California Regional Water Resources Control Board
Central Coast Region

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Arnold Schwarzenegger
Governor

MINUTES
REGULAR MEETING
Thursday and Friday, May 10-11, 2007
Central Coast Regional Water Board

Chairman Young called the meeting of the Central Coast Water Board to order at 10:05 a.m. on Thursday, May 10, 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
Daniel Press
Gary Shallcross

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

Assistant Executive Officer Thomas introduced staff. Chairman Young announced that general comments for items not on the agenda would be held on Friday, May 11, 2007. Mr. Thomas noted that two supplemental sheets are available for Item No. 6.

3. Bishop Property ..... Board Direction/Action

Water Board staff Environmental Scientist Allison Dominguez briefly summarized the request for an appeal from Lawrence Bishop for authorization of an unpermitted, existing bathroom toward installation of an equivalent bathroom in a house to be rebuilt at 1220 Santa Ysabel Street, Los Osos. Water Board staff had denied the request, and Mr. Bishop requested reconsideration by the Water Board. The garage was built in 1958 and the bathroom was either built at that time or at a later date. The current bathroom fixtures were from the 1970s, but could have been an upgraded existing bathroom. Board member John Hayashi therefore stated that there would be no way of proving the bathroom was not built prior to 1959, when a permit was not required. Mr. Bishop emphasized the improvement of water quality from the upgrade of all fixtures to low flow within the rebuilt house and a new leach field, which will replace the existing leach pit. Board members John Hayashi, Daniel Press, and Monica Hunter considered the upgrades to be a water quality improvement and recommended that Water Board staff authorize the garage bathroom to be rebuilt inside the new house. Board members Shallcross and Jeffries emphasized that the discharge is still illegal even with approval of the garage bathroom to be moved within the rebuilt house.

MOTION: Daniel Press moved to authorize the garage bathroom to be included in the new rebuilt house with low flow fixtures and to require connection of the house to the community sewer when available.

SECOND: John Hayashi.
CARRIED – Unanimously (6-0)

4. Consideration of Panel Hearing Recommendation to Adopt Proposed Cease and Desist Order Nos. R3-2006-1008 and R3-2006-1041 ..... Board Action

Assistant Executive Officer Michael Thomas introduced the item and explained that a panel hearing was held on January 22, 2007 to consider the Prosecution Team's recommendation to adopt Cease and Desist Order Nos. R3-2006-1008 and R3-2006-1041. The panel members reviewed the written materials, heard oral evidence and arguments, public comments, and voted unanimously to recommend that the full Board adopt the Cease and Desist Orders. Chairman Young asked the Board members present (other than the panel members) if they had read the materials provided to them by staff regarding this item. Board members Russ Jeffries and David Hodgin affirmed that they had reviewed the materials. The Board members discussed the Cease and Desist Orders and the option of adopting the Orders with a revision that would limit the maximum daily liability that the Water Board could assess for violations. John Richards explained that the current Water Board could not restrict future Water Boards but that such a limitation would explain the existing Board's intent regarding assessment of liability. The Board unanimously adopted the Cease and Desist Orders with the revision that the Board would not assess more than $30 per day for violation of the Orders.

MOTION: Gary Shallcross moved to adopt CDO Nos. R3-2006-1008 and R3-2006-1041 with the revision that the Board would add a finding that the because the CDO applies to a residence, the Board will not assess more than $30 per day for violation of the Orders, unless specific findings are made by the Board to justify such an exceedance.
SECOND: John Hayashi
CARRIED: (6-0) Note: Board members Bowker and Hunter recused from this item.

(Chairman Young announced a lunch break at 11:50 p.m. The meeting reconvened at 1:00 p.m.)

Chairman Young requested a roll call. Board members present are: David Hodgin, Daniel Press, Russell Jeffries, Jeffrey Young, Gary Shallcross, and John Hayashi. Board members Bowker and Hunter are recused.

5. Consideration of Requests for Rescission of Order Nos. R3-2006-1004, -1046 (and others if any) ..... Board Action

Water Board staff Engineer Matt Thompson recommended that the Water Board rescind Cease and Desist Order No. R3-2006-1046 and No. R3-2006-1004, for Los Osos residents Douglas and Paula Dishen, and Dennis and Sally Joller, respectively, so that those parties may instead enter into a settlement agreement with the Prosecution Team. The Water Board heard comments from Los Osos residents Gail McPherson, David Duggan, and Lisa Schicker. Water Board member Russ Jeffries moved to approve staff's recommendation. John Hayashi seconded. The motion was carried unanimously.

MOTION: Russ Jeffries moved to approve the staff recommendation.
SECOND: John Hayashi
CARRIED: (6-0) Note: Board members Bowker and Hunter recused from this item.

6. Consideration of How to Proceed with the Seven Remaining Proposed Cease and Desist Orders (Order Nos. RB3-2006-1000, -1017, -1025, -1029, -1036, -1042, -1045) and all other Future Enforcement Proceedings for Individuals Who Own or Use Septic Systems in the Los Osos Prohibition Zone ..... Board Discussion

Prosecution Team Lead Harvey Packard provided a presentation discussing potential enforcement actions against individuals in the Los Osos prohibition zone.

Chair Young asked how the Prosecution Team intended to deal with the parties who had already received cease and desist orders if the Prosecution Team were to switch to cleanup and abatement orders. Mr. Packard responded that cease and desist orders would be kept in effect.

Chair Young also asked about staff's meeting with Supervisor Gibson and the proposed 218 vote schedule.

Board Member Dr. Press asked staff about the wording in the proposed cleanup and abatement orders referring to a successful benefits assessment vote or other alternative funding. He suggested that the language needs to be more clear, needs to identify a "bright line" that the community will know has been crossed.

Mr. Sato of the Prosecution Team said that we will review the language in the draft orders and try to make the intent clear, which is that the county project must progress and that the county is not limited to only the Prop 218 process to secure project financing.

Board Member Hayashi asked if State Revolving Fund loans would be available for the project. Mr. Packard replied that in his AB 2701 signing message, the Governor asked the State Water Board to not issue further SRF funds for this project until the previous loan had been repaid.

Board Member Hodgin asked what authority the Board had over the County to require construction of the wastewater system. Board counsel John Richards replied that the Board had no authority over the county at this time.

Dr. Press asked the Prosecution Team if it intended to use the $30 per day penalty cap discussed in Item 5 in future individual orders. Mr. Packard stated that the Prosecution Team would prefer to use a cap in settlement agreements, and that $30 was OK.

Assistant Executive Officer Michael Thomas asked the Prosecution Team to clarify the terminology regarding the proposed orders. Mr. Packard replied that two cleanup abatement orders were being considered, a voluntary settlement order with less severe requirements and a unilateral order with more severe requirements.

The following persons spoke during public comment:

Cherie Aispuro read a letter submitted by the San Luis Obispo County Board of Supervisors asking that the Water Board not take individual enforcement actions for now.

Melissa Guise of the Air Pollution Control Pollution Control District read a letter from that agency regarding potential air pollution impacts from increased septic tank pumping frequency.

Lisa Schicker, Chuck Cesena, James Tkach, Marlene McQueen, Chris Allebe, Bill Moylan, Beverly De Witt-Moylan, Shaunna Sullivan, Randy Tillotson, Al Barrow, George Taylor, Gwen Taylor, Anne Norment, Lawson Schaller, Mary Fullwood, Kathyrn Rossi, Gail McPherson, David Duggan, Joey

Racano, Judy Vick, Karen Venditti, Guy Rathbun, Keith Wimer, Norm Tiben, Julie Tacker, Bruce Payne, Joe Sparks, L.R. Erickson, Linde Owen, and Alan Martyn all addressed the Board.

(Chairman Young announced a break at 4:10 p.m. The meeting reconvened at 4:30 p.m.)

Leon Goldin, Rob Shipe, Lacey Cooper, Bo Cooper, Richard Margetson, Alon Perlman, Laurie McCombs, Jeff Edwards, Jerri Walsh, Maureen Cormier, and Keith Swanson all addressed the Board.

After public comment, the Board discussed the various questions before it. In general, Board members favored the idea of deferring further individual enforcement until the County could present information on its project in at Water Board meetings in July and September. Board members also preferred not to proceed with cease and desist hearings for the final seven recipients of draft orders. Chair Young said that if the Enforcement Team did eventually proceed with individual enforcement actions, administratively issued cleanup and abatement orders were suitable, provided they were sent to the entire community. Chair Young recommended having paper hearings instead of Board hearings on such orders.

Board members also expressed support of a penalty cap, especially in a settlement agreement. Dr. Press stated that a penalty cap should be based on a determination of economic advantage, and encouraged staff to start that analysis now.

Board members stated that they expected to see progress, and that without progress, enforcement actions would follow.

Chairman Young adjourned the meeting at 6:10 p.m. The Board meeting will continue on Friday, May 11, 2007 at 8:30 a.m.

Friday, May 11, 2007, 8:30 a.m.

Chairman Young called the meeting of the Central Coast Water Board to order at 8:35 a.m. on Friday, May 11, 2007, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California.

7. Roll Call ..... Carol Hewitt, Executive Assistant

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

8. Introductions ..... Executive Officer Roger Briggs

Executive Officer Briggs introduced staff. Supplemental sheets are available for Items 14 and 27. Mr. Briggs introduced staff member Mary Adams, provided background information on her accomplishments and presented her with the Sustained Superior Accomplishment Award with a cash stipend. Chairman Young expressed his appreciation for the great job that Michael Thomas did during Roger Briggs' absence.

9. Approval of March 23, 2007 Meeting Minutes ..... Board Motion

MOTION: Russ Jeffries moved to approve the March 23, 2007 meeting minutes.
SECOND: John Hayashi
CARRIED: Unanimously (8-0)

10. Uncontested Items Calendar ..... Board Motion

Executive Officer Briggs introduced the item as part of the consent calendar and stated staff responses to Board questions regarding the item were presented in the Q and A document. Board member Dr. Hunter indicated that she desired additional clarification regarding how the nature of treatment and discharge affected the proposed monitoring requirements and effluent limits, particularly with regard to toxicity and total chlorine residual for item 23, San Simeon Community Services District. Matthew Keeling responded that no "reasonable potential" was determined for all of the Ocean Plan Table B parameters because none of the constituents were likely to be present in the effluent of such a small bedroom and resort community wastewater system. However, monitoring and effluent limits were retained for toxicity to address potential cumulative effects of below detection levels of Table B constituents that would not be treated by the facility, and for total chlorine residual, given the facility chlorinates and then dechlorinates the effluent prior to discharging. Dr. Hunter also inquired about surf zone monitoring. Mr. Keeling responded that surf zone (receiving water) monitoring for bacteria was only required if the single sample maximum total coliform effluent limitation was exceeded two or more times in a 30 day period and the effluent coliform effluent limitations were protective of the receiving water standards in the Ocean Plan. Dr. Hunter indicated that she was satisfied with staff's clarification. The item remained on consent.

MOTION: Russell Jeffries moved to approve consent calendar Item Nos. 18, 19, 21, 22, and 23.
SECOND: Daniel Press
CARRIED: Unanimously (8-0)

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

State Board Liaison Gary Wolff spoke about performance awards, low impact development efforts (storm water activities, created a white paper on property value and LID techniques, general construction storm water permit process), strategic planning (regionwide consistency, compliance schedules, non-point source regulation mechanisms), and recycled water development. Mr. Wolff addressed questions from the Board on structural change for the Water Board system and septic tank system requirements.

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

Executive Officer Briggs covered the cases listed in the report and that staff would proceed as recommended unless directed otherwise by the Board. The Board had no questions on the items. Mr. Briggs also noted that the State Board is currently reviewing some of the region's underground tank cases and provided recommendations to the regional boards.

13. Perchlorate Cases ..... Status Report

Board member Monica Hunter asked about the outcome of the February meeting (described in the Staff Report Item 13; Whittaker Ordnance Facility) with Water Board staff, Whittaker's consultants, and Riverside well users regarding agricultural water supply replacement. Ms. Hunter also asked how agricultural water supply replacement works, as compared to domestic water supply replacement. The case lead, Staff Engineer Kristina Seley, showed a site figure with the source areas contributing to perchlorate and volatile organic compound pollution. Ms. Seley located the Riverside well and described the well impact history. At the February meeting, Whittaker provided Water Board staff with an agreement between Whittaker and the well users. Whittaker believes the agreement precludes them from providing replacement well water. Water Board staff is working with Whittaker and the Riverside well users to facilitate an agreement between the two parties, with a goal that Whittaker will provide agricultural supply water. Whittaker will likely request San Benito County to allow the users to hook up to the "blue valve" agricultural water supply line. Whittaker has not had success drilling replacement water supply wells.

14. Site Cleanup Program ..... Status Report

Scotts Valley Dry Cleaners, 272 Mount Hermon Rd., Scotts Valley, Santa Cruz County

Board member Jeffries asked staff if dry cleaning solvent concentrations in groundwater are decreasing and if the pump-and-treat system is hydraulically containing the groundwater solvent plume. Staff Engineer Karyn Steckling responded that solvent concentrations are decreasing in the extraction wells and in monitoring wells located near the extraction wells. Ms. Steckling also said that some of the extraction wells are now dry due to a dry winter. She added that the decrease in solvent concentrations could also be due to a change in water levels. Ms. Steckling responded to

Mr. Jeffries' question that the Responsible Parties are submitting required reports on time and are complying with Water Board directives.

(Chairman Young announced a break at 10:15 a.m. The meeting reconvened at 10:35 a.m.)

15. Institutionalizing Low Impact Development and Standardizing Storm water Requirements.....Information/Board Direction

Water Board legal counsel Lori Okun presented various approaches for institutionalizing Low Impact Development (LID) and standardizing stormwater requirements. Ms. Okun summarized how this is accomplished with existing municipal stormwater permits and construction permits, and how other tools, such as non-NPDES permitting and Basin Plan requirements can also be used. Other methods, such as decision tools, templates, and design manuals can also be used as long they are not "underground regulations." Staff member Jennifer Bitting also informed the Board that she is reviewing options for more definitive requirements for LID. Ms. Bitting is investigating the approaches used by other Regional Boards and other agencies and will present recommendations on how to proceed within the next few months.

16. Enforcement Report.....Status Report

Executive Officer Briggs noted that staff is available for questions. The Board asked about the format of the report. Staff Section Manager Harvey Packard noted that the report is shorter than usual due to the time period covered. The Board asked about issues in Pismo Beach. There have been some beach closures at the Pier due to high bacteria levels. Mr. Packard reported that there are no wastewater issues. He noted that there is a work group working on supplemental environmental projects.

24. Public Forum.....Board Direction

There was no public comment.

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

Board member Press noted that he and his colleagues at UCSC received a two-year grant from the UC Center for Water Resources at Riverside to study the use of supplemental environmental projects (SEPs) by the nine regional boards. Mr. Wolff noted that Mr. Reed Sato is currently involved with the study of SEPs and would be a good contact for UCSC staff. Board member Hunter attended the Food Safety and Water Quality workshop organized by the UC Extension. She noted that the discussions were very productive during the workshop, as well as the tours.

(Chairman Young announced a lunch break and closed session meeting at 12:07 p.m. The meeting reconvened at 1:33 p.m.)

17. Avila Settlement Fund, San Luis Obispo County.....Status Report/Board Action

Staff presented updates on all projects implemented through the Avila Beach Water Quality Trust Fund. Staff recommended redirection of funds for two projects: 1) Redirect $250,000 in funds for The Nature Conservancy purchase of conservation easement on the Andre Ranch, and 2) Redirect

$25,000 in funds for an oil spill response program in Avila Harbor and Morro Bay. Additionally, staff recommended the remaining account funds be used to create an endowment with The Nature Conservancy for long-term maintenance of the Andre Ranch conservation easement.

MOTION: Russ Jeffries moved to approve staff recommendation for the funds.
SECOND: Daniel Press
CARRIED: Unanimously (8-0)

25. Amended State Revolving Fund Project Priority List for Fiscal Year 2007-08..... Board Approval

Executive Officer Briggs introduced the item and asked the Board if they had questions. San Luis Obispo County will apply for funding for Los Osos next year.

MOTION: Daniel Press moved to approve the staff recommendation.
SECOND: Les Bowker
CARRIED: Unanimously (8-0)

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

Executive Officer Briggs read a letter from the Ocean Protection Council related to the Morro Bay/Cayucos plant upgrade. Mr. Briggs also received two emails encouraging our agency to support the plant upgrade to tertiary treatment, as well as copies of hundreds of nearly identical emails addressed to Morro Bay/Cayucos, supporting tertiary. Another letter with many signatures was sent from Cal Poly supporting tertiary treatment. Staff will attend the upcoming Joint Powers Agency meeting and has submitted a letter with comments supporting treatment upgrade.

Staff Senior Engineering Geologist Angela Schroeter provided information on active grant projects. There are over 30 projects at this time for a total over $30 million dollars. The Board asked about the location of the projects. Mr. Briggs noted the upcoming Strategic Planning Update Meeting on Wednesday, June 6, 2007 in San Luis Obispo. The Board asked about toxicity problems in the region. Staff Environmental Scientist Karen Worcester covered several different types and locations of toxicity findings. Staff Counsel Lori Okun discussed applicable prohibitions.

Chairman Young adjourned the meeting at 2:45 p.m. The next Board meeting will be held on June 6, 2007, in San Luis Obispo.

The meeting was audio recorded and the minutes were reviewed by management and approved by the Board at its July 6, 2007 meeting in San Luis Obispo, California.

Jeffrey Young, Chairman

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