

Chiu, Wayne@Waterboards

From: Matt O'Malley <matt@sdcoastkeeper.org>
Sent: Friday, July 10, 2015 1:58 PM
To: Chiu, Wayne@Waterboards; Arias, Christina@Waterboards; Walsh, Laurie@Waterboards
Cc: Livia Borak; Marco Gonzalez
Subject: Coastkeeper comments on PLA draft language

Hello Wayne and Christina,

I wanted to briefly follow up after the final PLA presentation meeting to relay comments, which are based on a question I asked during the PLA presentation.

Under e.(1)(a)(ii), the language allows exceptions where the Copermittee "does not have the land use authority or legal authority to require a Priority Development Project to implement the full requirements of Provision E.3."

I think this section is not only redundant, but could possibly be used to excuse implementing portions of E.3. where the Copermittees actually have some land use and legal authority. I'll briefly explain below.

As far as redundancy, section E.3. already states "Each Copermittee must use their land use and planning authorities to implement a development planning program in accordance with the strategies in the WQIP...and includes, at a minimum..." This section already assumes they will only exercise authority when and where they have it, and requires it in those instances. This just makes sense.

The issue I have is where the draft language mentions the authority "to implement the *full* requirements of E.3." There might be, in some instances, a situation where the Copermittee has land use or legal authority to implement *some* portion of E.3. but not "the full requirements". The draft language as stated, in the hands of a decent lawyer, could be argued to excuse them from having to implement *any* part of E.3. because they lack the authority to implement "the full requirements" of E.3.

I realize you said you would not be amenable to making significant changes to this language, but I'm writing to request that section (ii) be removed since it is redundant and potentially problematic from a water quality standpoint.

Please call me if this is unclear or you'd like to discuss in more detail.

Thanks,

Matt

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