



California Regional Water Quality Control Board Central Coast Region



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Arnold Schwarzenegger
Governor

MINUTES REGULAR MEETING Thursday and Friday, May 12-13, 2010 Central Coast Regional Water Board

Chairman Jeffrey Young called the meeting of the Central Coast Water Board to order at the SLO Elks Lodge, 222 Elks Lane, San Luis Obispo, California.

1. Roll CallAdministrative Assistant Carol Hewitt

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

2. IntroductionsExecutive Officer Roger Briggs

Executive Officer Briggs introduced staff and asked parties who wished to speak to complete testimony cards and place them in the appropriate category box. He also welcomed and introduced State Board Chair Charlie Hoppin, and State Board staff David Clegern and Gita Kapahi. State Board staff liaison Walt Pettit will attend the meeting either today or tomorrow (note: Mr. Pettit attended both days). Mr. Briggs also introduced Regional Board staff members available as Spanish translators: Monica Barricarte, Howard Kolb, Hector Hernandez, and Harvey Packard. Assisted listening devices are available courtesy of Grand Performance. Board member Hayashi made comments on Item #3 as a member of the public due to a conflict as Board member. Mr. Briggs outlined the structure of the workshop.

3. Board Workshop to Discuss Preliminary Draft Staff Recommendations for an Updated Agricultural Order, Public Comments and Alternatives Board Discussion

Water Board staff presented information on groundwater and surface water conditions. Water Board staff also presented information on the proposed Preliminary Draft Agricultural Order and a summary of public comments and alternatives to the proposed draft preliminary agriculture order received by April 1, 2010.

(Chairman Young announced a lunch break at 12:04 p.m. The meeting reconvened at 1:06 p.m.)

Public comment began at 1:06 pm and continued until approximately 6:30 pm. Three different organizations presented alternatives and compared their alternatives to the staff draft: 1) Monterey Coast Keepers, 2) California Farm Bureau Federation, and 3) OSR Enterprises, Inc.



Monterey Coast Keepers presented their proposal and highlighted that they generally support staff's proposed draft. They stated that this order needs to be enforced, with an enforcement plan included with the order; specific components of the new order should include explicit standards, a timeline and schedule, monitoring, a tier structure, and a Bio-stimulatory Nitrate Objective.

California Farm Bureau Federation outlined the 2004 Order process and collaborative efforts with Alison Jones and then presented their proposal which has six key areas:

- 1) Farm plan: The farm plan should remain as a self-assessment tool that is kept at a grower's farming operation and revised as necessary.
- 2) Education: This is a necessary and valuable tool that should be included in the new order.
- 3) Land use regulations: There should not be any land regulations as it is not within the purview of the regional board's statutory authority.
- 4) Monitoring: Difficult to comment on monitoring as staff has not provided specific details. Agricultural community proposes maintaining current core monitoring sites and methods for the Cooperative Monitoring Program, proposes a more focused watershed monitoring approach, and believes that farm level monitoring is necessary but needs to be affordable.
- 5) Groundwater: Advocates that an existing agency or third party develop a groundwater management plan.
- 6) Practice implementation Preliminary draft requires significant paperwork that is unrelated to water quality. Goal should be to improve water quality, not farming prohibitions such as tailwater.

OSR Enterprises, Inc. presented their alternative and stated that the agriculture alternative presented by the California Farm Bureau Federation is fully supportive of the OSR alternative.

In addition to the presentation of the three alternatives, 62 people commented on the proposed draft preliminary agriculture order.

Several community members from the San Jerado Housing Cooperative, the Los Angeles Region, and Tulare County commented about drinking nitrate-contaminated water and supported terms of the draft order. The Environmental Justice Coalition for Water and Fort Ord Environmental Justice also supported terms of the draft order, commented about nitrate-contaminated water and emphasized the costs conveyed to communities that have been impacted by water pollution, in the form of increased health care costs, bottled water costs, and missing work.

(Chair Young announced a break at 2:30 p.m. The meeting reconvened at 2:44 p.m.)

Several agriculture representatives, including the Central Coast Vineyard Team, Resource Conservation District of Monterey County, Central Coast Agricultural Water Quality Coalition, Grower Shipper Association, SLO County Cattleman and individual growers, commented and mentioned the complexities, costs of implementing the order, need for an acceptable timeline that is not as aggressive, feasibility of proposed draft order, and breakdown of the collaborative process. These representatives do not support the terms of the draft order, but instead support the agricultural alternative presented by the California Farm Bureau Federation.

Several resource agencies, environmental representatives, and some agriculture representatives including the Surfrider Foundation, Santa Barbara Channel Keeper, Environmental Defense Center, Chumash Tribal Council, National Marine Fisheries Service, Sierra Club, water quality advocates, and growers, commented and highlighted the water quality contamination from agriculture pollutants, the need for strong numeric requirements, the need for streamside buffers and riparian

protections, and individual farm monitoring. These agencies and representatives support the draft order terms presented by Water Board staff.

(Chair Young announced a break at 6:18 p.m. The meeting reconvened at 6:31 p.m.)

Water Board staff presented the next steps for renewing the agricultural order, including completing review of comments and alternatives submitted, meeting with stakeholders and holding another public workshop in Watsonville in July. Staff also indicated that any new comments for the July Board Workshop should be submitted to the Water Board by June 4, 2010.

Board Discussion began at 6:40 pm and continued until approximately 7:30 pm. Board members offered their own comments on what they heard at the Workshop and read in the staff reports and preliminary draft order. Some of the comments that Board members made, include:

- Tiered approach and phasing are essential; we need to focus on short term actions that address drinking water concerns. The worst areas should be addressed first.
- How do we coordinate with the food safety issues?
- Will there be enough staff to analyze all the information being requested from the Ag community?
- Will we be able to protect proprietary information requested in the farm plans?
- A required education element should be considered (15 hours in five years?).
- Need reasonable timelines.
- Individual WDRs might have a role.
- Need to restore the stakeholder process and should consider the reinstatement of the advisory panel.
- There should be enforcement on the remaining growers that are not enrolled.
- Water quality issues identified are real and need to be addressed; consider prioritization of the issues.
- Perhaps the next waiver should look like a ten year plan and consider other components, and lay the framework at how we are going to get at all these issues.

Board members concluded that staff should move forward with next steps considering stakeholder and Board member input from the Workshop, meeting with stakeholders further and preparing a revised draft order.

Chairman Young adjourned the workshop meeting at 7:35 p.m. The Board meeting will continue on May 13, 2010 at 8:30 a.m. to address routine items at the Regional Board offices in San Luis Obispo.

Thursday, May 13, 2010, 8:38 a.m.

4. Roll Call Administrative Assistant Carol Hewitt

Board Members Present:

Chairman, Jeffrey Young
Vice Chair, Russell Jeffries
John Hayashi
Gary Shallcross
Monica Hunter
David Hodgkin

5. Introductions Executive Officer Roger Briggs

Executive Officer Briggs introduced staff and asked interested parties to complete testimony cards and hand them in. Mr. Briggs also introduced State Board Liaison Walt Pettit and USEPA staff member Elizabeth Sablad (participating by conference phone for Item #22).

6. Recognition for Tom O'Malley Executive Officer Briggs

Executive Officer Briggs presented a plaque honoring Board Member O'Malley for his service with the Board. Mr. O'Malley was not present at the meeting to accept the plaque due to a scheduling conflict.

7. Resolution for Burton Chadwick Resolution No. 2010-0031

Executive Officer Briggs presented Senior Engineering Geologist Burton Chadwick, III with a Resolution recognizing Burton for his accomplishments with the Regional Board and expressed sincere appreciation for his dedication and a job well done. The Board and Mr. Briggs wished Burton happiness, fulfillment, and a long productive retirement.

8. Approval of March 18, 2010 Meeting Minutes Board Motion

MOTION: Russ Jeffries moved to approve the March 18, 2010 meeting minutes.

SECOND: None

CARRIED: Unanimously (5-0) Note: Monica Hunter abstained.

9. Uncontested Items Calendar Board Motion

Executive Officer Briggs recommended Items 18-23 for approval. He noted that Item #22/Goleta Sanitary District is a reissuance of 301(h) Modified NPDES Permit No CA0048160 that requires a USEPA hearing officer. Elizabeth Sablad of USEPA participated by conference phone for any issues that need to be addressed on the item.

MOTION: Russell Jeffries moved to approve Items 18 through 23 for the consent calendar.

SECOND: David Hodgkin.

CARRIED: Unanimously (6-0)

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

State Board Liaison Walt Pettit provided an update to the Board on the following issues: The State Board took action on a legislative requirement to adopt minimum in-stream flow requirements to protect fisheries in specific north coast counties. A cost estimate and plan for statewide requirements will be undertaken by the State Board. The State Board also took action on developing a plan for phasing out the once-through cooling (OTC) power plants. A number of provisions require continuous and heavy State Board involvement with mitigation plans, review of cost estimates that the generators develop, development of committees by State Board, and intensive analysis by independent experts. The State Board voted to take over all of the OTC permits. A hearing will be held in the various regions with State Board participation. There is also a possibility that a national OTC policy will eventually be implemented.

11. Enforcement Report Status Report

Mr. Briggs introduced the item as a written status report. Board member Shallcross asked for a definition of SEL in a column of the violations listing. Enforcement Coordinator Harvey Packard noted that SEL stands for "staff enforcement letter." There were no other questions.

12. Low Threat and General Discharge Cases Status Reports

Mr. Briggs reviewed the cases and asked the Board if there were any questions. The Board had no questions.

13. Staff Closures Info/Discussion/Board Direction

Mr. Briggs noted that the clean up sites met water quality objectives and staff were able to close the cases. The Board had no questions. Board member Shallcross recognized the good work done on the cases and the accomplishment they represent.

14. Recommended Case Closure Board Approval

Mr. Briggs noted that the Chevron Station case in Gilroy is very close to the water quality objectives and that the plume was drastically reduced. Board member Shallcross voiced concerns about subsequent buyers and knowledge of existing restrictions on the property. Chris Adair and Dr. Liu clarified procedures for the Board.

15. Case Closure Requested Against Staff Recommendation Board Direction

Mr. Briggs introduced the item. Water Board staff Chris Adair presented a summary of the staff report.

In response to Board questions, staff explained the on-site domestic well is used for drinking water at the café on-site, and that the well was tested for the constituents of concern as recently as February 2010. The well water is free of contamination. Staff noted that the monitoring wells on the property are approximately 30 feet deep whereas the drinking well is approximately 250 feet deep.

Also in response to Board questions, staff explained that the soil samples mentioned in the staff report were collected from an area which is not representative of the contaminated area at the site.

Gerard Martorano represented the property owners. He explained that property owners are not responsible for the existing contamination at the site and that the responsible party has given the property owners permission to clean up the site. Mr. Martorano presented his reasoning for case closure.

After deliberation, the Board concluded that the case is not ready for closure. The Board directed staff to work with the owner to expedite additional work to verify that the case is ready to close. They also directed staff to put a placeholder on the July 2010 Water Board meeting agenda in the event that data supporting closure is available prior to that meeting.

16. Monterey Regional Stormwater Program Update Status Report

Water Board staff member Jennifer Epp presented a summary of the status of Monterey Regional Stormwater Participants Group's (Monterey Regional) compliance with the Statewide General Phase II Municipal Stormwater Permit (General Permit) as well as the City of Monterey's USEPA audit.

Ms. Epp summarized Water Board staff's oversight of the Monterey Regional Stormwater Program over the last year and a half. Monterey Regional was issued a Notice of Violation (NOV) in September 2009 for failure to comply with requirements of the General Permit. Ms. Epp reported Monterey Regional's response to the NOV was partially inadequate, and as a result, Water Board staff issued a second NOV on May 10, 2010. Ms. Epp stated Monterey Regional has demonstrated progress in several areas; however further program improvements are required to come into compliance with the General Permit and the NOVs.

Ms. Epp presented an overview of the USEPA audit of the City of Monterey's stormwater program conducted in September of 2009. She summarized the NOV issued to the City of Monterey by Water Board staff in response to the USEPA audit. She described the coordination between Water Board staff and USEPA staff for the audit and follow-up enforcement.

Water Board member Shallcross expressed concerned about Del Rey Oaks' response to the NOV and participation in Monterey Regional meetings. Water Board member Hunter asked for clarification on outfall source tracking. Chairman Young asked for the status of Monterey Regional's compliance with the Illicit Discharge Detection and Elimination Minimum Control Measure. Chairman Young asked for clarification on the business inspection violation.

Mr. Tom Reeves, City Engineer for the City of Monterey, outlined improvements the City of Monterey has undertaken recently to respond to the NOVs and highlighted stormwater program successes. Chairman Young asked Mr. Reeves to clarify how the City of Monterey's construction inspection program is implemented. Chairman Young asked Mr. Reeves to describe the actions the City of Monterey is undertaking to keep copper and other heavy metals out of stormwater. Water Board member Hunter and Chairman Young asked Mr. Reeves questions about their public participation process and recommended Monterey Regional create an advisory panel and post their Monterey Regional meetings on the local government channel.

Mr. Mike Avila, Avila Construction, described the City of Monterey's response to concerns raised by the USEPA auditor. Water Board member Hunter and Chairman Young asked Mr. Avila about his company's construction stormwater training.

Mr. Steve Shimek, Monterey Coastkeeper, stated Monterey Regional spends too much money on education and doesn't address other stormwater program components adequately. He also asked what would happen if Del Rey Oaks didn't respond to the NOV requirements.

Water Board member Shallcross stated enforcement against all Monterey Regional entities for an individual entity's violation could result in increased peer pressure for all entities to come into compliance.

Chairman Young stated receiving information directly from the participating entities for their NOV responses would be preferred over a document that is prepared by the program manager. Ms. Epp stated the NOV requires each entity to sign a certification statement and to be responsible for the accuracy of the information submitted to Water Board staff.

Water Board member Hunter asked how a participating entity could be removed from Monterey Regional.

Mr. Reeves stated going after individual participating entities and not Monterey Regional for lack of compliance was the best approach.

Water Board member Jeffries asked if Del Rey Oaks could contract with the City of Monterey to provide stormwater services. He further suggested Monterey Regional consider a joint power authority to conduct stormwater management compliance activities for all participating entities.

Ms. Heidi Niggemeyer, Monterey Regional Program Manager, highlighted improvements she has seen in Monterey Regional's compliance with permit requirements over the past year and a half. She stated enforcing against individual entities for lack of compliance would be more effective than enforcing against Monterey Regional.

Chairman Young asked Water Board staff to provide an update on Monterey Regional's response to the NOV's at a future Water Board meeting.

26. Settlement in the Matter of Greka Oil and Gas, Inc.....Board Approval

Mr. Briggs recused himself from advising the Board on this item. Senior Engineering Geologist Burton Chadwick replaced him as advisory staff. Office of Enforcement attorney Cris Carrigan introduced enforcement staff, summarized the proposed settlement, and encouraged Board approval. Greka attorney Jim Meeder also recommended Board approval. Board member Russ Jeffries asked the parties what the total amount of potential liability was. Mr. Carrigan said that that was a point of contention and not easily answered, while Mr. Meeder estimated the amount at about \$9 million. Mr. Chadwick recommended approval.

MOTION: Russ Jeffries moved to approve the Greka settlement.

SECOND: David Hodgjin

CARRIED: Unanimously (6-0)

24. Public Forum Board Direction

The individuals listed below had comments:

Steven Paige	Prohibition Zone Legal Defense Fund, Los Osos resident
Linde Owen	Los Osos resident
Keith Wimer	Los Osos Sustainability Group
Elaine Watson	Los Osos resident
Gewynn Taylor	Los Osos resident

17. Municipal Stormwater Program Update Status Report

Water Board staff member Phil Hammer provided an update to the staff report. He stated that all high priority Phase II traditional municipal separate storm sewer systems (MS4s) had been enrolled under the Statewide General Phase II Municipal Stormwater Permit (General Permit). He also provided updated information on Water Board staff's participation with State Board staff in the drafting of the new General Permit. He said that opportunities for Water Board staff participation in drafting the new General Permit had recently increased, particularly regarding the topics of hydromodification control and monitoring. He said that Water Board staff plans to work closely with State Board staff on drafting the new General Permit's hydromodification control section, and plans to pursue opportunities to collaborate on monitoring requirements.

Mr. Hammer also briefly addressed how Water Board staff is overseeing MS4s' implementation of their Stormwater Management Programs. He indicated that staff plans to continue to conduct detailed reviews of MS4s' annual reports, but is also seeking to improve the efficiency of those reviews. Several approaches staff is considering for annual report reviews include: (1) focusing reviews on a particular high priority water quality problem; (2) focusing reviews on those minimum control measures determined by staff to be most crucial to water quality and beneficial use protection; and (3) rotating reviews of minimum control measures annually. Mr. Hammer stated that these approaches would free staff to conduct other effective oversight actions, such as audits of municipal stormwater programs and conditioning Clean Water Act Section 401 Water Quality Certifications.

Water Board members expressed interest in audits of municipal stormwater programs and asked questions concerning efforts by the United States Environmental Protection Agency (USEPA) to conduct municipal stormwater program audits within the Central Coast Region, as well as the possibility of more audits within the region by USEPA. Joy Hufschmidt of the County of Santa Barbara addressed the Water Board members, indicating that Water Board staff should be more flexible in allowing municipalities to modify their programs to focus on those aspects of the programs that are most effective.

25. Funding for Wild Cherry Canyon Conservation Project near Avila Beach Board Motion

Executive Officer Briggs noted that the Board had approved some funding for the Wild Cherry Canyon Conservation project with a timeline of June 30, 2010 for the Land Conservancy to have their funding sources in place. The Land Conservancy is getting the remaining two sources secured by the end of July 2010. They are requesting an extension from the Board through December 2010. Mr. Briggs recommended approval of their request.

MOTION: Monica Hunter moved to approve the requested extension of time for the Land Conservancy.

SECOND: Russ Jeffries.

CARRIED: Unanimously (6-0)

27. Reports by Central Coast Water Board Members Status Report

Board member Jeffries attended a Monterey Bay National Marine Sanctuary Advisory Council meeting on April 15, 2010. Board member Hodgkin announced that Executive Officer Briggs gave an excellent presentation to the Association of California Water Agencies Region 5 in Lompoc. He spoke about water quality issues and what the Regional Board was doing. He also spoke about people who are in the business of delivering water to the public. Board member Hodgkin announced that the Monterey AMBAG will be doing a series on water. The series will be on May 14 – Water Efficiency (Moss Landing Marine Lab), June 24 – Recycled Water (Watsonville), October 1 – Coastal Water Project (Monterey area). Board member Hodgkin also noted the special April 2010 issue of National Geographic was sent and the featured story on water is excellent .

28. Executive Officer’s ReportInformation/Discussion

Executive Officer Briggs asked if there were any questions on the Water Quality Certifications chart. Board member Hunter asked for clarification on erosion of the Morro Bay Marina parking lot renovation. She asked if the erosion fell into the bay. Dr. Hunter also asked for clarification on the Lichen Oaks Ranch Pond Restoration. Mr. Briggs will follow-up on those items and report back.

Mr. Briggs noted Karen Worcester’s report regarding upgrading the website for CCAMP.

Mr. Briggs noted that he and Board member Hodgkin met with the Santa Clara Valley Water District Board and staff. Discussion included nitrate issues. Chair Young and Mr. Briggs will meet next Tuesday evening with the Santa Barbara Urban Creeks Council. Frances McChesney and Mr. Briggs met with USEPA and State Board staff to discuss pharmaceuticals and how to keep them from being dumped down the drain. Mr. Briggs did ask for the local hospice guidelines for drug disposal and their guidelines did specify no drugs down the drain. The Board took a look at the new CCAMP website.

Chairman Young adjourned the meeting at 2:05 p.m. The next Board meeting will be held on July 8, 2010 in Watsonville.

The meeting was audio recorded and the minutes were reviewed by management and approved by the Board at its July 8, 2010 meeting in Watsonville, California.



Jeffrey Young, Chairman

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