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## State Water Resources Control Board

TO: Rick Rasmussen, Chief  
TMDL Section  
Division of Water Quality

*Gerald W. Bowes*

FROM: Gerald W. Bowes, Ph.D., Manager  
Cal/EPA Scientific Peer Review Program  
Office of Research, Planning and Performance

DATE: March 20, 2012

**SUBJECT: REVIEWERS APPROVED FOR PROPOSED POLICY FOR TOXICITY ASSESSMENT AND CONTROL**

I am pleased to respond to your request for scientific peer-reviewers for the subject noted above, The University of California, with whom Cal/EPA has an Interagency Agreement to identify reviewer candidates, contacted scientists it considered qualified to perform the assignment.

Each candidate who was both interested and available for the review period was asked to complete a Conflict of Interest Disclosure form and send it to me for review. In follow-up communications with selected candidates, I asked them to affirm there is nothing in their background: a) that might be reasonably construed by others as affecting their judgment, and b) which might constitute an actual or potential source of bias. They also were asked to affirm they would be able to perform an objective and independent review.

### Reviewers Approved:

- a) Gerald A. LeBlanc, Ph.D.  
Professor of Environmental and Molecular Toxicology  
Department of Environmental and Molecular Toxicology  
North Carolina State University  
Campus Box 7633  
Raleigh, North Carolina 27695  
  
Telephone: (919) 515-7404  
Fax: (919) 515-7169  
E-mail: gerald\_leblanc@ncsu.edu

- b) Michael C. Newman, Ph.D.  
A. Marshall Acuff Jr. Professor of Marine Science  
Department of Environmental and Aquatic Animal Health  
Virginia Institute of Marine Science  
College of William and Mary  
Andrews Hall 428  
Gloucester Point, Virginia 23062-1346  
  
Telephone: (804) 684-7725  
Fax: (804) 684-7097  
E-mail: Newman@vims.edu

Curriculum Vitae are attached.

**Contacting Reviewers.** Contact the reviewers immediately. Tell them you have just learned of their identity, and when to expect review material. Keep them informed of delays, and ensure new dates are acceptable. Include me as a "cc" on communications indicating delays.

**Initiating the Review.** Send the reviewers a cover letter with the following:

- a) original letter of request for reviewers and attachments, which was sent to them by the University during the solicitation process;
- b) Key Document(s) for Review;
- c) Key Supporting Documents.

An example of a cover letter initiating the review is attached. It is not confidential at this point. All communications related to the review noted here have been posted at the State and Regional Water Board's peer review website:

[http://www.waterboards.ca.gov/water\\_issues/programs/peer\\_review/](http://www.waterboards.ca.gov/water_issues/programs/peer_review/)

Please send me a copy of the cover letter.

**Essential Directions.** Tell your reviewers in the cover letter:

- a) **Follow the review guidance provided in the initial letter of request for reviewers, Attachment 2.**
- b) **Address all topics listed in Attachment 2, as expertise allows, in the order given.**

**Revisions.** If you have revised any part of the initial request, stamp "Revised" on each page where a change has been made, and date of the change. Clearly describe the revision in the cover letter. Reviewers must be made aware of changes.

**Mode of Transmission.** Review material frequently is sent electronically. Hard copy is recommended for lengthy documents. Confirm electronic and hard copies have been received by reviewers.

**Confidentiality of the Review Process.** Approved reviewers were sent the attached January 7, 2009 Supplement to the Cal/EPA Peer Review Guidelines. Please read it carefully. In part it provides guidance to ensure confidentiality through the peer review process. Reviewers must keep their identities confidential, and I ask that you do also to avoid compromising the external review.

**Communication Restrictions.** Communications between reviewers and requesting organizations are restricted to questions of clarification. Both enquiries and responses must be in writing.(email is fine). If you prefer, all communications can be routed through me.

**Contacts by Outside Parties.** After reviews have been submitted, the Supplement notes reviewers are under no obligation to discuss their comments with third parties, and we recommend they do not.

All outside parties are provided opportunities to address a proposed regulatory action through a well-defined rulemaking process. Ask your reviewers to direct third parties to you, or a designated staff person, with comments or suggestions in writing.

**Completed Reviews.** These are to be sent directly to the person signing the letter initiating the review, unless directed otherwise.

If I can provide additional help, contact me at any time during the review process.

cc: Mr. Paul Hann  
Senior Environmental Scientist  
Mr. Brian D. Ogg  
Environmental Scientist  
Division of Water Quality

Attachments (4)

- 1) Curriculum Vitae – Gerald A. LeBlanc, Ph.D.
- 2) Curriculum Vitae – Michael C. Newman, Ph.D.
- 3) Example of Letter Initiating Review
- 4) Supplement to Cal/EPA External Scientific Peer Review Guidelines



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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State Water Resources Control Board

December 21, 2011

Sent via FedEx

Professor Pedro J.J. Alvarez, Chair  
Department of Civil and Environmental Engineering  
Rice University  
6100 Main Street, MS 519  
Houston, Texas 77251-1892

Dear Professor Alvarez,

**PEER REVIEW OF SCIENTIFIC BASIS OF THE TECHNICAL JUSTIFICATION FOR  
THE PROPOSED LOW-THREAT UNDERGROUND STORAGE TANK (UST) POLICY**

I have been asked to continue managing the external scientific peer review of the subject noted above. Staff will not communicate with the approved reviewers, such as yourself, nor know their identities, until I formally transmit the reviews to them.

My letter today is intended to initiate the next phase of the external review – the actual reviews themselves.

Included with this letter are the following key documents:

- a) The request for external reviewers to me, signed by Kevin Graves, DWQ, including eight attachments; and,
- b) January 7, 2009 Supplement to the Cal/EPA Peer Review Guidelines.

Comments on the foregoing (a-b):

1. You have been sent the request letter during the solicitation process for reviewer candidates conducted by the University of California. The letter was dated November 29, 2011, and did not include Attachments 5-8. The attached letter is identical, dated December 8, 2011, and is the final request with all attachments included. Attachment 8 is a CD containing all references.
2. Attachment 2 to the request letter provides focus for the review. I ask that you address all topics, as expertise allows, in the order listed.

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CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

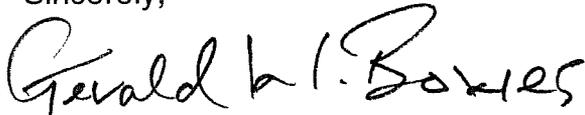
3. The January 7, 2009 Supplement – you received this earlier when I approved you as a reviewer. I am sending it again to make certain that you have it. In part, it provides guidance to ensure the review is kept confidential through its course. The Supplement notes reviewers are under no obligation to discuss their comments with third-parties after reviews have been submitted. We recommend they do not. All outside parties are provided opportunities to address a proposed regulatory action through a well-defined regulatory process. Direct third parties to Kevin Graves, UST Program Manager.

Please return your review directly to me. Questions about the review, or review material, should be for clarification, in writing – email is fine, and addressed to me. My responses will be in writing also. The State Water Board should not be contacted. I will subsequently forward all reviews together with reviewers' CVs. All this information will be posted at the UST program web site, and the State Water Board's Scientific Peer Review website.

I would appreciate your review being completed by **January 31, 2012**.

Your acceptance of this review assignment is most appreciated.

Sincerely,



Gerald W. Bowes, Ph.D.  
Manager, Cal/EPA Scientific Peer Review Program  
Office of Research, Planning and Performance  
State Water Resources Control Board  
1001 "I" Street, MS-16B  
Sacramento, California 95814

Telephone: (916) 341-5567  
Facsimile: (916) 341-5284  
Email: GBowes@waterboards.ca.gov

**Supplement to Cal/EPA External Scientific Peer Review Guidelines –  
“Exhibit F” in Cal/EPA Interagency Agreement with University of California  
Gerald W. Bowes, Ph.D.**

**Guidance to Staff:**

1. Revisions. If you have revised any part of the initial request, please stamp “Revised” on each page where a change has been made, and the date of the change. Clearly describe the revision in the cover letter to reviewers, which transmits the material to be reviewed. The approved reviewers have seen your original request letter and attachments during the solicitation process, and must be made aware of changes.
2. Documents requiring review. All important scientific underpinnings of a proposed science-based rule must be submitted for external peer review. The underpinnings would include all publications (including conference proceedings), reports, and raw data upon which the proposal is based. If there is a question about the value of a particular document, or parts of a document, I should be contacted.
3. Documents not requiring review. The Cal/EPA External Peer Review Guidelines note that there are circumstances where external peer review of supporting scientific documents is not required. An example would be "A particular work product that has been peer reviewed with a known record by a recognized expert or expert body." I would treat this allowance with caution. If you have any doubt about the quality of such external review, or of the reviewers' independence and objectivity, that work product – which could be a component of the proposal - should be provided to the reviewers.
4. Implementation review. Publications which have a solid peer review record, such as a US EPA Criteria document, do not always include an implementation strategy. The Cal/EPA Guidelines require that the implementation of the scientific components of a proposal, or other initiative, must be submitted for external review.
5. Identity of external reviewers. External reviewers should not be informed about the identity of other external reviewers. Our goal has always been to solicit truly independent comments from each reviewer. Allowing the reviewers to know the identity of others sets up the potential for discussions between them that could devalue the independence of the reviews.
6. Panel Formation. Formation of reviewer panels is not appropriate. Panels can take on the appearance of scientific advisory committees and the external reviewers identified through the Cal/EPA process are not to be used as scientific advisors.
7. Conference calls with reviewers. Conference calls with one or more reviewers can be interpreted as seeking collaborative scientific input instead of critical review. Conference calls with reviewers are not allowed.

## Guidance to Reviewers from Staff:

### 1. Discussion of review.

Reviewers are not allowed to discuss the proposal with individuals who participated in development of the proposal. These individuals are listed in Attachment 3 of the review request.

Discussions between staff and reviewers are not permitted. Reviewers may request clarification of certain aspects of the review process or the documents sent to them.

Clarification questions and responses must be in writing. Clarification questions about reviewers' comments by staff and others affiliated with the organization requesting the review, and the responses to them, also must be in writing. These communications will become part of the administrative record.

The organization requesting independent review should be careful that organization-reviewer communications do not become collaboration, or are perceived by others to have become so. The reviewers are not technical advisors. As such, they would be considered participants in the development of the proposal, and would not be considered by the University of California as external reviewers for future revisions of this or related proposals. The statute requiring external review of science-based rules proposed by Cal/EPA organizations prohibits participants serving as peer reviewers..

### 2. Disclosure of reviewer Identity and release of review comments.

Confidentiality begins at the point a potential candidate is contacted by the University of California. Candidates who agree to complete the conflict of interest disclosure form should keep this matter confidential, and should not inform others about their possible role as reviewer.

Reviewer identity may be kept confidential until review comments are received by the organization that requested the review. After the comments are received, reviewer identity and comments must be made available to anyone requesting them.

Reviewers are under no obligation to disclose their identity to anyone enquiring. It is recommended reviewers keep their role confidential until after their reviews have been submitted.

### 3. Requests to reviewers by third parties to discuss comments.

After they have submitted their reviews, reviewers may be approached by third parties representing special interests, the press, or by colleagues. Reviewers are under no obligation to discuss their comments with them, and we recommend that they do not.

All outside parties are provided an opportunity to address a proposed regulatory action during the public comment period and at the Cal/EPA organization meeting where the proposal is considered for adoption. Discussions outside these provided avenues for comment could seriously impede the orderly process for vetting the proposal under consideration.

4. Reviewer contact information.

The reviewer's name and professional affiliation should accompany each review. Home address and other personal contact information are considered confidential and should not be part of the comment submittal.