



# California Regional Water Quality Control Board Central Coast Region



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## MINUTES

### Central Coast Regional Water Board

#### REGULAR MEETING / BOARD WORKSHOP

Wednesday, February 1, 2012

#### REGULAR MEETING

Thursday, February 2, 2012

Chairman Young called the meeting of the Central Coast Water Board to order at 3:30 p.m. on Wednesday, February 1, 2012, at Salinas City Council Chamber Rotunda, 200 Lincoln Avenue, Salinas, CA 93901

**1. Roll Call – Board Members**.....Michael Thomas, Assistant Executive Officer

**Present:**

Chairman Jeffrey Young  
Vice Chair, Russell Jeffries  
Bruce Delgado  
Monica Hunter  
Mike Johnston  
Jean-Pierre Wolff

**Absent:**

Mike Jordan

**2. Introductions**..... Roger Briggs, Executive Officer

Mr. Briggs introduced and welcomed Board member Bruce Delgado. He also introduced Board Counsel Frances McChesney and Jessica Newman and Board staff. Mr. Briggs asked parties interested in speaking on agenda items to complete testimony cards and return them to staff.

**3. Election of Board Chair and Vice Chair**.....Board Motion

Roger Briggs introduced the item and explained that the Porter-Cologne Water Quality Control Act calls for the Regional Boards to elect a Chair at the first meeting of each calendar year. He also explained that although electing a Vice Chair is optional, this Board has typically done so.

**MOTION:** Russell Jeffries nominated Jeffrey Young for Chair. Following a brief discussion, Mr. Young thanked the Board and accepted the nomination.

**SECOND:** Monica Hunter

**CARRIED:** Unanimously (6-0)

**MOTION:** Monica Hunter nominated Russell Jeffries for Vice Chair. Mr. Jeffries thanked the Board and accepted the nomination.

**SECOND:** Mike Johnston

**CARRIED:** Unanimously (6-0)

**4. Board Workshop**..... Information/Discussion

Executive Officer Roger Briggs described the purpose of the February 1, 2012 Workshop to discuss the renewal and revision of the conditional waiver of waste discharge requirements for discharges from irrigated lands (Agricultural Order), in advance of the upcoming March Board Hearing. The workshop was scheduled at the request of agricultural representatives to provide an additional opportunity for Board Members to become more familiar with the record in this matter and to provide an additional opportunity for the public to address the Board regarding the public on the proposed Draft 2012 Agricultural Order (Draft Order). Mr. Briggs clarified that the written record is now closed; no additional written comments will be accepted into the record, and that there will be additional opportunity to provide oral comment at the March Board Hearing. Board Member Jean-Pierre Wolff indicated he was recused from this item due to conflicts.

Mr. Briggs provided background on the need for an updated Agricultural Order, specifically the relative degree of regulation compared to the severity of water quality conditions. Board Member Michael Johnston disclosed an ex-parte communication which was his participation in a November 9, 2011 meeting called Greater Visions at California State University Monterey Bay (CSUMB) which discussed water in the Salinas Valley. Staff member Lisa McCann summarized the outreach and public input process that staff implemented since 2008, the requirements of the existing 2004 Agricultural Order and the requirements of the proposed Draft Order, the severity of water quality impacts, and public comments leading up to the March 2012 hearing. Staff member Angela Schroeter answered Board Member questions regarding the proposed Tiering criteria.

Sergio Sanchez, representative of Assemblymember Luis Alejo, read a letter from Assemblymember Alejo that discussed his concerns about how the proposed requirements would affect the local agricultural economy and expressed support of work conducted by Dr. Marc Los Huertos. Water Board attorney Frances McChesney clarified that the written record is closed and admitting any new information at this time may create a due process issue. Alec Arago, representative of Congressman Sam Farr, expressed concerns about the process. Hans Pochman, representative of Senator Sam Blakeslee, expressed appreciation for the Board's robust outreach on this issue. He recommended the Board consider the agricultural alternative proposal. He said a true partnership between the growers and the Board is needed with a collaborative approach. That will be more effective and economical.

Board Chairman Jeffrey Young granted 45 minutes to a group of agricultural representatives to provide testimony. Bob Martin (Rio Farms) expressed concern about the process. CSUMB researcher Dr. Marc Los Huertos was commissioned by the "ag community." Dr. Los Huertos described that growers understand that the pollution is substantial and that the Ag Proposal presented a possible coalition approach, but key aspects were missing, and that he is trying to continue to develop more detail in the Ag Proposal. Dr. Los Huertos stated that the earlier versions of the Ag Proposal failed to link progress and the protection of the beneficial uses. The Ag Proposal plans to use a 3rd party audit with trained people to audit 20% of growers each year.

Board Member Russ Jeffries asked if there is anything that will prevent this approach with the current Draft Order proposed by staff. Dr. Los Huertos stated that is unclear and that lower Tier growers have no incentive to participate in the coalition approach. Board Member Johnston described that the staff approach seems to look at results from individual farms but coalition wants to propose results by watershed. Staff member Angela Schroeter indicated that staff's interpretation of the coalition is that it will be formed by growers who "want" to participate, but not all growers. Board Member Bruce Delgado stated that the Ag proposal has less reporting and monitoring than staff's Draft Order. Board Member Jeffries asked about cost and who would serve as auditors. Dr. Los Huertos indicated that there are examples such as Primus and other sustainability agencies. Dr.



Los Huertos also indicated that the Ag Proposal includes two other components: a Technical Advisory Committee to train the auditors and a Public Advisory Committee. Dr. Los Huertos stated that the auditing program is not yet developed. Board Member Johnston asked if details of the audit would come to staff or just a summary report. Dr. Los Huertos indicated that only a summary report would come to the Board. Board Member Johnston indicated that farmers are sensitive to reveal their practices and monitoring data, but the reports need to have enough detail for the board to know what's happening. Board Members asked about the "bad actors" and stated that in the Ag proposal they are kicked out at the end. Dr. Los Huertos indicated that if growers don't implement, then they will be kicked out of the coalition – there will be a structure that will tell those growers to be expelled from coalition. In the meantime, Dr. Los Huertos indicated that staff could focus on the other growers who are not part of the coalition. Board Member Johnston asked if the data from growers who are expelled will be reported to the Water Board. Dr. Los Huertos stated no, otherwise no grower will enroll in the coalition program. Dr. Los Huertos indicated that whenever monitoring is associated with potential punishments, then it is a waste of time and money.

Chairman Young stated that the issue is that the Water Board has to ensure grower compliance and that it's impossible if data is aggregated and camouflaged. Chairman Young asked questions to try to determine the basis of the fear of reporting water quality data to the Board. Board Member Jeffries asked about proprietary information, costs, and whether the Ag Proposal prioritizes using tiers. Dr. Los Huertos indicated that in a coalition growers will promote collaboration and the voluntary use of practices, so they will share and trust each other, and will evaluate their practices for performance and not as secrets. Dr. Los Huertos indicated that tiers are not considered in this approach. Dr. Los Huertos indicated that the costs are lower than estimated based on the number of people likely to participate given a cost of \$7-\$10 per acre, but there is still resistance for many growers to participate.

Board Member Monica Hunter asked how the proposal addresses groundwater monitoring. Dr. Los Huertos indicated that he has not addressed this aspect yet and it is unknown at this time and that growers are interested in the outcome of the report from Senate Bill SBX21, but at this time no data will go to the Board. Dr. Los Huertos plans to use the same Nitrate Index tool as the proposed Draft Agricultural Order to establish areas of high risk and will work on establishing early warnings for nitrate contamination. Dr. Los Huertos indicated that the focus will be on the current loading and not on cleaning what is already polluted.

Board Member Johnston asked if there is a provision to provide to the Board groundwater results geographically and with enough resolution or farm by farm. Dr. Los Huertos indicated that he has considered a few options for groundwater but nothing solid. Chairman Young asked if growers know that staff is not proposing to drill new monitoring wells. Dr. Los Huertos indicated that there is a fear of the data. Tess Dunham, attorney for agricultural representatives, indicated that staff has already edited the proposed Draft Order to include new provisions to allow for cooperative groundwater monitoring and it is a good step forward and she would like to learn more about that. Chairman Young indicated that stakeholders can continue to work with staff to identify acceptable alternative groundwater monitoring programs even after an order is adopted.

Board Member Delgado asked if this approach is appropriate based on the findings in the Ag Order and how growers comply with the Order and water quality standards. Ms. Dunham expressed concerns regarding how long the Water Board gives to growers to allow them to get to compliance. Compliance might be required on day one of adoption of the order, according to current provisions, and it does not give the opportunity to work towards compliance. Ms. Dunham clarified that she agrees that it is appropriate to apply water quality standards as a measure of compliance, but there must be sufficient time to achieve compliance.



Danny Merkeley, California Farm Bureau Federation, addressed the Board and expressed concerns about process. Mr. Merkeley described benefits of watershed scale monitoring and approach to address problems. Chairman Young stated that the Water Board already has watershed monitoring now and that edge of farm data is needed to know where pollution is coming from. Mr. Merkeley stated that the Water Board will never have the staff to police each farm or even evaluate the data and analyze it. Angela Schroeter emphasized that the Water Board has developed improved capacity to collect, prioritize, review, and analyze data more effectively.

Abby Taylor-Silva, Grower Shipper Association, addressed the Board and asked the Board to consider the coalition concept and defer final decision to September 2012, and have staff work with agriculture on the coalition option. Ms. Taylor-Silva asked about adding Dr. Los Huertos' draft report into the record. Chairman Young indicated that the Board has already closed the record and adding additional information would create due process issues since other stakeholders did not have same opportunity. Staff has provided comments to the Ag Proposal already.

Executive Officer Roger Briggs asked Ms. Silva to identify which Tier 2 and Tier 3 requirements agricultural representatives object to. Ms. Silva and Ms. Dunham indicated that they object to all Tier 2 and Tier 3 requirements, with the exception of the Notice of Intent, Farm Plan, and Surface Water Receiving Monitoring. Other requirements would be substituted by audits for 20% of growers participating in the coalition and summary results would be submitted in aggregate to the Water Board. Lisa McCann clarified that the Ag Proposal also included many specific deletions relative to the proposed Draft Order, and some additions. Ms. Dunham indicated that staff has edited the proposed Draft Order to address some of these concerns since agricultural representatives submitted the proposed deletions and additions.

Staff discussed an example provided by Mr. Martin where pumped irrigation water is high in nitrate and how staff would handle run-off even if water quality improvements are made (less nitrate in runoff) but still above water quality standards. Angela Schroeter indicated that this is an improvement and is what staff is looking for. Staff would evaluate compliance based on a number of factors, see descriptions in Conditions 10 and 82 of the Draft Order, and can use discretion and flexibility (for example time schedules). Frances McChesney indicated that, consistent with Porter Cologne, the Water Board must require dischargers to comply with water quality standards, and that we can consider additional language to the Order or staff report to clarify and explain what enforcement means. Chairman Young asked staff to consider additional language. Angela Schroeter indicated that Conditions 10 and 82 were added to respond to similar concerns expressed in comment letters and that staff would reevaluate.

The Board Chair granted 11 minutes to Clean Water Action and Environmental Justice Coalition for Water to provide testimony. Andria Ventura strongly urged the Board to adopt staff's Draft Order when they convene in March. The process to renew the Order has been long and comprehensive; staff has issued multiple drafts with several revisions, engaged a broad group of stakeholders and considered input, and provided multiple opportunities for the public. Ms. Ventura indicated that they do not believe that the Order is perfect, they have suggested edits to strengthen the Order which were not included and staff has provided responses. After over three years it is imperative that we move on to address the real water quality problems and help communities who do not have clean water. Everybody has a right to safe and affordable drinking water. We have known about the nitrate problem in groundwater for more than 20 years. Additional attempts to delay the process are not appropriate. We have heard about the need for more time and the costs to agriculture, but we have not yet addressed the reality that communities do not have access to safe and affordable drinking water and the impacts to those communities. There are thousands of people who can no longer wait. As we find better ways to improve the requirements, we can incorporate that in the future. Any further delay by the Board and individuals involved in the process is complacent to these



very serious and urgent water quality issues. Horacio Amezcuito, San Jerardo Cooperative south of Salinas, described his community's experience with water quality problems from agriculture and drinking water contamination from nitrate from fertilizers. In 1990s, residents of the community experienced physical ailments from exposure to chemicals in water. Years later, sickness and physical ailments reduced when water filtration started. Recently, the community was able to get a new well using \$5 million in grant funds, but now residents pay an additional \$100-\$150 per month for water and have also put their health at risk. There is no more clean water near San Jerardo, all the water in that area is contaminated and they had to drill the new drinking water well more than two miles away. If we don't fix these problems, it will get worse and spread to other areas. The City of Salinas has also lost wells to contamination. The Ag industry talks about economic problems, but natural resources also have worth and we all need water. We don't know who polluted the water in San Jerardo, but the people of San Jerardo are paying for the polluters. If we put the focus on the water, we will find solutions. The Salinas Valley has the best farmers in the world; they can educate the others and solve this problem. It may take a while, but it will get better.

The Board Chair granted 45 minutes to a combined group of environmental representatives (Monterey Coastkeeper, Santa Barbara Channelkeeper, and Environmental Defense Center) to provide testimony. Mr. Steve Shimek presented background and history on agriculture and water resources on the Central Coast and discussed the severity of impacts caused by the intensity of agriculture in the region and associated dischargers. Mr. Shimek described that the topography is highly modified – we used to have wetlands and lakes. Many of the historical beneficial uses of the Salinas River have been lost today. Mr. Shimek discussed the long and comprehensive process and encouraged the Board to take action without further delay to address the need for water quality improvement. Mr. Shimek described that water quality issues in the region are among the worst in the State and urged the Board to confront the problem and lead the way towards improvement. Mr. Shimek discussed the severity of toxicity in surface water, the degradation of aquatic habitat, and the very serious nitrate contamination in groundwater. Mr. Shimek referenced the December 2008 letter from the Executive Officer identifying the issues that the updated Agricultural Order must address. Mr. Shimek indicated that growers don't meet the current requirements and there are not resources to conduct enforcement everywhere, which is why sufficient monitoring and reporting is necessary. Mr. Shimek indicated that environmental representatives support the proposed Draft Order but only conditionally and expressed concern about only focusing on two pesticides. Mr. Shimek indicated that if there is toxicity, then the grower should be in the highest tier (Tier 3).

Ben Pitterle of Santa Barbara Channelkeeper emphasized the many significant changes that staff has made to the Draft Order, mostly in response to comments from agriculture and that the current Draft Order is significantly weaker than the original draft. He expressed concern that there would be no Tier 3 farms in the Goleta and Carpinteria areas, despite the water quality impairments. For example, he indicated that the original "low risk" or Tier 1 category required the elimination of tailwater discharges to surface water and the current draft Tier 1 is less stringent than the 2004 Agricultural Order and now includes 55% of farms. Mr. Pitterle also expressed concern about growers switching pesticides so they would not be included in the higher tiers. He also described how all the milestones from the Feb 2010 version of the Draft Order have changed.

In Feb 2010 version, the Draft Order required all growers to implement irrigation and nutrient management plans and the current Draft Order today only requires it for Tier 3 growers. Similarly, in the Feb 2010 version all growers were required to have a riparian corridor (50 feet minimum buffer) and the current Draft Order today only requires Tier 3 farmers next to certain impaired waterbodies to prepare a "plan". Mr. Pitterle discussed that staff has incorporated the concerns from the Ag community and made so many changes to reduce requirements and he is concerned that there are big loop holes.



Nathan Alley, Environmental Defense Center, discussed the process to renew the Agricultural Order. He described that under Porter Cologne, dischargers or individuals proposing to discharge, need to get a permit. If they don't get a permit, the discharge is prohibited. If Waste Discharge Requirements are required, the Board can consider a Conditional Waiver of WDRs if it is necessary and if it is in the public interest. Mr. Alley emphasized that Conditional Waivers must include water quality monitoring to evaluate effectiveness and results must be made public. Mr. Alley's organization participated in the original advisory panel for the 2004 Agricultural Order and described that when stakeholders agreed to the first Agricultural Order in 2004, it was known that some important issues were not resolved and left on the table such as individual monitoring and how to deal with groundwater, and that stakeholders agreed that these and other issues would be re-evaluated and address in the next order in five years. Since then, many growers have complied with enrollment and education requirements, but we still have severe water quality problems. We are in the next phase now and it is time to pick up what was left on the table. He described the very long and comprehensive process that started in December 2008. He participated in the advisory panel for the order renewal and disagrees with agricultural representatives' characterization of the process. He indicated that the Board has provided substantial opportunity for the public to provide input, many with the Board itself, since 2008. Mr. Alley described how versions of the Draft Order get weaker and weaker with every delay, and that the Board has been working on developing this order for 3.5 years of a five year order. The problems are getting worse and ultimately the Board will have to act and it is harder to fix problems the longer you wait. He strongly urged the Board to take appropriate action in March.

The Board Chair granted 45 minutes to the Central Coast Alliance United for a Sustainable Economy to provide testimony. Marcela Morales described that contaminated water is a serious issue and is concentrated in areas of low income and people of color, and that the impacts are disproportionate for people of color and income. She described that in the Central Coast we have issues of contaminated water and problem is expanding – yet the Central Coast is wealthy in farmland and crop market value. The wealth is concentrated on the Central Coast. We also have to look at food security and food justice, as it relates to the water issue and cumulative impacts. Pesticide application is among highest in the State and communities impacted here are farm workers. Most are people of color and live in the worst water quality and most contaminated areas of the Salinas Valley and Santa Maria. These communities have no voice and no resources and the lowest incomes. In most cases, they have to pay more for their water than other communities (\$100+/mo for water is a lot for them to pay). Ms. Morales strongly urged the Board to take action in March and not delay – she stated that justice delayed is justice denied and that these communities need basic protection to ensure clean drinking water and protection from things getting worse. They live with the reality of their situation and live it every day. She prefers the February 2010 version of the Draft Order. The proposed Draft Order is not perfect, but it is a step forward and we have long way to go.

Several individuals also addressed the Board, including agricultural representatives in support of the Ag Proposal including Gail Delihant, Alice Gripp, Andy Caldwell, Richard Quandt, Norm Groot, Darlene Din, Rick Tomlinson, Brad Barbeau, Joel Wiley, Dirk Giannini, Kay Mercer, and David Costa. Agricultural representatives expressed concern about process and encouraged the Board to support continuing work by Dr. Los Huertos. Individuals asked about specific requirements (for example stormwater controls) and also expressed concern that the Draft Order does not address complex and changing conditions of agricultural operations. They also expressed that growers need time to comply with water quality standards. In particular, many speakers expressed concern about fear related to enforcement and liability if milestones are not met. Lisa McCann described to the Board that staff has heard similar comments and responded by including additional language in the Draft Order and specific discussions in staff reports. Ms. McCann indicated that the milestones are used as indicators of progress towards water quality improvement. Board Member Delgado asked



what happens if a grower does not meet the milestones and described that staff and the Executive Officer decide the appropriate follow-up, but there is still uncertainty. Chairman Young indicated that staff could lay out what regulations or enforcement policy staff follows when growers don't meet certain milestones so there is more clarity about what will happen when someone is out of compliance. Angela Schroeter described that staff would work with growers to use an adaptive iterative procedure where growers must continue to reevaluate water quality issues and best management practices implemented and if they don't work then implement something that is more effective. Executive Officer Roger Briggs discussed that flexibility requires more discretion. If we want more certainty and don't want the staff to have discretion, then the alternative is more prescriptive orders and effluent limits.

Board Members discussed that staff has edited the Draft Order in response to comments from stakeholders, especially agriculture. Board Members also discussed that the use of chlorpyrifos and diazinon for tiering may not be sufficient and growers may switch. Angela Schroeter indicated that staff has evaluated this issue and concludes that the current tiering criteria are reasonable and adequate to address the toxicity issue in our Region for this permit cycle. Staff based the decision to "tier" on just chlorpyrifos and diazinon because, more than any other chemicals, these had been repeatedly measured at very elevated concentrations, compared to established literature values for their toxicity, at many locations in the Region. In addition, staff concluded that the current monitoring requirements provide backstops and additional information to address new chemicals including toxicity monitoring, individual pesticide monitoring (recent addition), and toxicity identification studies where there is persistent unresolved toxicity (new addition). Angela Schroeter also described that the proposed Draft Order also requires that Tier 3 Individual discharge monitoring, include toxicity which will capture the impacts of other individual pesticides and that the Executive Officer has the authority to add additional pesticides to the individual monitoring, based on changes in pesticide use or other evidence that additional chemicals are being discharged. Ultimately, based on new information, the Board can modify the pesticide tiering criteria, if appropriate, during the five-year term of the Order. Angela Schroeter noted that if we add more pesticides to the Tier 3 criteria, more farms and acreage will move into Tier 3.

Heidi Niggameyer, Monetary Regional Stormwater Program, indicated that coastal communities should not be held responsible for what is coming down the watershed from agriculture. She believes that staff proposal is not overly onerous on agriculture and that growers can work with municipalities to achieve solutions. She described that others are held to strict water quality standards and that agriculture is one of the last industries to be regulated but they should be held to a similar standard. The pollution is severe and if municipalities have those types of water quality exceedances they have to pay fines. She does not believe the proposed Draft Order is too stringent on Ag and that this type of regulation has been needed for a long time.

Board Members discussed the acreage and number of farms in the tiers for the proposed Draft Order. Angela Schroeter indicated that the estimates were based on information submitted by growers in the electronic Notice of Intent and based on factors informing criteria for each Tier. Kay Mercer indicated that agricultural representatives were unable to calculate acreage in tiers to inform the economic analysis and that the public has a right to verify. Angela Schroeter indicated that a grower or his authorized representative can review the information in the electronic Notice of Intent at any time to verify accuracy and update if necessary. Kay Mercer indicated that growers like Dr. Los Huertos' approach because it is not punitive and focuses on encouraging growers.

Board Member Johnston asked about Dr. Los Huertos' report. He indicated that if the Board is leaning toward more time and negotiation, they should do that now, not later. Board Member Jeffries indicated that there are possibilities in cooperative monitoring and aggregated reporting. Board Member Hunter indicated that there has been a lot of effort and she does not believe we will find a



perfect waiver and that she wanted to hear from Dr. Los Huertos. Board Member Hunter is encouraged that Dr. Los Huertos has a plan and wants staff integrate a concept that will provide an open path, recognizing that the work is not complete. Board Member Hunter indicated that the Board has come a very long way and heard from many different stakeholders. Board Member Delgado acknowledged the fear of uncertainties that growers have, and also recognized that the communities who are affected by pollution is another fear factor and the Board wants to improve the water.

Francis McChesney clarified that the proposed Draft Order complies with the law and water quality standards, but farmers can choose how to comply and what management practices to implement. She indicated that Dr. Los Huertos is proposing an approach to implement best management practices. Board Member Johnston asked if the Ag Proposal can be implemented under the proposed Draft Order. Frances McChesney indicated that the Ag Proposal is asking growers to do less, but we can do these types of management practices under the current order. Board Member Johnston described that the key fundamental difference is in the reporting and monitoring. Board Member Johnston asked if we can direct staff to review Dr. Los Huertos' report. Frances McChesney indicated that she would review it and evaluate whether or not there is new information or if it would create a due process issue, and make a recommendation to the Chair. Board Member Delgado indicated that he would like to understand how the Ag Proposal is consistent with the proposed Draft Order's conditions related to cooperative projects and groundwater monitoring. Board Member Hunter expressed concern about the process and wanted to make sure that we are not creating issues for other stakeholders. The Board directed staff and counsel to review Dr. Los Huertos' submittal to see if it is new information and to determine if staff can provide the report to the Board.

**Thursday, February 2, 2012**

Chairman Young called the meeting of the Central Coast Water Board to order at 8:20 a.m.

**5. Roll Call – Board Members.....Michael Thomas, Assistant Executive Officer**

**Present:**

Chairman Jeffrey Young  
Vice Chair, Russell Jeffries  
Bruce Delgado  
Monica Hunter  
Mike Johnston  
Jean-Pierre Wolff

**Absent:**

Mike Jordan

**6. Introductions..... Chris Rose, Senior Environmental Scientist**

Executive Officer Roger Briggs introduced Senior Environmental Scientist, Chris Rose and explained that Mr. Rose would take the role of advisor to the Board for this meeting. Other staff will have the opportunity for this experience at some subsequent meetings.

Chris Rose introduced Board Counsel Frances McChesney and Jessica Newman and Board staff. Mr. Rose asked parties interested in speaking on agenda items to complete a testimony card and return it to staff. He also announced that there were supplemental documents for Item 21.

**7. Report by State Water Resources Control Board Liaison..... Status Report**  
No report.

**8. Approval of December 1, 2011 Meeting Minutes.....Board Motion**





**MOTION:** Monica Hunter moved to approve the December 1, 2011 meeting minutes

**SECOND:** Russell Jeffries

**CARRIED:** Unanimously (5-0) **Note:** Bruce Delgado abstained as he was not present at the December 1, 2011 meeting

**9. Uncontested Items Calendar**.....Board Motion  
Chris Rose introduced the item and summarized Items 12 through 17.

Dr Wolff asked about Tres Pinos compliance history. Water Board staff Cecile DeMartini responded that she has worked with Tres Pinos staff to bring them into compliance. Tres Pinos is currently in compliance with their Waste Discharge Requirements.

Dr. Wolff noted the use of consultants for ecological work and he for the California Valley Solar Ranch and asked whether they have considered working with the Resource Conservation District or similar resources. A company representative said they would consider that type of resource. Brian Boroski of H. T. Harvey and Associates, Ecological Consultants, explained studies and outreach efforts on the project.

Dr. Hunter noted that Item 15 should have a 2012 order number. Staff Thea Tryon said the number will be updated when the order is finalized and signed.

**MOTION:** Russell Jeffries moved to approve the Uncontested Items Calendar

**SECOND:** Mike Johnston

**CARRIED:** Unanimously (6-0)

**10. Low Threat and General Discharge Cases**.....Information/Discussion/Board Approval  
Chris Rose introduced the item and provided a brief description of each

**11. Staff Closures**..... Information/Discussion  
Chris Rose summarized the staff closure process and the listed staff closures. Monica Hunter asked about goals for the year for site cleanups and fund issues. Thea Tryon explained that staff is on track to achieve its yearly goal for closures and that there are always fund issues that staff deals with. Mike Johnston asked how goals are set. John Robertson explained that it is based on history and current specific cases.

**18. Enforcement Report**.....Board Motion

Mr. Rose introduced the item, stated that it was a written report, and that Enforcement Coordinator Harvey Packard was available to answer questions.

Dr. Hunter asked about Greka's compliance with the waste piles enforcement order. Mr. Packard explained that Greka has not removed a large amount of the contaminated soil yet and seems unlikely to meet its obligations. If the deadlines are not met, the suspended penalties will become due.

Dr. Hunter asked about the notice of violation to Monarch Grove, Los Osos, San Luis Obispo County. Mr. Packard said that Monarch Grove's response was due January 30, and that the notice required them to propose solutions to their noncompliance, including whether they want to hook up to the county wastewater project. Dr. Hunter asked for an update in the next enforcement report.

Mr. Jeffries asked about the administrative civil liability complaint for the Men's Colony and whether the compliance problems would be fixed soon. Mr. Packard said that improvements have been funded but that he wasn't sure of the timeline for completion.



Chair Young asked about the timber harvest notice of violation. Mr. Packard said the notice was for violations of Best Management Practices.

**19. Pajaro Valley Seawater Intrusion** ..... Status Report  
Section Manager Harvey Packard gave a very brief overview of the staff report and attachments. Pajaro Valley Water Management Agency General Manager Mary Bannister and Director Dave Cavanaugh presented information on what the agency is doing to solve overpumping of the basin that is causing seawater intrusion.

The board asked questions to clarify the status and details of the various projects. Doug Deitch, Monterey Bay Conservancy, discussed the history of the salt water intrusion issue and stated that the problem is seriously understated. Chair Young asked PVWMA about the yield numbers; Mary Bannister verified that their numbers are based on their modeling.

Dr. Hunter asked what the Basin Plan said about seawater intrusion. Ms. McChesney said that two other regions have plans for dealing with seawater intrusion in their basin plans. Dr. Hunter suggested that staff look into adding such language.

**20. City of Santa Barbara Low Impact Development Award** ..... Information Discussion  
Roger Briggs presented the award and summarized the low impact development project work the city did to earn the award. The Board agreed there should be more of these types of awards to encourage great work.

**MOTION: Chair Young moved to approve Resolution R3-2012-0014**  
**SECOND: Vice Chair Jeffries**  
**CARRIED: Unanimously (6-0)**

**21. City of Salinas Municipal Stormwater Permit, Monterey County** .. Information Discussion  
Jennifer Epp, Jon Rohrbough, and Tamara Presser summarized the proposed Permit. Jennifer Epp concluded with a summary of comments and staff's responses, and a recommendation to approve the proposed Permit with the minor modifications presented in the two supplemental sheets for Item #21. The Board asked questions about monitoring efforts and costs, low impact development, infill requirements, soils, costs, requirements relative to other Phase I cities, the City's Future Growth Area and applicability of the proposed Permit, the Central Coast Joint Effort to Develop Hydromodification Criteria, and changes to the proposed Permit including new tasks.

Jim Pia, City Manager, City of Salinas, presented the City's initial comments on the proposed Permit, mainly addressing the permit's financial impacts. He asked for a phased approach to the proposed Permit. Gary Petersen, Public Works Director, City of Salinas, also commented on cost of the proposed Permit and the City's financial difficulties. He noted the permit was a large change from the existing permit and the City would have difficulty implementing the requirements. He also stated the City needs more time to understand the proposed Permit requirements.

The Board asked the City to explain which near term tasks would be difficult for the City to implement on time. Petersen responded, stating the financial plan to pay for the proposed Permit, and updating City databases would create difficulties. Dennis Richardson, building official, City of Salinas, added that it is very difficult to upgrade computer systems and find financial resources. Dennis Richardson also stated that although there were numerous opportunities for discussions with Central Coast Water Board staff, there are still issues with technical difficulties such as with Low



Impact Development requirements. The Board asked the City about pending building projects. Dennis Richardson mentioned several projects in the works and one potential future project. The Board asked for details of the stated cost estimates for the City and for developers. The City responded with various figures, and the Board stated the City's provided cost estimates were confusing.

Public Comment:

- Bill Ritz for Senator Anthony Cannella stated more time is needed to study the proposed Permit and determine costs.
- Leticia Perez, for Assembly Member Luis Alejo, asked the Board to consider the cost of the proposed permit and to provide more time.
- Hans Poschman for Senator Sam Blakeslee, asked the Board to reevaluate the proposed Permit and identify ways to reduce the cost.
- Heidi Niggemeyer, Monterey Regional Stormwater Management Program, stated she represents Phase II municipalities that are conducting similar requirements as the proposed Salinas Permit and have not had enforcement problems with the Water Board. Where there are difficulties, they've been able to work them out. She suggested the City of Salinas could join the Regional Program to save money on some aspects, like media/outreach.
- Steve Shimek, Monterey Coastkeeper, stated the agenda package documents a thirteen year history of serious noncompliance and the City has not involved other stakeholders as the Board has directed. He said there have been many reductions in requirements in the proposed Permit. The Board asked about proposed Permit requirement reductions. Steve Shimek responded stating sweeping, industrial, receiving water monitoring, training, and landscaping runoff requirements have been reduced.
- Bill Pelich, Lee & Pierce Consulting, stated soils in Salinas are impermeable and a threshold of 10,000 square feet for redevelopment is too onerous. Board asked staff if the threshold is reasonable. Staff said the threshold is comparable to other recent permits.
- Robin Lee, resident of Salinas, stated the City dredges sediment out of creeks due to agricultural runoff and that the Board should help fund Social Marketing in Salinas. The Board asked the City about public outreach. Michael Ricker, City staff, stated the City has been doing one public outreach per year at City council meetings due to little public interest. The Board encouraged City to use other outreach opportunities than City council meetings.
- Kristina Wyatt, Salinas Valley Chamber of Commerce, requested a delay in adoption of the proposed Permit due to the large cost to implement the proposed Permit and its impact on economic development, jobs, and safety. The Board expressed disappointment over the vague and imprecise costs estimates.
- Tricia Wotan, City of Monterey, commented that the City of Monterey estimates it will spend \$1.7 million for implementing their permit this year and like Salinas, if things cost more they do not have the money.
- Jim Campbell, Associated General Contractors, stated the proposed Permit could impact public safety, and asked if the Board would be able to testify that the proposed Permit does not exceed the Maximum Extent Practicable standard. The Board asked about curb and gutter requirements. Staff explained that the proposed Permit requires retention and treatment, which can include alternatives to curbs and gutters. The Board noted that Salinas is not being rushed into immediate compliance.



- Phil Varni, Associated General Contractors, indicated he has no additional comments to add to Jim Campbell's previous comments.
- Norm Groot, Monterey County Farm Bureau, asked for the Board to delay adoption of the proposed Permit and stated the proposed Permit could result in loss of agricultural land because it would discourage infill development.
- Christopher Bunn, General Farm Investment, stated maps staff used were wrong and questioned whether the proposed Permit exceeds the Maximum Extent Practicable standard.
- Harvey Oslick, RBF Consulting, consultant to City, stated the redevelopment project requirements should be revised.
- Paul Tran, CHISPA Housing, stated the City does currently require Low Impact Development, and the proposed Permit may make infill projects difficult. He recommended specific permit sections be modified.
- Kenneth Tunstall, Tunstall Engineering, stated the City was currently in compliance with permit requirements. Staff explained that the City is out of compliance with certain provisions.
- Brian Finegan, attorney for owners of Future Growth Areas of 2400 acres, stated the requirement to restore to natural conditions is not appropriate for this land which is currently in agriculture production. Board asked staff to define what is meant by "restore" in the proposed Permit. Staff stated the Joint Effort will help define the watershed processes that should be restored.
- Abbey Taylor-Silva, Grower-Shipper Association, stated the threshold triggers for development and redevelopment would impact agricultural facilities and the proposed Permit could promote sprawl.
- Mike McCullough, citizen from Salinas, provided written comments stating that not all Phase I municipalities are the same therefore regulations should not be the same.

Staff suggested changing "maintain and restore" language in section L.1 of the proposed Permit to "control impacts to" in order to address the issue of natural restoration. The Board discussed infill development and redevelopment, as well as the schedules for the City's cost analysis and database development. The Board directed staff to follow up with Mr. Tran about the availability of LIDI (Low Impact Development Initiative) services.

Staff recommended adoption with changes described in the supplemental sheets and the "maintain and restore language" to "control impacts" and add "include sliding scale" to the in-lieu fee option.

**MOTION: Monica Hunter moved to adopt with changes noted above**

**VOTE: Tied (3-3)**

**Motion did not carry**

**MOTION: Mike Johnston moved to continue the hearing to a future Board meeting**

**CARRIED: Unanimously (6-0)**

**22. Public Forum** ..... Board Direction  
Chair Young introduced the item.

- Richard Margetson of Los Osos submitted a letter regarding nitrate testing in Los Osos describing the need for more sampling and monitoring. Chair Young asked Mr. Briggs about monitoring status, and Mr. Briggs replied staff was revising the existing Monitoring and



Reporting Program for the yet to be built treatment plant, to require initiation of groundwater sampling now rather than upon plant startup. Mr. Briggs will provide a copy for the Board.

- Steve Schimek, Monterey Coastkeeper, mentioned appreciation for the Board and spoke on disparaging comments made by the Strawberry Commission during the Board meeting on February 1, 2012.

**23. Reports by Central Coast Water Board Members**..... Status Report  
Board members had nothing to report.

**24. Executive Officer's Report** ..... Information/Discussion  
Mr. Briggs pointed out that the report follows up on a Board request for more information on how pipelines were being decommissioned at the old Estero facility near Morro Bay.

Chairman Young adjourned the meeting at approximately 10:45 p.m. The next Board meeting will be held on March 14-15, 2012 in San Luis Obispo, CA.

This meeting was audio recorded; the minutes were reviewed by management and will be approved by the Board at its March 14-15, 2012 meeting in San Luis Obispo, CA.

  
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Jeffrey Young, Chair

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