

AGENDA
NEWPORT BAY WATERSHED EXECUTIVE COMMITTEE

May 15, 2013
1:30 – 3:30 p.m.

Irvine Ranch Water District
15600 Sand Canyon Avenue
Irvine, CA 92618

John M. W. Moorlach, Chair
County of Orange

Peer Swan, Vice Chair
Irvine Ranch Water District

Beth Krom
City of Irvine

Fred Ameri
Santa Ana Regional Water Quality Control Board

Michele Martinez
City of Santa Ana

Allan Bernstein
City of Tustin

Kathryn McCullough
City of Lake Forest

Nancy Gardner
City of Newport Beach

Ed Pert
California Department of Fish and Wildlife

Sandra Genis
City of Costa Mesa

Sat Tamaribuchi
The Irvine Company

Meeting information available at
www.ocwatersheds.com/NewportBay_ExecComm.aspx

The Newport Bay Watershed Executive Committee welcomes you to this meeting and encourages your participation. This agenda contains a brief general description of each item to be considered. No action shall be taken on any items not appearing in the following agenda except as otherwise provided by law. Any member of the public may ask the Executive Committee to be heard on the following items, as those items are called. To speak on an agenda item, please provide a speaker request card to the Committee Staff. To speak on a matter not appearing in the agenda, please provide a speaker request card to the Committee Staff indicating Public Comments.

Welcome, Introductions, and Pledge of Allegiance

ITEM # 1. MINUTES OF THE FEBRUARY 20, 2013 MEETING

Recommended Action: Approve the minutes of the February 20, 2013 meeting

ITEM # 2. FECAL COLIFORM REPORT UPDATE

Recommended Action: Receive and file

ITEM #3. SELENIUM PROGRAM UPDATE

Recommended Action: Receive and file

ITEM # 4. EXECUTIVE OFFICER REPORT

ITEM # 5. EXECUTIVE COMMITTEE MEMBER COMMENTS

ITEM # 6. PUBLIC COMMENTS

ITEM # 7. ADJOURNMENT

Next meeting date: August 21, 2013

AGENDA STAFF REPORTS
NEWPORT BAY WATERSHED EXECUTIVE COMMITTEE
MAY 15, 2013

DISCUSSION CALENDAR, ITEMS # 1 - 3

ITEM # 1. MINUTES OF THE FEBRUARY 20, 2013, MEETING

Recommended Action: Approve the minutes of the February 20, 2013 meeting as follows.

Date and Location: February 20, 2013, 1:33 p.m. 2:54 p.m.
Costa Mesa City Hall
77 Fair Drive, Costa Mesa CA 92628

Participants: John M. W. Moorlach, Board of Supervisors and Committee Chair
Peer Swan, Vice Chair Irvine Ranch Water District
Allan Bernstein, City of Tustin
Beth Krom, City of Irvine
Fred Ameri, Santa Ana Regional Water Quality Control Board
Kathryn McCullough, City of Lake Forest
Nancy Gardner, City of Newport Beach
Sandra Genis, City of Costa Mesa
Sat Tamaribuchi, Irvine Company

Agenda Item 1 – Minutes of the November 21, 2012 Meeting

The minutes of the November 21, 2012 meeting were presented to the Executive Committee.

Motion: Approve minutes for November 21, 2012

First/Second: Mr. Swan/Ms. Gardner

Outcome: Approved

Agenda Item 2 – Election of Officers

Mr. Swan made a motion to elect Mr. Moorlach as chair and Ms. Gardner made a motion to elect Mr. Swan as Vice Chair.

Motion: Continue with present officers, Mr. John Moorlach as Chair and Mr. Peer Swan as Vice Chair

First/Second: Mr. Swan/Ms. Gardner

Outcome: Approved

Agenda Item 3 – Sediment Program Update and Path to Delisting

Ms. Skorpanich presented an update on the Sediment Total Maximum Daily Load (TMDL) program for the Newport Bay Watershed. Compliance efforts for the Sediment TMDL have been ongoing since March of 1999. Key accomplishments of the fourteen year program were highlighted including the following: maintenance and expansion of sediment trapping basins, stabilization of earthen channels to minimize erosion, and a \$50 million project led by U. S. Army Corps of Engineers (USACE) in partnership with local entities for restoration of Newport Bay including creation of wetlands and nesting islands. The sediment trapping basins involve a series of three basins in San Diego Creek that trap sediment upstream of Newport Bay, and two larger basins within the Bay to catch any additional fine and coarse sediment. Maintenance of In-channel Basin 3 is anticipated within the next couple of years which will require amending the current Sediment TMDL agreement.

Current activities include:

- Studying how to implement long term funding solutions for maintenance of the In-Bay Basins when they reach the threshold and need sediment removal. The restoration project recently completed by USACE was designed to require maintenance once every 21 years. This study will assess future costs and potential funding sources in order to have sufficient money to pay the costs for maintenance when required.
- Monitoring for habitat, wildlife and water quality in Newport Bay, as a follow-up to the restoration project.
- Ongoing discussions to determine a project that will stabilize Serrano Creek.

Discussions are continuing with the Regional Board on modifications of some of the sediment monitoring requirements. This is a multifaceted issue since some of the Sediment TMDL monitoring requirements are incorporated into the Basin Plan and others into a Monitoring and Reporting Order. The initial focus is on changes to the Monitoring and Reporting Order since amending the Basin Plan is a more extensive procedural process. Table 1 below highlights the four administrative modifications requested to the Monitoring and Reporting Order:

Table 1
Administrative Modifications Requested

Modification Requested	Rationale
Discontinuing the Santa Ana-Delhi, Sand Canyon, Bonita Creek and Marshburn monitoring stations	Stations have very low sediment yields and further information is not useful
Discontinuing scour studies and available capacity requirements for Marshburn Retarding Basin	Marshburn Basin has been modified to a Natural Treatment System wetland. With these modifications the Basin no longer functions as a sediment basin.
Revising the rainfall trigger for foothill retarding basin scour surveys to 150% mean basin rainfall	Surveys collected during years of 100% mean basin rainfall have not shown a significant drop in available sediment basin capacity from the prior year. Years with elevated rainfall amounts are ones to be concerned about.
Revising the monitoring schedule for bathymetry and vegetation studied in the Bay to at least every 7 years.	Completion of the Upper Newport Bay Restoration Project has increased the sediment capacity of the In-bay Basins requiring less frequent data collection. The threshold for surveys in years with greater than 250,000 tons of sediment load will remain.

Ms. Genis asked about the status of the development project in Borrego Canyon Wash. In response, the City of Lake Forest indicated that developer approvals are complete.

Mr. Swan inquired if the San Joaquin Marsh would be affected by the proposed reduction in basin maintenance and monitoring and about the flood capacity of San Diego Creek. Mr. Jones, County of Orange, replied that San Diego Creek has capacity for the 25 year storm. Ms. Skorpanich added that there are two distinct types of maintenance activities that occur in the creek: the first is to clean out the basins so that they perform as sediment basins and the second is to maintain flood capacity. Flood capacity maintenance will continue regardless of changes to the sediment program.

Mr. Ameri voiced concern regarding proposed changes requested to the Sediment TMDL program which may result in impacts to the Bay. Ms. Skorpanich assured him that we will still be held to comply with the overall load reductions as stipulated in the Sediment TMDL.

Ms. Gardner asked Mr. Webb to share proposed alternatives recommended by the City of Newport Beach for sediment management in Newport Bay. Mr. Webb, City of Newport Beach, conveyed support for the revisions presented to the Regional Board for modification of the Sediment TMDL. The City of Newport Beach's suggestion involves using the money being

saved from monitoring and current maintenance of the In-Channel Basins to establish an escrow account for bay dredging and canyon stabilization.

Mr. Shibberu, Regional Board staff, presented on the Sediment TMDL with a brief history and then focused on technical issues brought up concerning compliance with the numeric targets and the issue of whether the Newport Bay could be delisted. Formal review and assessment of evidence in support of listing or delisting is performed by the State Water Resources Control Board and any decisions require approval by the U.S. Environmental Protection Agency. Regional Board staff performed a preliminary assessment of the available information and concluded that there is insufficient evidence to warrant delisting at this time. Board staff believes, however, that it is appropriate to consider changes to the TMDL and TMDL implementation approach, including related monitoring.

Motion: Receive and File
First/Second: Ms. Gardner/Mr. Ameri
Outcome: Approved

Agenda Item 4 –Fecal Coliform Report Update

This item was continued to the May 15, 2013 meeting

Agenda Item 5 – Executive Committee Member comments

None

Agenda Item 6 – Public Comments

None

Agenda Item 7 – Adjournment

Attendees: Alex Waite, City of Tustin
Amanda Carr, City of Irvine
Carlos Castellanos, City of Santa Ana
David Webb, City of Newport Beach
Devin Slaven, City of Lake Forest
Doug Shibberu, Santa Ana Regional Water Quality Control Board
John Kappeler, City of Newport Beach
Kurt Burchtold, Santa Ana Regional Water Quality Control Board
Mark Tettermer, Irvine Ranch Water District
Robert Stein, City of Newport Beach
Pamela Newcomb, County of Orange
Patrick Bauer, City of Costa Mesa
Tom Wheeler, City of Lake Forest
Tyrone Chesanek, City of Santa Ana

William Galvez, City of Santa Ana
Phil Jones, County of Orange

Committee Staff, County of Orange:

Mary Anne Skorpanich, County of Orange
Beatrice Musacchia, County of Orange

ITEM # 2. FECAL COLIFORM REPORT UPDATE

In April 1999, the Santa Ana Regional Water Quality Control Board amended the Santa Ana Region Water Quality Control Plan (Basin Plan) by adopting the Total Maximum Daily Load (TMDL) for Fecal Coliform in Newport Bay. Recognizing the complexity of the bacterial water quality problem and paucity of relevant local data on bacterial sources and appropriate control measures, the TMDL included a prioritized, phased approach to fecal coliform load reductions to the Bay. This phased TMDL approach called for further data collection and analyses concerning sources and impacts of fecal coliform inputs to the Bay, ultimately leading to a re-evaluation of the TMDL and, if needed, TMDL revisions.

A report entitled *Recommended Revisions to the Newport Bay Fecal Coliform TMDL* (2013) will soon be finalized for submission to the Santa Ana Regional Board. Finalization has been delayed due to the need to incorporate additional data through 2012 and to assess new Recreational Water Quality Criteria issued by USEPA in November 2012. The report includes an evaluation of trends in long-term data, comprising over 31,000 fecal coliform samples as well as over 22,000 enterococci samples collected from January 1986 through December 2012. Results show that average fecal coliform concentrations have decreased substantially throughout the Bay over this time period. This report also integrates and evaluates studies required by the TMDL and recommends revisions to the fecal coliform TMDL and the 303(d) List of Water Quality Limited Segments. Major recommendations in the report are centered on the following key areas.

1. Revise the fecal bacteria indicator water quality objectives from fecal coliform to *Enterococcus* consistent with USEPA guidance and current scientific knowledge
2. Revise the TMDL water contact numeric targets to consider wet and dry weather conditions separately
3. Provide for exceedances of water quality objectives due to natural uncontrollable sources of fecal indicator bacteria through two previously utilized approaches:
 - a. A Reference System Antidegradation Approach – requires bacteriological water quality to be at least as good as a reference system without anthropogenic sources.
 - b. A Natural Sources Exclusion Approach – allows exceedances when all anthropogenic sources have been addressed
4. Revise the current monitoring requirements
5. Suspend the compliance date for the shellfish harvesting water quality objective until the State Water Resources Control Board concludes its evaluation of the standard; otherwise, compliance is required by 2019
6. Revise 303(d) List of water quality impairments to reflect current data

Recommended Action: Receive and file.

ITEM # 3. SELENIUM PROGRAM UPDATE

Efforts to address selenium in the Newport Bay Watershed have been complex technically and from a regulatory perspective since the sources are natural in origin with no readily acceptable treatment technology. In the past 12 months, considerable traction has been gained on projects to remove selenium from the Watershed and address confounding regulatory issues. Three projects that will result in significant selenium reductions have been identified: Peters Canyon Wash Groundwater Interception Pipeline Project; Santa Ana Delhi Channel Pipeline Project; and Big Canyon Wash Selenium Management Project. The first two projects have received grant funding from Orange County Transportation Authority's Environmental Cleanup Program Tier II Grant Program.

Considerable work has been performed with the Orange County Sanitation District to allow discharges of selenium rich water to conform with its regulatory permits, in particular a benchmark for selenium for the ocean outfall. Additionally, ongoing discussions have been conducted to allow diversions to be possible under the current diversion policy of the District. Potential changes to the diversion policy will be considered by the District at its May 22 Board meeting.

On the regulatory front, potentially viable approaches have emerged that would provide compliance certainty for those investing in the aforementioned selenium reduction projects and allow them to be built. The basis of this approach is to amend and/or supplement Time Schedule Order (TSO) R8-2009-0069 that was approved by the Regional Board on December 10, 2009. Watershed parties are working cooperatively with the Regional Board on various tasks to ensure that a selenium agenda item is brought to the Regional Board at its July 19, 2013 meeting allowing approval, design and construction of the two pipeline diversion projects to move forward on the timeline required by the grant funding.

Recommended Action: Receive and file.

ITEM # 4. EXECUTIVE OFFICER REPORT

ITEM # 5. EXECUTIVE COMMITTEE MEMBER COMMENTS

ITEM # 6. PUBLIC COMMENTS

ITEM # 7. ADJOURNMENT

Next meeting date: August 21, 2013