legal counsels if deleting Section 16 is acceptable.

It was noted that the *Attorney* would not be a signatory as listed on the signature page (page 16) for the United States Department of Agriculture, Forest Service (San Bernardino). The *Grants and Agreements* person would be the signatory.

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

SAWPA delivered an invoice to BBMWD. Caltrans still needs an executed Agreement before they can pay any invoices.

Mr. Taylor said that the FY2009 watershed planning budget is 35% less this year. He can fund the Grout Creek storm sampling. However, because of limited funding, it will be difficult to fund the Natural Background Study, due to the cost of using his own staff. As a cost savings measure, he contacted Cal State San Bernardino to jointly fund graduate interns to perform the work, which would provide a significant cost savings.

Watershed and Lake Monitoring Program Status/Sampling Analysis Procedure

Mr. Moore has the electronic copy of the Nutrient Source Identification Study, which either will be distributed to the Task Force via e-mail or posted to SAWPA's FTP site for download. He noted that the Study will influence how the Monitoring Plan will be done.

Brown and Caldwell has developed a proposal for sampling and training, which will be distributed to the Task Force. The current Report and Monitoring Plan, along with comments not yet incorporated, will be sent to Brown and Caldwell. Training is anticipated to begin in September. Brown and Caldwell will coordinate the training with Michael Perez, Robert Taylor, Karl Klouzer, and David Lawrence. A copy of Brown and Caldwell's proposal will be distributed to the Task Force. Nancy Gardiner said that they possibly will have two consecutive dry weather training sessions where the trainees would shadow Brown and Caldwell in the field. Also, a more formal training (classroom-style) could occur either before or after the fieldwork. It was noted that two San Bernardino County field guys might want to be included in the training. It was noted that lab costs have been accounted for in the Brown and Caldwell proposal. Laboratory invoices for the two days of training should be sent to Brown and Caldwell.

Big Bear Lake Management Plan

Mr. Moore distributed a *Big Bear Lake Management Plan Outline*. The outline divides the plan into five sections: 1) background; 2) water quality characterization; 3) beneficial use protection strategy; 4) other water quality management alternatives; and 5) summary and conclusions. He briefly discussed each section, noting the components of each. He emphasized that this Plan is similar to that of the Lake Elsinore and Canyon Lake, except on a smaller scale. Section 3 is what the Task Force has done in the

past and the Plan is a commitment to continue those efforts. For Section 4, Mr. Moore will discuss the results of the pilot projects that were done, provide a background on other agencies that have used the same strategies, and provide the pros and cons of the alternatives. He was trying to draw the distinction that Section 3 is what the Task Force is committing to and Section 4 is the alternatives that the Task Force is not committing to, but are alternatives that could be considered.

Hope Smythe suggested breaking up Section 3 into two sections (i.e., internal sources and external sources) because there are different strategies and possibly different schedules for implementation. Mr. Yeager inquired how the permitting process will be addressed in the Plan. Mr. Moore stated that he will discuss the desire to have a programmatic CEQA, which will be laid out as the Task Force's strategy. Further, he will add *Implementation and Next Steps* into the *Summary and Conclusions Section*.

Ms. Smythe commented that, when developing the TMDL, there was much discussion about the idea of the biological condition of the Lake. The Regional Board had discussed establishing bio-criteria, which also is part of the *Beneficial Uses and Impairments* task. Further, the idea of defining what the Task Force means by *Beneficial Uses and Impairments* would require the ideal to be defined. Mr. Moore will add this discussion to the *Summary and Conclusions Section* when he discusses the effort required to make the Plan work. *Site-specific Water Quality Criteria* also will be moved to the *Summary and Conclusions Section*. It was noted that the Quagga Mussels threat would be included in an *Adaptive Management Section*, which will be included in the *Background Section*.

Scott Heule commented that a large portion of Section 3 is afforded by the taxing permit that BBMWD gets. If, however, the State revokes the taxing permit, BBMWD cannot commit to an on-going program. Mr. Moore will address this in the Plan. Ms. Smythe commented that it would be good to include in the Plan: 1) what the Task Force's expectations of the Regional Board are; and 2) schedule and reporting expected from the Regional Board. A brief background on the Task Force, as well as the active and adaptive management also will be discussed. The conflicting jurisdictional issues also will be discussed in this Plan. Mr. Moore stated that this Plan is not meant to limit or enhance any agency's existing authority. He noted that the Plan may be re-titled so as not to confuse it with the Plan that BBMWD did. Atmospheric deposition will be included as one of the beneficial use protection strategies, but it will be noted that it is mostly the Regional Board's responsibility. Mr. Yeager suggested referencing the Stormwater Program Annual Report. Any other suggestions of what should be included in the Plan should be emailed to Mr. Moore. A Draft Plan will be distributed to the Task Force on Tuesday.

Schedule Next Meeting

The next meeting is tentatively scheduled for Wednesday, September 25, 2008, at 9:00 a.m. at San Bernardino County Public Works.

Adjournment

There being no further business for review, the meeting adjourned at 11:33 a.m.