California Regional Water Resources Control Board
Central Coast Region

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Arnold Schwarzenegger
Governor

MINUTES
REGULAR MEETING
Friday, March 23, 2007
Central Coast Regional Water Board

Chairman Young called the meeting of the Central Coast Water Board to order at 8:40 a.m. on Friday, March 23, 2007, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California.

1. Roll Call ..... Executive Assistant Carol Hewitt

Board Members Present:
Chairman Jeffrey Young
Vice Chair, Russell Jeffries
Les Bowker
John Hayashi
David Hodgin
Monica Hunter
Gary Shallcross

Absent:
Daniel Press

2. Introductions ..... Assistant Executive Officer Michael Thomas

Assistant Executive Officer Thomas introduced staff and introduced two new Section Managers, Lisa Horowitz McCann and John Robertson. Supplemental sheets are available for Item Nos. 8 (two sheets) and 13. Item No. 11 has been settled with the penalty paid and will not be addressed today.

3. Approval of January 22, 2007 and February 9, 2007 Meeting Minutes ..... Board Motion

Board member Jeffries noted that the January minutes reflected that four members of the Board were absent. Mr. Thomas suggested that the minutes be changed to reflect that a panel hearing was held and three members were present.

MOTION: Gary Shallcross moved to approve the January 22, 2007 panel meeting minutes with amendment as discussed.
SECOND: John Hayashi.
CARRIED: (3-0)
Abstentions: David Hodgin, Monica Hunter, Russell Jeffries, and Les Bowker.

Chair Young recommended that the February 9, 2007 minutes reflect his comments to the City of Salinas on Item No. 11 requesting that the City notify Board staff in advance about any compliance issues before appearing before the Board members in the future, and that the City needs to deal with compliance issues now before they become much larger enforcement issues is the future.

MOTION: David Hodgin moved to approve the February 9, 2007 meeting minutes with amendment as discussed.
SECOND: Les Bowker.
CARRIED: Unanimously (7-0)

4. Uncontested Items Calendar ..... Board Motion

Asst. Executive Officer Michael Thomas recommended that Item Nos. 14, 15, 16, and 17 remain on the consent calendar. Chair Young asked if Item No. 17/State Revolving Fund Project Priority List for Fiscal Year 2007-08 included an application for Los Osos. Section Manager Harvey Packard noted that San Luis Obispo County has not yet submitted an application for the Los Osos project. Mr. Packard said that when the County moves further along in their process, they will be able to apply for funding for the following year.

MOTION: Russell Jeffries moved to approve Item Nos. 14, 15, 16, and 17 for the consent calendar.
SECOND: Les Bowker
CARRIED: Unanimously (7-0)

5. Report by State Water Resources Control Board Liaison ..... Status Report

State Board Liaison Gary Wolff attended the meeting via conference phone. Mr. Wolff stated that the new State Board Executive Director Dorothy Rice is starting work on Monday and the State Board is looking forward to working with her. Mr. Wolff reported on the strategic planning process, the construction stormwater permit, the industrial stormwater permit revision, new draft policies that address recycled water and compliance schedules that will be released for review in the future, once-through cooling permits for existing power plants, septic tank regulations, Areas of Special Biological Significance (ASBS), and a revised agricultural marketing order. Eric Greening, Atascadero resident, asked Mr. Wolff about the State Lands Commission stance on once-through cooling and how our Board will interface with them. Mr. Wolff said he could not speak about the State Lands Commission position. Mr. Wolff also noted that the 2nd Circuit Court remanded the Federal 316(b) regulations to the USEPA and that State Board staff is working on a proposed State policy for once-through cooling.

7. Low Threat and General Discharge Cases ..... Information/Discussion/Board Approval

Asst. Executive Officer Michael Thomas noted that this is a written report and asked the Board if there were any questions. Mr. Thomas noted a fish kill that occurred in February at the Christopher Ranch. Staff contacted the Santa Clara District Attorney's office and recommended enforcement. Chair Young asked about the Charles River septic disposal system and the proximity of any surface or groundwater sources. Board member Jeffries inquired on the enrollment status for California Water Service Company water supply wells, Stations 64, 67, and 69. Staff Engineer Cecile DeMartini confirmed the three water supply wells have been enrolled into the Low Threat Permit R3-2006-0063 via an enrollment letter sent out prior to the March 2007 Board meeting.

8. San Luis Obispo County Stormwater Management Plan ..... Board Approval

Staff Counsel Lori Okun, announced that several articles that had been submitted by the Natural Resources Defense Council (NRDC) were accepted into the record.

Staff Engineer Ryan Lodge gave a presentation and addressed several Board member questions concerning budget, timing and partnering with regard to the San Luis Obispo County Stormwater Management Plan (SLOSWMP), and recommended the Board approve the Plan. Mr. Lodge reiterated that the proposed resolution contains clarifying language and strengthened the SWMP.

(Chair Young announced a break at 10:15 a.m. The meeting reconvened at 10:28 a.m.)

Chairman Young noted that the environmental community had expressed concern with the lack of program implementation prior to SWMP adoption and a lack of definition of what the program will accomplish. Mr. Lodge noted that the County's program is new and that many of the proposed program components do not currently exist, and that development of program elements is therefore necessary.

Chairman Young expressed concern with sea otter mortality and asked if increased monitoring might be necessary to further define the problem and if the Central Coast Ambient Monitoring Program (CCAMP) might help. Board member Hunter also asked if the CCAMP program would be operating in the San Luis Obispo County area in the coming months. Water Board staff Karen Worcester commented that CCAMP would continue to support grant activities in that area of study. CCAMP is also working with other programs in the Monterey Bay area to further these issues. The CCAMP program will rotate into the San Luis Obispo County area in three years.

Mr. Lodge and Ms. Okun summarized changes to the Resolution that were not in the earlier draft.

Board member Bowker expressed concern that, in general, historical problems existing in the municipalities are not sufficiently addressed in the SWMPs. Board member Shallcross had questions about construction sites with less than an acre of disturbance and where the one acre or greater requirement originated. Water Board staff committed to look into this issue and report back to the Board.

San Luis Obispo County stormwater coordinator Jill Falcone and Environmental Program Manager Mark Hutchinson presented details of the SLO County SWMP. The County's presentation covered the six minimum control measures in the General Permit. Ms. Falcone addressed several Board member questions concerning partnering with other municipal and private entities in the County. Mr. Hutchinson discussed enforcement methodologies, coordination and stormwater ordinance development in response to Board member questions.

Ms. Falcone discussed the County's upcoming Low Impact Development projects in conjunction with their Post-Construction control measures. Ms. Falcone also discussed several aspects of the County's TMDL implementation strategies in response to Board Member questions. Board member Bowker reiterated his concern that historical problems existing in the County are not sufficiently addressed. Mr. Hutchinson stated that the Illicit Discharge requirements and Low Impact Development in redevelopment areas were designed, in part, to address these issues. Mr. Hutchinson also addressed several Board member questions regarding enforcement follow-up. Board member Shallcross recommended the County set up an enforcement information program to better utilize enforcement as a deterrent.

(Chair Young announced a lunch break at 12:00 p.m. The meeting reconvened at 1:05 p.m.)

Public comment:

Angali Jaiswal, NRDC - made a formal presentation recommending the Board reject the SLO County SWMP. Ms. Jaiswal contended that the SLO County SWMP fails to meet the MEP standard and does not protect water quality. NRDC recommended the SWMP be reconsidered at a later date.

Joey Racano, Ocean Outfall Group - stated the plan lacks specificity and concurred with NRDC.

Andrew Christie, Sierra Club - advocated that the SLO County SWMP should contain more specific BMPs as enumerated in the Monterey Regional SWMP.

Steve Shimek, Otter Project - stated the SWMP is a plan to make a plan. He is concerned that he plan lacks detail, goal setting and monitoring. Chair Young asked Mr. Shimek if he could propose a more specific BMP to address sea otter mortality. Mr. Shimek stated that keeping stormwater from reaching surface waters would be the most effective means. He recommended the use of bioswales and other LID technologies.

Gordon Hensley, San Luis Obispo Coastkeeper - recommended that monitoring protocols be adopted with specific numeric goals. Mr. Hensley was also concerned with the lack of agency coordination in San Luis Obispo County.

Brian Stark, Land Conservancy of San Luis Obispo County - believes the plan will protect water quality if the County is held to the standard they have set. Dr. Hunter asked if Mr. Stark could comment on the lack of coordination in the County. Mr. Stark feels that the Water Quality partners represent a high degree of coordination. Board member Shallcross asked if the group had ever considered joining together to set up a group monitoring program. Mr. Stark agreed a group monitoring program was a good idea and hoped it would evolve in the future.

Kim Busby, Cal Poly - stated that the Partners for Water Quality have been meeting since before the General Permit was adopted in 2003. The group combines education and outreach efforts in order to deliver the same message from all participants. She feels that the SWMP is a good program and exceeds the requirements of the General Permit in many areas.

Calvin Wilvert, ECOSLO - stated ECOSLO is concerned with sea otter mortality as an indicator of overall ocean health. Mr. Wilvert feels the SLO County SWMP is weak and should include monitoring.

Bruce Payne, Los Osos resident - concerned with potential clogging of sediment ponds.

(Chair Young announced a break at 2:05 p.m. The meeting reconvened at 2:10 p.m.)

Board Discussion:

Ms. Okun gave a brief review of legal issues around comments made during the public comment period. Ms. Okun also discussed the MEP standard. Board Members Shallcross and Jeffries expressed concern about the level specificity in the SWMP.

Ms Falcone and Mr. Hutchinson commented that the County feels that, with the additional clarifications in the Resolution, the SWMP is sufficiently detailed to meet the MEP standard.

Board members reiterated they wanted staff to bring the County's Annual Report back for Board review.

Board member Shallcross questioned how the Board could decide if the SWMP met the MEP standard per Finding 10 of the Resolution. Ms. Okun explained that the finding is based on the assumption that the Board will enforce the permit and that the Board cannot approve the SWMP unless it makes the Finding in that section of the Resolution.

Assistant Executive Officer Thomas commented that there is a balance that is necessary between providing specificity in the initial SWMP and developing program elements over time. Mr. Thomas said the law specifically authorizes development of program elements during the five year permit period. Mr. Thomas also said the municipalities will do program development regardless of how much detail is provided initially, and therefore some of the details would have to be changed. Mr. Thomas used the Monterey Regional SWAMP as an example, where the Monterey Regional municipalities agreed to specific details in order to get their SWMP approved, only to quickly learn

that the detailed tasks were not feasible, and they are now facing potential enforcement action, Mr. Thomas urged the Board to consider this balancing between initial specifics and program development when deciding whether to adopt the SLO County SWMP.

Staff recommended the Board adopt the Resolution and approve the SLO County SWMP.

Board Member Hodgin expressed support for staff's recommendation and said it is important to move forward and get the program started.

Motion: David Hodgin moved to adopt the Resolution and approve the SLO County SWMP.
Second: John Hayashi and Les Bowker
Carried: (5-2) Jeffries and Shallcross voted no.

(Chair Young announced a break at 3:05 p.m. The meeting reconvened at 3:15 p.m.)

18. Public Forum ..... Board Direction

The individuals listed below had public comments:

- Jack McCurdy, Coastal Alliance on Plant Expansion
- David Nelson, Morro Bay resident
- David Duggan, Los Osos resident
- Bruce Payne, Los Osos resident
- George Taylor, Los Osos resident
- Pat Renshaw, Los Osos resident
- Chris Allebe, Los Osos resident
- Keith Swanson, Los Osos resident
- Jerri Walsh, Los Osos resident
- Richard Margetson, Los Osos resident
- Larry Bishop, Los Osos resident

9. Structural Post-Construction Stormwater Best Management Practice Selection Tool ..... Information Item

Water Resource Control Engineer Jennifer Bitting presented a Post-Construction Best Management Practice (BMP) Selection Tool that she developed while completing her Master's Degree at Cambridge University. The purpose of the selection tool is to provide the information necessary to make decisions about the most effective post-construction BMPs or combination of BMPs, for a given application. The tool presents information in an easily comparable format for all parties to use as the basis of discussion. Ms. Bitting explained that she is currently working with volunteers to test the use of the selection tool to ensure that it is intuitive and accurate. Water Board staff are also evaluating how to make this type of selection tool an integral part of the Water Board's storm water requirements.

10. Enforcement Report ..... Status Report

Board member Hayashi asked about parallels between the discharge violations from Avila Hot Springs and Sycamore Springs. Section Manager Harvey Packard said that the discharges are very similar and that staff has asked the dischargers to apply for individual permits.

11. City of Lompoc, Santa Barbara County ..... Order No. R3-2006-0049

The mandatory minimum penalty was paid on this item by the Discharger before the Board meeting. No action was taken.

12. Morro Bay National Estuary Program Update ..... Status Report

Staff Engineering Geologist Dominic Roques introduced Morro Bay National Estuary Program Executive Director Dan Berman who provided an update on the Estuary Program. Mr. Berman highlighted accomplishments of the Estuary Program throughout the Morro Bay Watershed, including land acquisitions, partnering with ranchers to improve practices in riparian areas, and removing derelict boats from Morro Bay. Mr. Berman also reviewed the financial condition of the Estuary Program and described how settlement funds from Water Board enforcement actions are being leveraged and directed toward water quality improvements in the watershed. Board member Hayashi asked Mr. Berman if adequate funds and capacity are available to remove derelict boats before they sink. Mr. Berman indicated that due to legal and logistical constraints the Estuary Program does not expect to continue funding this activity. Board member Hunter inquired about the fate of the U.S. Army Corps of Engineers – Estuary Program partnership to study restoration of estuary habitats. Mr. Berman explained that the partnership concluded without identifying viable options in the Bay and that the Estuary Program would continue to emphasize work at the upstream source of many of the estuary's problems. Chairman Young expressed satisfaction with seeing things moving along in an efficient and comprehensive manner.

13. Central Coast Ambient Monitoring Program Endowment Fund ..... Status Report/Board Approval

Environmental Scientist Karen Worcester summarized why staff were proposing to consolidate two sources of Central Coast Ambient Monitoring Program funds with the Bay Foundation of Morro Bay. The primary reasons are: 1) ability to provide field staff with benefits and worker's compensation, 2) turn around time for transactions, 3) simplifying fund management for staff, 4) reducing administrative costs, and 5) leveraging to build the CCAMP program. Ms. Worcester also explained why staff has selected the Bay Foundation of Morro Bay to serve in this role. Primary considerations were the Foundation's commitment to keep total costs at 1% or less of principal, its long history of partnering with CCAMP, its direct involvement in monitoring issues at a technical and policy level, both within the Region and at a statewide level, and its excellent track record of leveraging funds for the Morro Bay National Estuary Program. Ms. Worcester also summarized response to comments from the Community Foundation of Monterey County, including how the Bay Foundation will maintain consistency with fund requirements and the scope of the Bay Foundation's mission.

Board member Hodgin asked for more information on the nature of the funds and how they were typically spent. Karen Worcester described the basic fund requirements that the Guadalupe funds be maintained as an endowment and that the PG&E funds support monitoring in the Monterey area only, and described the basic monitoring approach and use of funds.

Board member Jeffries inquired about how the PG&E CCAMP funds currently maintained at the Community Foundation of Monterey County would be managed to maintain geographic requirements to spend the money in the Monterey area. Ms. Worcester explained that the CCAMP sampling design maintains this requirement because of the number of coastal confluence and watershed sampling sites in the Monterey Bay area.

Board member Jeffries inquired about how the staffing strategy would affect liability. Ms. Worcester stated the Bay Foundation would take on liability associated with hiring staff. Board member Jeffries also asked why PG&E fund prinicipal had not been maintained as an endowment, similar to the

Guadalupe fund. Ms. Worcester indicated that the PG&E fund was not originally structured this way, nor was this a requirement of the original settlement. However, staff and the Bay Foundation intend to manage the consolidated funds as an endowment and have developed long-term budget projection based on maintenance of principal.

Board member Hayashi inquired as to whether the Foundation was financially solvent. Dave Paradies with the Bay Foundation of Morro Bay responded that the Bay Foundation was solvent, and described the financial activities of the Foundation and referred back to its track record with the Morro Bay National Estuary Program.

MOTION: Gary Shallcross moved to accept the staff recommendation and adopt Resolution No. R3-2007-0042
SECOND: John Hayashi
CARRIED: Unanimously (7-0)

19. Reports by Central Coast Water Board Members ..... Status Report

Board member Hunter attended a State Water Board Stakeholder Summit meeting in Sacramento on March 12-13, 2007. Areas she noted were: more proactive policy setting, greater roles for the coastal Regional Boards to maximize strategies for near-shore impacts, frustration with a lack of consistency on basin plan implementation and enforcement. Dr. Hunter commended Chair Tam Doduc on her leadership and stressed the overall value of the summit meeting.

20. Executive Officer's Report ..... Information/Discussion

Asst. Executive Officer Thomas noted that discussion on the strategic plan had already occurred in the previous item. The Board had no questions about the Executive Officer's Report.

Chairman Young adjourned the meeting at 5:34 p.m. The next Board meeting will be held on May 10-11, 2007, in San Luis Obispo.

The meeting was audio recorded and the minutes were reviewed by management and approved by the Board at its May 10-11, 2007 meeting in San Luis Obispo, California.

Jeffrey Young, Chairman

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