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From: "Amanda Carr" <Amanda.Carr@rdmd.ocgov.com>
To: <djayne@waterboards.ca.gov>, "Wayne Chiu" <wchiu@waterboards.ca.gov>
CC: "Kacen Clapper" <Kacen.Clapper@rdmd.ocgov.com>, "LISA ZAWASKI" <lzawaski...
Date: 6/5/2008 11:01 PM
Subject: Appendix N Comments
Attachments: Testimony for Baby Beach TMDL Hearing 4-9-08 final.doc

Deborah and Wayne-
Here are some quick thoughts I would like to discuss further tomorrow.
<<Testimony for Baby Beach TMDL Hearing 4-9-08 final.doc>>

One additional comment on the Technical Report: page 35, Section 5.2.3,
first paragraph. The sentence citing the State of the Beach report is
unnecessary. We have never disputed the fact that stormdrains are a
source of bacteria discharges.

N.3 Providing Written Responses to Comments from Stakeholders page N-2,
4th paragraph. This paragraph gives the impression that the SAG had
been engaged actively with RB staff for over 3 years. This is far from
the case. The work on the BB TMDL was very sporadic with large gaps in
between meetings and verbal responses to comments. Between July 2005
and October/November 2007 there was practically no activity on the
project and very little communication with the SAG. Reviewing the draft
TMDL in the fall of 2007 was almost like starting over. We had two
years worth of additional work and progress at Baby Beach, including new
maps of the drainage area developed during the harbor redevelopment EIR
process and the Headlands development EIR. I believe this gap in TMDL
development and subsequent progress and new information from Baby Beach
lead to the impression that we were not forthcoming with information at
earlier stages of the TMDL process, which is frequently, and
unnecessarily, cited throughout the response to comments.

Page N-7 Oral Comment 3. This is not an accurate portrayal of my
testimony. I would recommend you look at the transcript from the
hearing. My concern was the adoption of a TMDL based on inaccurate
information that resulted in inaccurate wasteload reductions, and
without recognition of the efforts at Baby Beach, would lead to possible
3rd party lawsuits if we were not able to demonstrate the levels of
reduction called for in the TMDL. I have attached the text I spoke from
at the hearing, although I know I spoke extemporaneously as well. I
have not disputed the fact that a TMDL needs to be developed. This
response would lead a reader to believe the County does not understand
or support this process.

Page N-13, Response to Written Comment 10, second paragraph. This
response is an example of the unnecessary portrayal of the County
withholding information pertinent to the TMDL.

Page N-12, Response to Comment 9, second paragraph, last sentence. An
assumption is by nature not accurate. If there is no data that supports
the assumption that drainage all areas of the watershed have an
influence on Baby Beach, it cannot be stated that this belief is
accurate.

Page N-16, Response to Written Comment 13. Again, it is unnecessary to
imply that the County was not timely in questioning this data. The
response states that our impression from the text was that the
bathymetry data was from 1976 USGS information was incorrect.
Additionally the response states that the source and date of the
information was revised in Appendix D to provide a more specific
citation. We would not have questioned using data from 1999 if that had

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been clearly stated.

Page N-17, Response to Comment 16. The discussion of the regrowth of bacteria in the sediment that may originate from the storm drain misses the key point of the regrowth problem. Bacteria are supposed to be an indicator of human pathogens. Bacteria regrow in the environment. Pathogens (viruses) do not regrow outside of a host. When bacteria regrow in the environment they no longer represent a surrogate for pathogen levels, regardless of the original source of the bacteria.

Page N-18, Response to Comment 18. As we discussed earlier, I do not believe the Haile study to be representative of the situation at Baby Beach. The area draining to Santa Monica Bay is known to have infrastructure issues. The study is silent as to whether the urban runoff is suspected to have sewage inputs. Sanitary surveys at Baby Beach have shown no cross connections to the storm drain system or sewage inputs to the beach and this has been acknowledged in the TMDL. The Mission Bay study has documented a beach area that receives storm drain discharge and where there is no correlation with negative health effects. Either both studies need to be discussed in relation to the issues of illness and urban runoff, or the discussion should be removed from both the response to comments and the Technical Document.

Page N-18, Response to Comment 20. Regardless of whether the plugs were 100% effective or slightly less allowing for some leakage of runoff, the model did not include any BMP control efforts at Baby Beach during the period used for calibration. These assumptions were not an accurate portrayal of the system. Incidentally, once the leak in the plug was discovered, the plug was replaced.

Page N-20, Response to Comment 25 and N-22, Response to Comment 29. The assumed correlation between the diversion and improved water quality cannot confirm the numeric values of the TMDL. At best the response could state that the reduction appears to confirm that the stormdrain may be a significant source of bacteria. Without flow and concentration data, a load reduction can not be calculated or confirmed.

While I have no desire to continue an argument in front of the Board on these issues, I am concerned about the accuracy and balance of the information in the administrative record. I hope we can come to some middle ground to obviate the need to provide clarifying comments at the June 11 hearing.

Amanda

Amanda Carr
Environmental Resources Section
Watershed and Coastal Resources Division
County of Orange
1750 S. Douglass Road
Anaheim, CA 92653
p:714-567-6367
f: 714-567-6220