



California Regional Water Resources Control Board

Central Coast Region



Linda S. Adams
Secretary for
Environmental Protection

Internet Address: <http://www.waterboards.ca.gov/centralcoast>
895 Aerovista Place – Suite 101, San Luis Obispo, CA 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

MINUTES SPECIAL MEETING Thursday, August 23, 2007 Central Coast Regional Water Board

Chairman Young called the meeting of the Central Coast Water Board to order at 10:00 a.m. on Thursday, August 23, 2007, at the Salinas City Council Chambers, 200 Lincoln Avenue, Salinas, California.

1. Roll Call Executive Assistant Carol Hewitt

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

Board Members Absent:
Les Bowker
Daniel Press

2. Introductions Executive Officer Roger Briggs

Executive Officer Briggs introduced staff and asked parties interested in speaking to complete testimony cards.

3. Carmel Area Wastewater District Information/Discussion

Chairman Young introduced the item and stated it was for informational discussion only. He then read a statement regarding Board member Hunter's involvement in Carmel River related projects and indicated she had no specific involvement regarding the requested discharge of tertiary treated wastewater from the Carmel Area Wastewater District (CAWD) into the lagoon. Chairman Young then stated that Dr. Hunter would remain on the Board for the discussion item and questioned if anyone in the public was opposed. No one from the audience responded. Roger Briggs provided an additional introduction stating the item staff report would be relied upon for providing most of the information regarding the item and that staff engineer Matthew Keeling would briefly outline the status of the requested discharge and recommendations how to proceed.

Matthew Keeling presented an overview of the lagoon habitat, issues governing the request for augmenting freshwater inputs to the lagoon via a direct recycled water discharge, obstacles in permitting the discharge, and the various stakeholders with the requisite management structure and nexus to Carmel River and lagoon management who could potentially act as project lead for permitting the discharge. Mr. Keeling finished his discussion with his recommendation to remove the lagoon discharge language from the forthcoming draft permit, facilitate ongoing discharges to the dry lagoon habitat, and provide guidance to the various stakeholders regarding permit application requirements.

Kevin Urquhart, Senior Fisheries Biologist, and Larry Hampson, Water Resource Engineer, for the Monterey Peninsula Water Management District (District), discussed the District's role in managing the Carmel River and lagoon, the decreasing water quality conditions of the lagoon with regard to steelhead smolt habitat, water allocation EIR, mitigation measures and related programs, and the District's commitment to manage and restore Carmel River and lagoon habitat. Ken Gray, Senior Planner with California Department of Parks and Recreation (Department), also discussed the historical efforts of various agencies to restore and manage lower Carmel River and lagoon habitat. Both Mr. Hampson and Mr. Gray indicated a partnership was needed among various agencies involved in managing the lagoon to facilitate permitting a discharge.

Dr. Hunter asked what the District's view was on applying for permit. Mr. Urquhart could not answer the question directly on the District's behalf, but indicated the District would remain an active participant in finding a solution given available funding. Mr. Briggs asked a similar question of Mr. Gray regarding the Department's willingness to take a CEQA lead or as a joint applicant for the discharge. Mr. Gray indicated that the Department was willing to discuss.

Both Hank Smith and Bob Zampatti, Carmel River Steelhead Association, discussed the lagoon environment and survival of steelhead from a historical and laymen's perspective. Board member Shallcross asked how lagoon breaching affected steelhead. Mr. Smith replied that breaching was primarily conducted to prevent flooding impacts and was generally conducted in a manner that results in rapid draining of the lagoon and flushing of potential food supplies for remaining steelhead smolt. Shallcross questioned if there was another way to breach the lagoon. Mr. Smith replied that the Steelhead Association breached the lagoon last year in manner that resulted in maintenance of the lagoon habitat by cutting a diagonal channel instead of one straight out to the Bay as was normally done by the County.

Bob Zampatti expressed his frustration regarding the inability to implement timely discharges of recycled water to the lagoon due to regulatory constraints and said we were tied in knots. He stated that testing of the lagoon and ocean water quality would indicate the tertiary effluent is of better quality and that the Board should apply common sense to allow the discharge.

Chairman Young agreed to Mr. Zampatti's point of being "tied in a knot" and emphasized that staff was requesting just the type of water testing needed to facilitate a permitted discharge, but that CAWD could not discharge without violating its permit and that the Board did not have the discretion to willfully allow discharges that would violate NPDES permit requirements. Mr. Briggs also emphasized that additional testing was needed based on Mr. Keeling's recommendation.

Chairman Young asked Board counsel Lori Okun what the Board could do. Ms. Okun stated that there was nothing the Board could do other than encourage action, have staff participate in stakeholder groups, and approve discharge permits that come before the Board. Ms. Okun further stated that the Board has no jurisdiction over California American Water Company (Cal Am) and their over allocation of Carmel River water resources as it is under State Board authority.

Board member Shallcross questioned whether there were any emergency powers. Ms. Okun responded that there were no exceptions to NPDES requirements and that the Board could not authorize discharges that are in excess of water quality objectives - specifically State Implementation Plan related effluent limitations - and that a CEQA evaluation is required to facilitate a categorical exception to the effluent limitations. Ms. Okun further stated that because the effluent limits in question are based on toxicity to aquatic life, a mandatory finding of significant impact would likely require an EIR.

Chairman Young directed staff to prepare a letter to State Board regarding impacts to the lagoon as a result of Cal Am's over allocation and to request additional actions by Cal Am to get more water in



the river to augment the lagoon habitat. Chairman Young and Board member Shallcross also requested staff to send a letter to Monterey County regarding the implementation of more holistic breaching methods.

Ray von Dohren, CAWD District Manager, came forward to clarify that the approximately 5 acre-feet/day of excess recycled water will not be available after CAWD completes upgrades to its tertiary treatment facility in 2008. When questioned by Chairman Young as to how much excess water would be available, Mr. von Dohren replied that it would depend on the weather and demand for recycled water by the existing users, but that it would likely be much less. Mr. von Dohren indicated that up to 300 acre-feet/year of reverse osmosis concentrate will be available and that the District was beginning a study to evaluate the use of RO concentrate to augment the lagoon.

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

Executive Office Briggs invited those individuals that did not have a chance to speak at the July 6, 2007 Board meeting to do so at this time on the following items.

City of Hollister – Clint Quilter provided a brief update on the Hollister wastewater treatment plant project and was available to answer questions.

Sunnyslope County Water District (SCWD) – Ken Girard, District Engineer gave a presentation on the long- term regional management plan for Sunnyslope County Water District. The presentation included objectives, background, long-term wastewater management plan, regional collaboration, and project challenges. The District will be coming back to the Board to ask for a possible time extension on their schedule. Mark Davis, President, Ridgemark Golf and Country Club, Inc. – Mr. Davis encouraged the SCWD to pursue the local option.

8. Public Forum Board Direction

Mr. David Van Lennep, RPF, Redwood Empire Sawmill spoke and submitted a letter to the Board regarding substantial delays in waiver application approvals.

5. Natural Selection Foods Order No. R3-2007-0076

Chair Young swore in all participants for this hearing. Water Board staff engineer Matt Thompson presented Administrative Civil Liability Order No. R3-2007-0076 for Natural Selection Foods, San Benito County. Mr. Thompson described Natural Selection Food's requirements, violations, and the factors to be considered when determining a penalty amount. Mr. Thompson recommended a \$95,000 penalty, of which \$70,000 would be directed to the City of San Juan Bautista for a water recycling supplemental environmental project. Mr. Thompson answered Water Board member questions regarding the economic benefit that Natural Selection Foods may have realized by committing the violations.

Natural Selection Foods Facility Engineer Joe Torquato described the efforts Natural Selection Foods has made to come into compliance with its waste discharge requirements, including installing a new treatment system, adding disposal area, and improving management. Mr. Torquato answered Water Board member questions.

Natural Selection Foods' consulting engineer Lloyd Bracewell clarified that the nitrogen content of the process wastewater discharge is low.



San Juan Bautista City Manager Jan McClintock spoke in favor of the proposed supplemental environmental project.

Stan Pura, organic farmer and part owner of Natural Selection Foods, spoke in support of Natural Selection Foods.

Water Board supervising engineer Harvey Packard closed the hearing by stating that the proposed penalty is significantly higher than the economic benefit. He again recommended adoption of the \$95,000 penalty.

Executive Officer Roger Briggs pointed out that the spill was found by Water Board staff on the one day when staff happened to inspect the facility, and said that self-monitoring and the honor system are "cornerstones" of water quality regulation. Mr. Briggs recommended a penalty of \$120,000.

Water Board member John Hayashi said that it could not be assumed that Natural Selection Foods had spills on other days.

Russ Jeffries and Monica Hunter stated that they originally wanted an amount higher than \$120,000, but would compromise. After deliberating, the Water Board members voted on Mr. Hayashi's motion.

(First motion)

MOTION: John Hayashi moved to adopt staff's recommendation of a \$95,000 penalty.

SECOND: David Hodgkin

CARRIED: No, (3-3) tie vote; a roll call vote was taken. (Hunter/no, Hodgkin/yes, Jeffries/no, Young/no, Shallcross/yes, Hayashi/yes)

(Second motion)

MOTION: Russell Jeffries moved to adopt a \$120,000 penalty. The motion was amended to direct \$94,005 to the City of San Juan Bautista supplemental environmental project, the total cost of that project, with the remainder of the penalty to be directed to State Board. Water Board counsel Lori Okun recommended some minor changes to the Administrative Civil Liability Order, including increasing the economic benefit finding to \$28,000.

SECOND: Monica Hunter

CARRIED: (4-2); a roll call vote was taken. (Hunter/yes, Hodgkin/yes/, Jeffries/yes, Young/yes, Shallcross/no, Hayashi/no)

(Chairman Young announced a break at 3:25 p.m. Russell Jeffries left the meeting at this time. The meeting reconvened at 3:30 p.m.)

6. and 7. Casa de Montgomery/Haffner Order Nos. R3-2007-0050 and 0051

State Board Counsel Michael Levy participated on this item via conference phone. Water Board staff engineer Michael Higgins proposed the Board rescind Waste Discharge Requirements Order No. 01-037 to thereby withdraw the privilege of discharging waste into the State's waters from Arlen Haffner, because he did not comply with the Order or several Notices of Violation from the Executive Officer, did not pay annual fees, and did not obtain or submit monitoring data required by the Order. Orders 0050 and 0051 are Waste Discharge Requirements that prohibit discharge and an order to Cease and Desist from violating those requirements/prohibition, respectively. The Board concurred with staff's recommendation.

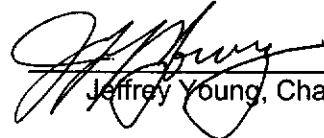
MOTION: Gary Shallcross moved to accept staff's recommendation, including counsel's recommended changes.



SECOND: Monica Hunter
CARRIED: Unanimously (5-0)

Chairman Young adjourned the meeting at 4:12 p.m. The next regular Board meeting will be held on September 7, 2007, in San Luis Obispo.

The meeting was audio recorded and the minutes were reviewed by management and approved by the Board at its October 19, 2007 meeting in Santa Barbara, California.



Jeffrey Young, Chairman

H/ALLMYDOCS/BOARD MINUTES/2007/AUG07mins/carol

