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State Water Resources Control Board

Division of Water Quality

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Arnold Schwarzenegger
Governor

TO: Nadim Zeywar, Ph.D.
TMDL Unit Chief
Colorado River Basin Regional Water Board

FROM: Gerald W. Bowes, Ph.D.
Manager, Toxicology and Peer Review Section
DIVISION OF WATER QUALITY

DATE: April 2, 2008

SUBJECT: PEER REVIEWERS FOR DISSOLVED OXYGEN TMDL – BPA FOR
NEW RIVER

In response to your request for peer reviewers for the subject identified above, I am pleased to send you the names of two individuals who have been identified by the University of California as candidates to perform this assignment. I have reviewed the Conflict of Interest (COI) Disclosure form each person was required to complete and sign, and have approved them as reviewers:

1. Professor David K. Stevens
Utah State University
8200 Old Main Hill
Logan, Utah 84322-8200

Telephone: (435) 797-3229
Fax: (435) 797-1185
Email: David.Stevens@usu.edu

2. Professor Steven Chapra, Ph.D.
Department of Civil and Environmental Engineering
Tufts University
Anderson Hall-200 College Avenue
Medford, MA 02155

Telephone: (617) 627-3654
Fax: (617) 627-3994
Email: steven.chapra@tufts.edu

I am providing biographical information for the approved reviewers with this memorandum.

At this point in the process, the individuals identified above do not know that they have been approved as reviewers. As a courtesy, please contact them immediately by email and let them know. Ask them if their preferred mailing address is the same as that noted above.

Also, tell them when you will transmit the material. They have accepted the assignment based on the date of availability given in your letter of request to me. If preparation of the material is delayed, ask them if the new date is acceptable, including me as a "cc." If subsequent delays occur, inform the reviewers and me as soon as possible. I am often contacted by reviewers and the University if delays occur and reviewers are not kept up to date.

When you transmit the material to be reviewed to Professors Stevens and Chapra, include a new cover letter and the same three attachments you provided in your request letter to me. **Please inform them that their review must follow the guidance provided in Attachment 2.**

Where not already incorporated, the following 12 comments will appear in a revision of the Cal/EPA External Scientific Peer Review Guidelines. They also will become part of each response letter such as this to ensure they are not overlooked.

Guidance to Staff:

1. If you have revised any part of the initial request, please stamp "Revised" on each page where a change has been made. Clearly describe the revision in the cover letter accompanying your request. The approved reviewers have seen your original request letter and attachments during the solicitation process, and must be made aware of changes.
2. All important scientific underpinnings of a proposed science-based rule must be submitted for external peer review. The underpinnings would include all reports and raw data upon which the proposal is based, and conference proceedings which are not normally submitted for external review. If there is a question about the value of a particular document, or whether or not parts of it would be suitable to satisfy this obligation, I should be contacted.
3. 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. A publication which has a solid peer review record, such as a US EPA Criteria document, may not include an implementation strategy that would have been part of the review. The Cal/EPA Guidelines require that the implementation of the scientific

components of a proposal, or other initiative, also must be submitted for external review.

5. Informing reviewers about the identities of other external reviewers: Reviewers should not be informed about the identity of other reviewers. Our goal has always been to solicit comments from each reviewer that are truly independent. This also is normal procedure for review of manuscripts submitted to scientific journals for publication. Allowing the reviewers to know the identity of others sets up the potential for discussions between them.
6. Panel Formation. Conference Calls with Reviewers: Panel formation to include reviewers is not appropriate. Panels can take on the appearance of scientific advisory committees, something they should not be. The independent reviewers identified through the Cal/EPA process are not scientific advisors. The strength of the process is the independence afforded each reviewer.

Similarly, conference calls with one or more reviewers can be interpreted as seeking scientific input instead of critical review. Conference calls with reviewers, therefore, are not allowed. The independent review cannot slide into the appearance of collaboration.

Guidance to Reviewers from Staff:

1. Reviewers are not allowed to discuss the proposal with those listed in Attachment 3 for each request. These are the individuals who participated in development of the proposal.
2. 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 responses to them, also must be in writing. These communications will become part of the administrative record.

Independent peer review is characterized by no interactions, or a limited number of them. The organization requesting independent review should be careful that organization-reviewer communications do not become a collaboration, or are perceived by others to have become so. The reviewers are not technical advisors.

3. Confidentiality of Reviewers' Identities and Release of Review Comments: Each reviewer's identity may be kept confidential until that person's comments are received by the organization that has requested the review. After the comments are received, the reviewer's identity and comments must be made available to anyone requesting them.
4. Before and During the External Review: Reviewers are under no obligation to disclose their identity to anyone enquiring, and we recommend that they keep their role as reviewer confidential until after their reviews have been submitted.

5. Requests to Reviewers by Third Parties to Discuss Comments: Reviewers may be approached by parties representing special interests, the press, colleagues, or others, after they have submitted their reviews. Reviewers are under no obligation to discuss their comments with any party, 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.
6. 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.

When all interactions with Professors Stevens and Chapra have been completed, please let me know for the peer review files I keep here.

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

Attachments