Message

From: Walter Lamb [landtrust@ballona.org]
Sent: 5/20/2019 1:44:36 PM
To: Yelensky, Erica [Yelensky.Erica@epa.gov]; Louis, Gail [Louis.Gail@epa.gov]; Bacalan, Vince [Bacalan.Vince@epa.gov]; Wang, Guangyu@Waterboards [Guangyu.Wang@waterboards.ca.gov]; Tom Ford [tford@santamonicabay.org]; jennifer@chnep.org
Subject: Autonomy of NEP from host entity

Dear Program Evaluation Team,

The purpose of the program evaluation is presumably to identify areas in which a program may benefit from improvement. If evaluation criteria is creatively re-interpreted to mask non-compliance, the public interest purpose of the evaluation is undermined. The performance measure relating to an NEP's autonomy from its host entity is very straightforward, and the Santa Monica Bay NEP simply does not satisfy this performance measure currently. Instead of being autonomous from the Bay Foundation, the Santa Monica Bay NEP has become almost entirely synonymous with it. With regard to visibility in the watershed, the objective is clearly for the NEP itself to have visibility independent from its host entity, not simply for the host to have visibility, as TBF's answer suggests.

Our stakeholder organization believes that this lack of autonomy and visibility has impeded efforts to improve conditions at the Ballona Wetlands, and possibly other ecosystems within the Santa Monica Bay watershed. The outline below provides additional that we hope the evaluation team will take into consideration:

Visibility

TBF's answer with regard to visibility clearly shows that this performance measure is not currently met. "TBF manages the day to day activities of SMBNEP and has visibility to the community." It is an interesting assertion that TBF manages the day to day activities of SMBNEP which, when the Legislature clearly created the Santa Monica Bay Restoration Commission, a state agency, for that purpose. The visibility of SMBRC in the watershed has virtually disappeared over the last four to five years due to changes that were not discussed ahead of time by the management conference:

- Annual Report, semi-annual reports to US EPA, Annual Work Plans and Baywire all rebranded from SMBRC to generic SMBNEP with a heavy focus on the Bay Foundation
- Participation in Ballona Wetlands Restoration Project, Southern California Wetlands Recovery Project, and Association of National Estuaries all rebranded from SMBRC to TBF
- New SMBNEP logo developed to mimic logo of TBF
- SMBRC Director of Communications position, among others, terminated by TBF – SMBRC no longer promotes its work with press releases, leading to a decline in media for SMBRC
- TBF celebrates the anniversary of SMBRC as its own anniversary to raise funds for TBF, not specifically for the NEP

The decline in media coverage for SMBRC can best be measured by comparing the list of media articles in the 2014 program evaluation, in which the Commission is cited in almost 50 articles, to media reports over the last several years, in which there are little to no references to this state agency created to oversee the NEP.

Autonomy

The NEP is supposed to be autonomous from its host entity. However, TBF has recently established itself as being essentially synonymous with the NEP. While TBF staff are sometimes described as NEP staff, their relationship to the NEP management conference remains poorly defined, with numerous comments in Governing Board meetings regarding the lack of staff. This was the single reason provided for SMBRC not providing response comments to the Ballona Wetlands Restoration Project draft environmental analysis. TBF doesn't just hire and employ the NEP staff, as was the case from about 2006 to 2015, it now directs their work independently from the management conference. In

correspondence, media reports, public testimony, and other forms of communication, staff primarily identify themselves as representing TBF directly, not the NEP (for example, see draft EIR for Ballona Wetlands). As partially noted above, TBF has bypassed SMBRC on numerous NEP decisions, and has actively worked to discourage SMBRC involvement in the planning process for restoration of the Ballona Wetlands. Most recently, without any SMBRC discussion or encouragement, TBF sponsored legislation to change the agency providing administrative support to SMBRC.

This is precisely what the program guidance seeks to avoid. The Governance FAQ expressly indicates that "[s]ince a Director is pivotal in bringing stakeholders to the table and in identifying CCMP implementation partners, the Director neither represents, nor should be perceived as representing, any particular entity, interest, or stakeholder, including the host entity." While the host entity can hire and employ the Director and other staff, the Director and staff are supposed to clearly represent the NEP, not the host entity. This is clearly not the case with the TBF Executive Director, who is the only ANEP member affiliated with an NEP host entity rather than the NEP management conference entity itself.

Please consider this performance measure, and whether it is currently being met, with the dispassionate objectivity that the public deserves. By recognizing the lack of autonomy and visibility of the Santa Monica Bay NEP from TBF, the program evaluation team can help the NEP begin to address that issue. I will provide comments on other aspects of the evaluation process separately,

Regards,

Walter Lamb
Ballona Wetlands Land Trust
310-384-1042