

## CALIFORNIA COASTAL COMMISSION

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*Tu 9d*

March 21, 1995

TO: Coastal Commissioners and Interested Members of the Public

FROM: Peter Douglas, Executive Director  
 Tami Grove, Central Coast District Director  
 Bill Allayaud, Coastal Nonpoint Pollution Control Program Coordinator

**SUBJECT: Status of the Coastal Nonpoint Pollution Control Program and Summary of the staff's Strategy to Enhance the Management of Polluted Runoff.**

**NOTE:** This is an informational item only; no formal action is needed. It is recommended that interested public be afforded an opportunity to comment.

**SUMMARY OF REPORT:** The Coastal Nonpoint Pollution Control Program (CNPCP)<sup>1</sup> mandated by the Federal Coastal Zone Act Reauthorization Amendments of 1990 was submitted jointly to U.S. EPA and NOAA by the Commission and State Water Resources Control Board in September 1995. The Commission completed its hearing on the CNPCP in October 1995 and sent a transmittal letter to the federal agencies that supported the submittal but also noted several areas of concern. EPA Region 9, the lead for review of the CNPCP, has indicated since the submittal was made that the CNPCP has a number of shortcomings that will be addressed in conditions that EPA and NOAA will place on the approval of the CNPCP. The first part of this report summarizes the contents of California's CNPCP and the shortcomings that staff expects the federal agencies to raise.

The second part of this report summarizes a strategy Commission staff will be implementing to enhance our coastal program's management of polluted runoff. The strategy has been developed to keep within the confines of existing budgets, staffing, and statutory authority. As background, legislative mandates regarding managing polluted runoff are summarized. The four program enhancements that comprise the strategy utilize the Commission's existing and newly developing tools and programs related to management of polluted runoff. These enhanced are:

<sup>1</sup> **Acronyms Used in this Report**

CZARA = Coastal Zone Act Reauthorization Amendments of 1990  
 CNPCP = Coastal Nonpoint Pollution Control Program  
 SWRCB = State Water Resources Control Board  
 RWQCB = Regional Water Quality Control Board  
 NOAA = National Oceanic and Atmospheric Administration  
 EPA = U.S. Environmental Protection Agency  
 EPA 9 = Environmental Protection Agency Region 9 (San Francisco)

- (2) Increase effectiveness of regulation and planning through better coordination with the RWQCBs;
- (3) Strengthen links to other water quality agencies and programs that are addressing polluted runoff; and
- (4) Increase focused involvement in watershed management

## **STATUS OF THE COASTAL NONPOINT POLLUTION CONTROL PROGRAM**

### **Background: Program Development**

Section 6217 of Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires that each coastal state prepare a CNPCP in order to reduce significant sources of nonpoint source pollution, also called polluted runoff, into coastal waters. Under Section 6217 the coastal management agencies and water quality management agencies of states with federally approved coastal management programs must jointly prepare the program. In 1992, the Commission and the State Water Resources Control Board (SWRCB) initiated a joint program to develop California's CNPCP. Similarly, at the federal level, the U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA) are required to jointly administer and approve each CNPCP.

The Commission and SWRCB submitted the CNPCP to EPA/NOAA on September 28, 1995. Because of tight timeframes, the Commission finished its public hearing on the CNPCP *after* SWRCB made the submittal, in October 1995, and transmitted a letter to EPA/NOAA that expressed both commitment to, and concerns with, the submitted program. The letter, which is attached to this report, reflects the differences the Commission has with SWRCB about the contents of the submittal. The problems that the letter raised indicate that the CNPCP currently lacks some of the elements that appear to be necessary to receive federal approval based on the statute and program guidelines.

California's CNPCP does not contain any new regulatory programs, but instead relies upon existing voluntary and regulatory programs being implemented at the State and local level. The submittal is intended to satisfy the requirements of Section 6217 by providing a description of the following program elements:

- (a) Management of each category of land use (agriculture, forestry, urban runoff, etc.) that contributes to polluted runoff in California, including enforceable policies and mechanisms to ensure implementation;
- (b) Definition and delineation of "Critical Coastal Areas," which are the watersheds of threatened and impaired water bodies;
- (c) Monitoring of management measure implementation;
- (d) Provision of technical assistance to local government and the public; and

- (e) A description of the public participation process.

### **Status of the Federal Review of the CNPCP**

EPA Region 9 in San Francisco (EPA 9) has taken the lead for review of the CNPCP, with cooperation from EPA and NOAA's Washington D.C. staff. According to the program guidelines, the federal agencies must give full approval, conditional approval, or disapprove a CNPCP within six months after the submittal. Since California's program was submitted in the end of September, theoretically the federal agencies must notify the State of its decision by the end of March. In the event of a conditional approval, the State will have up to five years to meet the conditions set by the federal agencies. In the event of a disapproval, the federal agencies will impose sanctions consisting of gradual reductions in the Commission's and SWRCB's grant funds.

EPA 9 staff has recently given some indications as to how the review is proceeding and what the State can expect in terms of the federal response. First, the review has fallen behind schedule, partly due to the federal staff furloughs and also because California's submittal was made later than many other states. Most importantly, they have given us a strong indication that the State's CNPCP will receive a *conditional approval*, rather than an unconditional approval or a disapproval. This is important because it means any financial sanctions will be forestalled (for up to five years), and because it means that the Commission and SWRCB staff will be expected to respond to the conditions of approval.

Specific shortcomings or needed clarifications that federal staff has identified on a preliminary basis include:

- Formal agreements or other mechanisms to ensure an ongoing partnership between the Commission and SWRCB to carry out the CNPCP are not in place;
- A clear timetable with milestones for implementing the program is not included;
- The methods or programs by which some of the 56 EPA-promulgated management measures will be implemented is not clear;
- Trigger mechanisms are lacking to indicate when water pollution control measures will be increased from the voluntary level to the regulatory level; and
- Specific program improvements or changes the Commission plans to undertake to strengthen its water quality management efforts are not clear.

### **Staff Action Since Submittal**

Most of the program shortcomings listed above were previously acknowledged in the October 1995 letter the Commission sent to transmit the CNPCP. However, a point being made by federal staff and not acknowledged in our letter is that *the submittal lacks a vision of how the Commission should do things differently to better address polluted runoff*. For the CNPCP submittal, Commission staff was focused on describing how existing policies and programs implement the management measures in certain areas, namely, new development, new marina

projects, and hydromodification projects. Therefore, after submission of the CNPCP and completion of the Commission's public hearing process, Commission staff turned its attention to better articulating the coastal program's strategy to enhance its ability to address runoff and thereby protect and restore coastal waters.

This strategy was developed and reviewed by the Commission Management Team, and as Executive Director Douglas committed to at the October 1995 Commission meeting, staff is now bringing it to the Commission for their information. It is our intention to use this information to respond to the condition that EPA/NOAA is likely to place on the program, that is, that the Commission specifically describe how it can improve its performance in managing polluted runoff.

## **STRATEGY FOR ENHANCED MANAGEMENT OF POLLUTED RUNOFF**

Since the 1970's, the Commission has been a leader in applying conditions to development permits and negotiating redesigned developments in order to mitigate or avoid adverse environmental impacts on coastal waters and habitats. Further, the Commission has a long history of working with universities, ports, and other state agencies to develop plans that similarly protect coastal resources. These efforts have included increasing setbacks, reducing and restricting grading, requiring erosion control plans, and requiring on-site retention of runoff. Perhaps most importantly, the Commission has also ensured that local governments utilize these same techniques by including appropriate policies and ordinances in LCPs. Building upon this record, staff has identified ways in which the Commission can enhance its performance in protecting and restoring coastal water quality within existing budgets and staffing levels by:

- **Taking advantage of increased knowledge about BMPs (Best Management Practices);**
- **Assisting local government to improve local control of polluted runoff;**
- **Strengthening links to other water quality-related agencies and programs; and**
- **Participating in the emerging watershed management approach being embraced by many resource management agencies.**

To develop this four-part strategy, staff considered the mandates that drive the Commission's program, and existing and developing tools and programs that influence water quality management. Each of these is described briefly below.

### **Mandates to Protect Coastal Waters and to Provide Technical Assistance and Public Education**

Long before passage of Section 6217 of CZARA, the Coastal Act mandated that the Commission protect and restore of water quality, primarily through the following sections:

30230 Marine resources shall be maintained, enhanced, and restored.

- 30231 Quality of coastal waters and streams shall be maintained; control runoff.
- 30232 Protect against spillage of oil and hazardous wastes.
- 30233 Limit the alteration of wetlands, coastal waters, estuaries.
- 30236 Limit the hydromodification of rivers and streams.
- 30240 Environmentally sensitive habitats shall be protected.
- 30250 New development shall be located so as to not have adverse impacts.
- 30705 Control impacts of dredging.

The Commission must approve coastal development permits, federal consistency submittals, LCPs, and related plan consistent with these policies. In doing so, it is the Commission's responsibility to ensure that land use activities associated with the generation of runoff and possible spills are properly managed. Clearly, pursuant to these policies, the Commission has considered protection of water quality in its past decisions as evidenced by requirements it has imposed to minimize runoff and pollution.

Also, it is widely acknowledged that public education is a key component of all polluted runoff management programs. The Commission is required by Section 30012 of the Coastal Act to carry out a public education program to foster the conservation and wise use of coastal and ocean resources. The Commission's existing Adopt-a-Beach program and Save-Our-Seas curriculum address polluted runoff to some extent, as marine debris and beach litter is often considered to be a kind of nonpoint source pollution. Building upon this experience, the Commission's public information staff has increasingly become involved in beach clean up programs that are concerned with pollutants (such as used motor oil) that are entering the ocean from coastal watersheds.

SWRCB and Regional Water Quality Control Boards (RWQCBs) designate water bodies as threatened and impaired if their water quality conditions have deteriorated to the point that "beneficial uses" such as drinking water, habitat, aquaculture, and recreation, are limited or are no longer being supported by the water body. There are 105 coastal zone water bodies that are threatened or impaired by polluted runoff. This number does not include the remaining coastal water bodies also impacted by polluted runoff that are being considered for listing as threatened or impaired, or for which there is insufficient information to make the designation. The causes of water quality impairment include leaking septic systems, urban runoff, logging operations, dairy farms, abandoned mines, grazing, and intensive irrigated agriculture. Pursuant to the Coastal Act and Section 6217, the Commission is required to protect these water bodies from impacts caused by new development and planning decisions, consistent with the Coastal Act sections cited above.

### **Program Enhancements To Implement A New Strategy**

The following four enhancement efforts will improve the Commission's management of polluted runoff through its existing programs and functions. Implementation of the

enhancements primarily involves improving the information base our staff can use in its project and plan analysis, and increasing our interaction with local government and agencies concerned with water quality. As mentioned above, no new staff positions, laws, or regulations are needed to carry out these enhancements, as they are integrated into existing Commission operations.

**Program Enhancement #1: Enhance polluted runoff management through improvement to the coastal development permit and LCP processes.**

***Key Actions:***

- Provide technical assistance through workshops on application of management tools.
  - Workshops for each Commission office
  - Workshops for local governments

The goal of this initiative is to improve staff's analytical capabilities through more effective application of the tools we already have or are developing. This initiative also is intended to facilitate interaction with local government in recognition of the fact that local government is key to protecting coastal water quality and that the Commission has a mandate to provide technical assistance on polluted runoff issues pursuant to the Coastal Act and Section 6217.

Staff will conduct a series of workshops designed to assist both Commission and local government analysts by exposing them to the most recent information available on current statutes and regulations, water quality problems, effective structural solutions, and nonstructural (planning) solutions. The workshops will use tools that the CORD unit and others have already developed -- the Procedural Guidance Manual for Polluted Runoff, the Land Form Alteration Guidance Document, the Wetland Mitigation Guidance Document, and the State of California Storm Water BMP Handbooks (a SWRCB resource). The expected results of the workshops will be improved analysis of CEQA documents, LCPs, and other plans, and the application of more effective conditions and suggested modifications. This program improvement effort also will assist the Commission's federal consistency functions; the review of federal projects or projects on federal land sometimes raises issues of polluted runoff. After a round of internal Commission workshops, staff will schedule workshops with local governments. Although the impetus for the local government workshops will be the topic of managing polluted runoff, we expect this exchange to be a good opportunity to improve our interaction with local government on a variety of coastal program issues.

In addition to the above tools, we will use other, ongoing Commission efforts to ensure that this program strategy is successful. The Cumulative Impacts Methodology<sup>2</sup> and Model Urban

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<sup>2</sup> Project of Special Merit currently underway titled "Cumulative Impacts of Polluted Runoff: A Methodology for Assessing the Cumulative Impacts of Coastal Development on Polluted Runoff in the Elkhorn Slough Watershed, Monterey County, California." This project has multiple objectives:

- (1) To describe cumulative impacts of development on polluted runoff;
- (2) To evaluate models that estimate runoff and cumulative impacts;
- (3) To describe land use/water quality trends in the Elkhorn Slough watershed;
- (4) To analyze LCP policies and coastal permit data for past, present, and projected land uses and correlate these data with water quality information for Elkhorn Slough; and

Runoff Program<sup>3</sup> will develop mechanisms and specific policies and ordinances that can be incorporated into LCPs. It should be noted that there is increasing pressure for cities and counties to implement Federal Clean Water Act requirements for urban storm water control; it is intended that this program enhancement will assist local governments in meeting such obligations and in improving the quality of coastal waters adjacent to their jurisdictions. The 6217 program staff will also be providing to each district Commission office a summary of water quality issues and watershed management efforts for watersheds that have been given high priority through RWQCB designations. These summaries will include an outline of specific LCP issue areas that might present an opportunity to improve local government's management of polluted runoff.

Another ongoing Commission program expected to help Commission and local government staff with water quality management issues is the Regional Cumulative Assessment Project, or ReCAP. One product of ReCAP has been the development of a computerized system for tracking permit information, a new tool that should help the Commission and local government analyze watershed trends.

### **Program Enhancement #2: Increase effectiveness of regulation and planning through better coordination with the RWQCBs**

#### ***Key Actions:***

- Commission management meets with management of the RWQCBs.
- Commission and RWQCB staff hold cross-training workshops.
- Commission and RWQCB staff share resources and information on the water quality-related aspects of issues such as NPDES Storm Water Permits, review of general plans, LCPs, and EIRs, and watershed planning.

Up to this point, most district offices of the Commission have had irregular or minimal contact with the staff of the coastal RWQCBs. The goal of this initiative is to create mutually supportive relationships with the RWQCBs like those we have enjoyed with other state agencies. The expected benefits include sharing of staff resources and better coordination in the development of staff reports and recommendations. As hoped for in the passage of the law, the Section 6217 program has resulted in more interaction with the RWQCBs over the last four years which will help facilitate implementation of this initiative.

The RWQCBs are currently reorganizing their functions by watersheds, rather than by programmatic lines. This organization will facilitate coordination with district offices, which are also organized geographically. Topics that are of mutual interests include: the

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(5) To develop policies for the Monterey County LCP for polluted runoff and cumulative impacts which can also serve as model language for LCPs statewide.

<sup>3</sup> The Cities of Monterey and Santa Cruz are the lead agencies for this SWRCB-funded project, assisted by the Commission, the Association of Monterey Bay Area Governments, and the Monterey Bay National Marine Sanctuary. The project will result in a comprehensive package of planning and zoning tools, including internal coordinating mechanisms between local departments, that can be taken statewide for use by local governments working to improve control of runoff. The package will also include a model public education program for urban runoff and other watershed issues.

Commission's and RWQCBs' respective development review processes; LCPs and general plans; enforcement; federal consistency projects; waste discharge requirements (these are permits issued by the RWQCBs); watershed planning; Clean Water Act Section 401 certifications; CEQA review (EIRs), and NPDES Municipal Storm Water.

**Initiative #3: Strengthen links to other water quality agencies and programs that are addressing polluted runoff.**

***Key Actions:***

- Maintain contact with the SWRCB, particularly in the short term to respond to conditions placed on the CNPCP.
- Participate in the Nonpoint Source Interagency Advisory Committee and the State Storm Water Quality Task Force.
- Keep abreast of development of the watershed approach and grant opportunities.
- Continue to assist the federal, state, and local watershed or water quality related programs.

Although the CNPCP has been submitted, continued coordination with the SWRCB in Sacramento will be necessary. The Commission and SWRCB will need to jointly respond to conditions placed on the approval of the CNPCP by EPA and NOAA and will have to develop a longer term mechanism for coordinating the implementation of the CNPCP. As a corollary to these mandatory functions, the Commission staff will look to continuing participation in the SWRCB's State Storm Water Quality Task Force and Nonpoint Source Interagency Advisory Committee, participating in SWRCB/RWQCBs' prioritization of watersheds, soliciting Section 319 grants, keeping abreast of the watershed approach being developed by SWRCB and monitoring other emerging water quality management statutes and programs that affect coastal resources.

The Commission has worked closely with federal programs such as the National Estuarine Research Reserves, the National Estuary Programs, and the National Marine Sanctuaries to help achieve protection of coastal waters. Notably through its Monterey Bay Initiative, Commission staff has helped spearhead a number of efforts that are garnering grant support for the agency, increasing our technical understanding of polluted runoff issues in the coastal zone, and strengthening relationships with local, state, and federal coastal management partners. For example, through a NOAA grant, the Commission is working with San Diego State University, Moss Landing Marine Laboratories, and the Elkhorn Slough Foundation to test a methodology to detect land cover changes through the use of satellite imagery. The work is expected to assist in evaluating trends in the condition of important coastal resources, including information that can be used to help our ability to estimate potential runoff from different sites. In other efforts, the Commission is coordinating with the Elkhorn Slough Research Reserve to evaluate best management practices and develop workshops to improve local decision-makers understanding of various issues, including polluted runoff. Through an EPA Near Coastal Waters Grant, the Commission is working with a number of experts and agencies to develop a framework for coordinating environmental monitoring efforts and



tailoring them to pressing management questions. This work is nearing completion and is being looked to by the RWQCB for ideas to develop regional monitoring programs throughout the Central Coast. Continued benefits to the coastal program are expected to accrue from staff's future participation in such efforts.

A significant undertaking in recent years has been the development of a Water Quality Protection Program (WQPP) for the Monterey Bay National Marine Sanctuary, an effort in which the Commission has and will continue to play a critical role. This program, which covers a region stretching from the southern terminus of Drakes Bay to Cambria--nearly a third of the State's coastline--is an innovative ecosystem-based approach to solving land use and water quality problems. It is being developed by 27 federal, state, and local agencies with assistance from the region's experts and representatives from various public sectors. Problems in the Sanctuary and its watershed that have been identified by the WQPP include: toxic pollutants in sediments, shellfish, and wildlife; human health problems; sedimentation and low flows in rivers and streams; wetlands alteration, and habitat loss. Aiming to integrate the large number of existing water quality-related plans and programs in the region, to share and conserve resources wherever possible, and to ensure thorough public participation, participants in the WQPP have developed a number of specific strategies and begun implementing them on various fronts. The first efforts concentrated on marina/boating issues and urban runoff problems. As summarized in Footnote #3 above, one of the Commission's roles to help carry out these strategies will be to work with the Cities of Monterey and Santa Cruz to develop a stormwater protection program that can be used as a model for other parts of the State.

Another interagency effort that has been underway for over one year involves improving the use of BMPs for marina operation and maintenance activities. The CNPCP staff initiated the formation of an organization of pollution educators that includes agency, industry, and environmental representatives. This organization, calling itself the California Clean Boating Network (CCBN), has created an Action Plan and is implementing a number of projects in the plan. Additionally, Commission staff obtained a Section 319 grant from SWRCB in order to gather and catalog marina and recreational boater pollution education products in California. In turn staff has created a binder that includes exemplary education products addressing the pollutants associated with marina and boater activity. The binder and catalog are now being disseminated to marina, boating groups, and relevant agencies in the entire coastal zone and S.F. Bay-Delta region.

#### **Program Enhancement #4: Increase Focused Involvement in Watershed Management**

##### ***Key Actions:***

- Materials will be prepared to help Commission staff understand the watershed planning process better and to increase their knowledge of current issues in this area.
- Commission staff will strive to increase participation in watershed management efforts, with help from CNPCP staff who will identify programs that are active or forming.

The Commission has already been involved in a number of watershed management efforts, including Morro Bay, Monterey Bay, Tijuana River, Santa Monica Bay, and Malibu Creek. The Santa Monica Bay Restoration Project, which is a federally designated National Estuary Program, is a good example of how the Commission has participated and what future roles we can play. The Commission was represented by a Commissioner or staff at many of the committee meetings and in the development of final plans. The process resulted in the adoption of an Action Plan, which has been endorsed by Governor Wilson, that is a blueprint for watershed actions, both restorative and for controlling new development. The Commission is identified as the lead implementor in a number of the action elements, as well as co-lead implementor and a regulator for several other action items.

It is appropriate to further increase our involvement in watershed management given the emphasis that agencies at all levels are placing on the watershed approach and because the most effective way in the long term to address water quality problems is at the watershed scale. CNPCP staff will assist by identifying ongoing and proposed watershed programs in the Water Quality Summaries mentioned in Enhancement #1 above. Due to limited staff and other statutory responsibilities, however, staff will become involved where it is believed that our participation will increase the chances of making noticeable improvements in coastal resource management. This will necessitate an evaluation by each Commission district office and a prioritization of the watersheds within the district. Clearly, the Commission should closely examine, and participate in where possible, the process of ranking watersheds that the RWQCBs are currently doing. Increasing our participation will also mean increasing our involvement with resource conservation districts, the National Resource Conservation Service, the RWQCBs, and others that are emphasizing the watershed process.

Attachment: October 1995 letter from Commission  
to EPA/NOAA re: CNPCP Submittal

**CALIFORNIA COASTAL COMMISSION**

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October 20, 1995

Mr. Geoffrey H. Grubbs, Director (WH-533)  
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Ms. Maria Rea, Chief (W-3-1)  
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**RE: Transmittal of California's Coastal Nonpoint Pollution Control Program**

Dear Mr. Grubbs, Dr. Lewsey, and Ms. Rea:

I am pleased to join the State Water Resources Control Board (Board) in its submittal of California's Coastal Nonpoint Pollution Control Program (CNPCP). The CNPCP was sent to you by the Board Executive Officer, Mr. Walt Pettit, on September 28, 1995 without the Coastal Commission's (Commission) signature because, among other reasons, the Commission had not yet completed its public review and comment process. The EPA and NOAA indicated earlier this year that the State could continue holding public hearings on the CNPCP after the program submittal, as long as revisions to the submittal and any responses to public comments were transmitted to them expeditiously. The Board concluded its public hearings on September 21, 1995, however, the Commission did not conclude its proceedings until October 11, 1995. With the completion of the public hearing process, this letter serves as the formal transmission notice from the Commission, and conveys comments, concerns, and recommendations raised and promulgated by members of the public, Commission staff, and/or Commissioners.

Now that the Commission has completed its public hearing, considered the public comments received, and reviewed the documents as approved by the Board, we are

completing the State's submittal by sending you the resolution adopted by the Commission on October 11, 1995, the public correspondence received by the Commission, and our comments and concerns about the State's CNPCP submittal.

**Introductory Comments** The Commission and Board achieved one of the primary objectives of Section 6217 of CZARA by establishing a partnership between the State's principal coastal management agency and principal water quality management agency. This partnership worked relatively well for the greater part of four years and as a result, California met many of the rigorous challenges of the statute. It is noteworthy that California had to overcome an organizational hurdle many other states did not, that is, the two agencies are independent of each other and do not share a common umbrella agency (the Board is under the California Environmental Protection Agency and the Commission is under the Resources Agency). Despite not having a common Cabinet-level Secretary to resolve differences between the agencies and having interacted only sparingly in the past, the Board and the Commission resolved many issues and produced several substantive reports through healthy debate and a good working relationship. Additionally, each agency brought to the table its particular expertise and experience, helping to create a more thorough understanding and description of how California manages nonpoint source pollution and to make the important Technical Advisory Committee (TAC) process successful. The TACs were utilized to evaluate the effectiveness of current nonpoint source (NPS) programs and to identify ways in which they can be improved. There has been universal praise of this interest-based approach and the material produced in the TAC reports will hopefully be used over the next several years to improve program efficiency and effectiveness.

I also take this opportunity to let you know that the Commission intends to implement, within the constraints of available resources, an aggressive NPS control program in addition to the responsibilities detailed in the submittal. For example, we have recently convened an organization of individuals and agencies concerned with marina pollution who wish to pursue a comprehensive public education program. We are pleased that the Board has agreed to make a small Section 319 (Clean Water Act) grant to the Commission in order to facilitate the publication of educational materials that will be sent to over 500 marinas. Another example is our plan to hold a series of training workshops on improving NPS pollution management for coastal local government planners, building officials, and public works staff. We also intend to increase our interaction with the six Regional Water Quality Control Boards along the coast in order to improve coordination, share staff expertise, and seek cooperative solutions to NPS problems.

Notwithstanding the positive elements of California's experience leading to the submittal of its CNPCP, there are a number of substantive areas of residual concern we feel warrant special attention. Because these issue areas were not adequately addressed in the submittal, we highlight them here.

**Gaps and Solutions in Current Implementation are not Identified** We remain concerned over the way the CNPCP has been organized for submittal to EPA and NOAA. The Commission staff had hoped that the description of California's current NPS programs that implement the "g" Guidance management measures, the existing gaps in the programs intended to implement the measures, and the proposed solutions to address these gaps could all be included in a single CNPCP document. Instead, the submittal separates these into two documents: one to describe existing programs ("Coastal Nonpoint Pollution Control Submittal"), and the other to suggest strategies to improve NPS management ("Initiatives in Nonpoint Source Management"). The "Initiatives in Nonpoint Source Management" document will hereafter be referred to as the Initiatives Document. A major problem with the Board's approach is that gaps in existing programs are not addressed systematically in either document, and the ways and means to address these gaps are not clearly identified in many cases. A prime example is the nutrient management measure. It is not clear in the Coastal Nonpoint Pollution Control Submittal whether the management measure is already being implemented. If it is, this is not acknowledged. Furthermore, the Initiatives Document does not contain a clear strategy for filling this gap. Instead, it suggests, in one sentence, that this gap *may* be solved in the future through a grower self-assessment program in a pilot watershed.

**Status of Initiatives Document** Having two separate documents comprise the submittal caused some confusion for the public, as it was unclear as to the exact status that the Initiatives Document has in the submittal. However, the Board confirmed at its hearing and in its resolution that the Initiatives Document is part of the CNPCP, and Board staff confirmed that they would respond to conditions that may be placed on it by EPA and NOAA in the program approval. Furthermore, the Commission's approval of co-sponsorship of the submittal was clearly predicated on the fact that we consider the Initiatives Document to be an integral part of California's CNPCP.

**Is the Submittal a "Program?"** In May 1995 the Board decided to drop the word "Program" from the end of the title of the submittal. This appears to have been done because the Board did not want to create any new "program" pursuant to Section 6217, preferring to rely upon their existing statewide NPS program. However, this somewhat symbolic action relates to a more important issue raised in the public review process. It is not clear that the CNPCP submittal package is a "plan" or a "program" in any meaningful sense of the word.

The Coastal Nonpoint Pollution Control Submittal does not include an action plan, goals, or timetables. It does not contain any trigger mechanisms to identify how potential enforcement actions relate to voluntary programs. The Initiatives Document, as detailed in other parts of this letter, does not serve as a program or plan either, and falls far short in providing details on triggers and timetables. Both the Commission and members of

the public remain concerned about the lack of clarity of the State's submittal in terms of establishing clear program directives against which progress can be measured in coming years.

**Watershed Approach Not Clearly Defined** In early meetings between the State and the federal agencies, EPA and NOAA acknowledged that it would be impossible for California to demonstrate universal implementation of the management measures. Therefore, all parties agreed to an implementation approach based on a focus on priority watersheds, with statewide implementation continuing where already existing, and program improvements in all aspects of the program where possible. It was also agreed that the watershed approach had to be described in sufficient detail to ascertain whether it would meet the requirements of Section 6217.

The Coastal Nonpoint Pollution Control Submittal document describes existing *statewide* programs and provides illustrative examples of how they are implemented. The Initiatives Document was intended to describe the new watershed approach that the Board is relying on as a principal vehicle for improving California's NPS management program and as the way to fill the identified gaps in management measure implementation. The Initiatives Document falls short, however, in adequately describing the watershed approach. In this regard, two points stand out: The Initiatives Document does not identify specific watersheds that are considered priority or targeted watersheds, and the document lacks a description of so-called trigger mechanisms that explain when and how voluntary watershed efforts will be modified by enforcement actions if the voluntary approach is not working.

This last point reveals two additional shortcomings. The first is that the watershed approach, as described, lacks adequate milestones. The Initiatives Document does not make clear how the Board is going to implement an entirely new approach, and when, other than showing a schedule for making additional Clean Water Act Section 319 grants and a work element to further refine the watershed approach. The second serious shortcoming is that there is no discussion of thresholds or triggers that will be used to move the watershed approach from a purely voluntary effort to increasing levels of enforcement. This has been a central theme of discussions between the State and federal agencies on several occasions, most recently during the informal threshold review held in May, 1995.

**Use of the TAC Recommendations** The use of Technical Advisory Committees (TACs) as a central part of developing the CNPCP is explained in the submittal and in the Board's transmittal letter. The TAC recommendations are considered to be possible program improvements or strategies and are therefore integrated into the Initiatives Document. However, when the CNPCP entered the public hearing stage, a number of objections were made regarding the manner in which the TAC recommendations are used

or not used. Essentially, the objections are that the Initiatives Document omitted many TAC recommendations or combined them into general approaches that resulted in the loss of the essence of the recommendation. Furthermore, some argued that the TAC recommendations should be incorporated directly into the CNPCP rather than in a separate document, i.e., the Initiatives Document, which may or may not be implemented.

As explained in the "Gaps and Solutions..." section above, Commission staff wanted solutions to program gaps to be integrated with the description of current programs. By following that course, the disposition of each TAC recommendation would have been more evident. Since this was not done, the Initiatives Document is the only place the TAC recommendations are addressed. Commission staff agrees with some of the public criticism on this point and informed the Board of these concerns. The attached letter to the Board dated September 21, 1995 lists these concerns, such as holding additional hearings on the TAC recommendations and making some of the TAC recommendations statewide initiatives rather than just pilot watershed projects. Having said this, however, we recognize that following through on TAC recommendations and meeting the requirements of Section 6217 are two different issues. In other words, we believe that, for purposes of Sec. 6217, the standard California's submittal must meet is whether the "g" Guidance management measures will be adequately implemented, not whether all of the TAC recommendations will be implemented.

**Definition of Critical Coastal Areas:** California's submittal addresses Critical Coastal Areas (CCAs) on Pages 126 through 202. The Commission, however, does not agree with the definition of CCAs as included in the submittal. The problematic part is on Page 127, where CCAs are defined as "...the coastal zone portions of watersheds which drain into impaired and threatened coastal waters." The phrase "coastal zone portions of" was added by the Board after the draft of the submittal had been reviewed by Commission staff and without our knowledge or concurrence. This new definition is contrary to the definition agreed to by Board and Commission staff over one year ago, and is incompatible with the surrounding text and CCA descriptions in the Coastal Nonpoint Pollution Control Submittal.

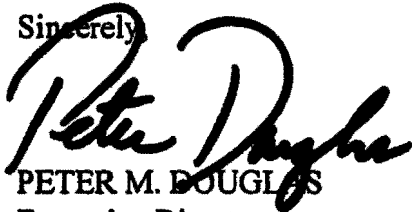
While the Commission's jurisdiction for most purposes of Coastal Act application (except for federal consistency authority) is limited to the State's mapped coastal zone, the CCAs should not be limited to the coastal zone. Early in the process, the Board suggested, and the Commission staff agreed, that the CNPCP would be developed based on existing *statewide* programs. Later, there was concensus that the CCAs would be the coastal watersheds, not just the coastal zone portion of watersheds. This was justified because the Board and its Regional Boards have the jurisdiction to address watershed-wide issues and nonpoint source pollution problems and their solutions clearly involve a geographic area greater than the coastal zone. Focusing on the State's impaired and

threatened water bodies' *watersheds* as opposed to an area defined by an arbitrary political boundary is essential.

**Continued Public Participation** The Commission supports public participation on a continuing basis as California's CNPCP is modified and implemented. We hope resources to sustain that participation will be made available to the State.

**Conclusion** Notwithstanding the Commission's significant concerns about the submittal, we urge EPA and NOAA to approve the program. The concerns expressed above recognize, however, that the approval would likely be accompanied by conditions that the State partners will have to meet in order to receive final approval. The Commission is prepared, within the constraints of available staff and financial resources, to address any conditions and to expand the work already started on CCAs. We will also respond to any questions or requests you may have as your team reviews the submittal.

Sincerely,

A handwritten signature in black ink that reads "Peter Douglas". The signature is written in a cursive, flowing style.

PETER M. DOUGLAS  
Executive Director

cc: Walt Pettit, SWRCB

**Attachments:**

Commission Resolution  
Public Correspondence  
Commission letter to Board



**RESOLUTION OF THE  
CALIFORNIA COASTAL COMMISSION**

IT IS HEREBY RESOLVED that the California Coastal Commission authorizes its Executive Director to co-sponsor the transmittal of the Coastal Nonpoint Pollution Control Program, which includes the "Initiatives in Nonpoint Source Management" document, to the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration in fulfillment of the requirements of Section 6217 of CZARA; IT IS HEREBY FURTHER RESOLVED that the Executive Director be directed to specifically describe in the transmittal letter the remaining significant concerns about the program identified by Commission staff, the Commission, or the public that include the following:

- (1) The SWRCB's "Initiatives" document is an integral part of the CNPCP;
- (2) Gaps in current State NPS programs have not been adequately identified;
- (3) Some Technical Advisory Committee recommendations should be included in the CNPCP as program improvements;
- (4) The CNPCP and Initiatives Documents lack identification of enforcement trigger mechanisms and adequate timetables;
- (5) The Commission has an ongoing role in implementing the CNPCP;
- (6) The Commission is committed to maximum public participation in the improvement and implementation of the CNPCP;

This resolution was adopted by the California  
Coastal Commission on October 11, 1995.



Carl L. Williams, Chairman

