



California Regional Water Resources Control Board Central Coast Region



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Arnold Schwarzenegger
Governor

MINUTES REGULAR MEETING Thursday and Friday, December 4-5, 2008 Central Coast Regional Water Board

Vice-Chairman Jeffries called the meeting of the Central Coast Water Board to order at 9:33 a.m. on Thursday, September 4, 2008, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California.

Thursday, December 4, 2008

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

Board Members Present:

Chairman Jeffrey Young (arrived at 9:40 a.m.)
Vice Chair, Russell Jeffries
Monica Hunter
Gary Shallcross
John Hayashi

Absent: David Hodgkin

2. Introductions..... Executive Officer Roger Briggs

Executive Officer Briggs introduced staff and asked parties who wished to speak to complete testimony cards and turn them in. Supplemental sheets that were prepared after the agenda was sent out are as follows: Items 5 (Q&A doc), 8 (Q&A doc), 9 (Q&A doc), and 11.

(Chairman Young arrived at 9:40 a.m.)

3. Approval of October 17, 2008 Minutes..... Board Motion

MOTION: Gary Shallcross moved to approve the October 17, 2008 minutes.
SECOND: John Hayashi
CARRIED: Unanimously (5-0)

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

No report - Executive Officer Briggs said Dr. Wolff called and expressed his regrets that he had travel problems and would not be able to attend.

5. Low Threat and General Discharge Cases Status Reports

Executive Officer Briggs noted the contents of the report and asked the Board if they had questions. One Board member question on the Rio Del Mar item was addressed in the Question and Answer document. The Board had no other questions on the item.

6. Recommended Closure Board Approval

The Board had no questions on this item. Staff will proceed with the recommended case closure.

7. Staff Closure..... Information

Executive Officer Briggs noted that the cleanup site met water quality objectives and the site was closed. The Board had no questions on this item.

8. Corrective Action Plan Approvals Info/Discussion/Direction

Executive Officer Briggs asked if the Board had any questions for the Raytheon item, Franzke Residence item, Former Methamphetamine Production Lab item, and the Former All-American Cleaners Property item. The Board had no questions for those items.

Executive Officer Briggs noted that the Chevron Veneco Oil & Gas Facility in Carpinteria had been before the Board previously and changes to the Corrective Action Plan were recommended.

Water Board Staff Geologist Rich Chandler summarized the revised corrective action plan proposed for the Veneco facility in Carpinteria. The revised plan is a final remedial plan rather than the interim plan previously submitted. Significant changes to the plan include: lower concentration soil cleanup levels for DDT, DDD, and DDE in the Former Nursery Area; removal of other chlorinated pesticides in the Former Nursery Area to the limits of detection; removal of all chlorinated pesticides in Drainage Area 4 and Railroad Ditch to the limits of detection; containment and sampling of stormwater runoff prior to discharge from the site; and, removal of metals in the Former Sand Blast Area to background concentrations.

Mr. Chandler indicated that staff was recommending conditional plan approval with the following conditions (to be included by Chevron in an addendum to the plan): 1) the Modified Additive Toxicity Equation must be used as a field calculation during confirmation sampling, to confirm there is no threat of additive toxicity from DDT and its metabolites; 2) Chevron must comply with any conditions in the City of Carpinteria's grading permit that relate to re-vegetation or to excavation in the vicinity of mature trees; 3) hay bales and silt fences currently at the site must remain in place until the installation of engineering controls; 4) the gate valve will remain closed until sampling indicates chlorinated pesticides are not detected in stormwater runoff, and 5) work in the Former Sandblast Area must not be conducted during the seal birthing period.

Speakers:

Jerry Ross (Pillsbury Winthrop LLP - representing Chevron) stated Chevron had revised the plan in response to comments from Water Board staff and the public. He indicated that Chevron agreed to the conditions and that Chevron was ready to proceed with obtaining other necessary permits and completing the work.

Kira Redmond (Santa Barbara ChannelKeeper) supported the revisions to the previous plan but indicated the proposed sediment filter at the southwest corner of the site was inadequate to prevent sediment

impacted by chlorinated pesticides from migrating site into the Railroad Ditch and subsequently into the Pacific Ocean.

Chairman Young asked Water Board staff if the sediment filter was adequate to prevent offsite transport of impacted sediment. Sheila Soderberg indicated that following the remedial action, any concentrations of chlorinated pesticides that remained in sediment would be below any regulatory standards for protection of human health or aquatic organisms.

Many of the Board members had similar questions related to the function and adequacy of the sediment filter and the possibility of offsite transport of chlorinated pesticides with sediment. Mr. Ross indicated that following removal of chlorinated pesticides from the Railroad Ditch, chlorinated pesticides from offsite sources would impact the ditch and it would not be possible to determine whether contaminants in the ditch were from the Venoco facility or another source.

Board members discussed additional sampling of sediment before and after the sediment filter, prior to leaving the site, to confirm that chlorinated pesticides would not leave the site. Mr. Ross indicated that the sediment filter could be constructed to allow for these sampling points and agreed to perform the sampling. Board members concurred with the Executive Officer approving the corrective action plan, with the inclusion of the staff-recommended conditions and sediment sampling before and after the sediment filter. Board members also requested that annual reports include inspection documentation. These conditions will to be submitted by Chevron in an addendum to the corrective action plan.

(Chairman Young announced a break at 11:00 a.m. The meeting reconvened at 11:10 a.m.)

9. Underground Storage Tank Program & MTBE Cases Status Report

The Board had no questions for this item.

10. Cambria Winery ACL Order No. R3-2008-0076

The Discharger waived the hearing and the item was settled before the Board meeting. No action was taken.

11. Morro Bay/Cayucos Wastewater Treatment Plant Order No. R3-2008-0065

Central Coast Water Board staff David LaCaro introduced the item and highlighted that the item was a continuation of the May 11, 2006 hearing to provide new information regarding species of concern in Estero Bay.

Water Board members Hunter and Shallcross asked various questions for clarification, specifically regarding the facility's upgrade schedule and settlement agreement purpose. Staff and Water Board Counsel responded with answers explaining that the facility's upgrade would be completed within approximately 5.5 years from now.

On behalf of the Discharger, Andrea Lueker (Morro Bay City Manager), Janice Peters (City of Morro Bay Mayor), Robert Enns (Cayucos Sanitary District President), Tim Carmel (Cayucos Sanitary District Counsel), Bruce Keogh (Wastewater Plant Supervisor), Dr. Doug Coats (Marine Research Specialists, contractor), and Bonny Luke (Marine Research Specialists, contractor) made statements regarding the current facility status, environmental review process, current cat litter outreach program, recent southern sea otter census data, and agreed with Water Board staff's recommendation to adopt the proposed Order.

Board Chair Young and member Jeffries had various questions relating to potential funding opportunities for the proposed facility upgrades and the Discharger's current efforts for the Cat Litter Outreach Program.

The Natural Resources Defense Council (NRDC) representative, Michelle Mehta, expressed her opposition to the adoption of the 301(h) modified NPDES Permit. She asserted that the Discharger had not adequately met the legal burden of the Clean Water Act criteria pursuant to section 301(h). She explained that the NRDC fully supports the upgrade to tertiary treatment, but that the requirement to upgrade the facility to tertiary should be incorporated into the terms of the settlement agreement.

Chair Young questioned Ms. Mehta on her reference to the Discharger's "legal burden" to satisfy the terms of the 301(h) variance of secondary standards. Board Member Shallcross asked Ms. Mehta if she thought that denying the waiver would speed up the conversion process.

The Otter Project representative, Steve Shimek, recommended that the settlement agreement include the requirement to meet tertiary treatment in order to minimize the risk of "backsliding." Mr. Shimek asked for some clarification regarding the USFWS concurrence letter's discussion of treatment level and upgrades.

Mr. Steven Henry, USFWS staff, provided clarification via telephone on the USFWS concurrence with USEPA determinations. In summary, Mr. Henry explained that there was no scientific evidence that indicated adverse impacts to the endangered species. Therefore, the USFWS had no option other than to concur with the USEPA Biological Evaluation.

Ms. Sarah Corbin, Surfrider Foundation representative, echoed the same concerns as the NRDC.

Board Member Hunter had a question regarding the update of permits to satisfy current Ocean Plan policies. Water Board Counsel McChesney and USEPA Director Strauss explained that the Water Board has discretion to update waste discharge requirements to satisfy current Ocean Plan policies. However, USEPA is currently updating new standards and the states will have to come up to speed. In the meantime, the proposed permit meets Ocean Plan requirements.

Water Board staff Engineer Matt Thompson augmented staff's recommendations and responded to comments regarding the "backsliding" issue as well as uncertainties of scientific data. Board member Jeffries commented on the Discharger's willingness to upgrade the wastewater treatment plant to tertiary treatment. He expressed that "backsliding" from tertiary treatment upgrades to secondary treatment may be an issue due to potential funding obstacles or other external mechanisms. However, Board member Jeffries explained that the issuance of this permit was long overdue.

MOTION: Gary Shallcross moved to reissue the 301(h) modified NPDES permit as proposed by staff.

SECOND: John Hayashi.

CARRIED: Unanimously (5-0)

(Chairman Young announced a break for lunch at 12:50 p.m. The meeting reconvened at 2:16 p.m.)

13. Gilroy Unified School District ACL Order No. R3-2008-0030

The Discharger waived the hearing and the item was settled before the Board meeting. No action was taken.

14. Department of Defense Cleanup Program Update..... Status Report

A detailed written summary was provided by staff. The Board had no questions. Mr. Briggs and Chairman Young thanked staff for the update.

15. Land Disposal Program Update..... Status Report

Board member Hunter requested a table that summarizes all of the landfills in our Region, information on how many unlined landfills our Region has, and whether a landfill soil cover curtails leachate generation. Executive Officer Briggs said staff would provide that information.

Staff Groundwater Section Manager John Robertson addressed the Board to answer Dr. Hunter's questions. Mr. Robertson indicated that most of our landfills are closed landfills and have final soil covers. He also indicated that over 90 percent of our landfills are unlined (or portions thereof are unlined) and, in general, unlined landfills leak. Executive Officer Briggs clarified that we have landfills that are both lined and unlined but all new cells of landfills are now lined. Mr. Robertson also explained that our strategy behind protecting groundwater impacts from landfills is to dehydrate the waste in landfills. The biggest threat to groundwater from landfills is landfill gas and leachate. By extracting landfill gas and putting final covers over the waste, generation of landfill gas and leachate is minimized, thereby mitigating groundwater impacts. As a follow up question, Dr. Hunter asked if the Water Board conducts post closure monitoring to determine how effective the final covers are. Mr. Robertson indicated that by regulatory requirements all landfills are required to conduct groundwater, landfill gas, physical surveillance, and other post closure monitoring to ensure protection of groundwater.

Dr. Hunter also requested an update on the FEMA flood maps for the Santa Maria Landfill. Engineering Geologist Dean Thomas indicated that an updated FEMA flood map is not yet available but he will provide one once FEMA releases updates.

16. ConocoPhillips Nipomo Creek Crude Oil Pipeline Release..... Status Report

Executive Officer Briggs introduced a status report for the Nipomo Creek crude oil pipeline release site and asked if Board members had any questions related to the site. Chairman Young asked if there was a timeline for excavation of impacted soil at the site. Water Board staff Geologist Rich Chandler stated that, although excavation is the preferred remedial action, the responsible party will submit a feasibility study by December 19, 2008 and Water Board staff will determine the appropriate remedial alternative only after a review of that document. Mr. Chandler indicated that if we determine excavation is the best remedial alternative, there will be a lengthy permitting process because excavation of Nipomo Creek would be necessary, and resulting issues include endangered species and Native American historical sites. For these reasons, excavation of the site is not likely before 2010.

Speakers:

Ralph Bishop, resident of Nipomo, expressed satisfaction with Water Board staff's efforts with the site but was troubled by the length of other agencies' permitting processes and delays in remedial action at the site.

Daniel Diaz, resident of Nipomo, presented several photographs of Nipomo Creek. He agreed with Mr. Bishop in expressing satisfaction with Water Board staff's efforts at the site and dissatisfaction with length of the permitting processes at other agencies.

Chairman Young requested that staff present another status report for this site in six months (July 2009).

17. Olin Corporation Status Report

Mr. Mike Olsen, resident of the City of Morgan Hill, addressed the Board stating he did not understand why the cleanup was taking so long. Mr. Olsen also stated that he had never been on well water and that his water needs were served by the City of Morgan Hill, however, he has purchased bottled water for drinking water purposes for a very long time. Mr. Olsen said that he is concerned that some level of exposure to perchlorate could be the cause of some of the growth problems that his daughter experienced as a child. Mr. Olsen said that his daughter appears to be well now that she moved to a different location. Mr. Olsen indicated he would like to know what is going on with the Olin cleanup site.

Chairman Young and Executive Officer Briggs suggested to Mr. Olsen that he become involved with the San Martin Perchlorate Community Advisory Group (PCAG) chaired by Ms. Sylvia Hamilton. Mr. Olsen was encouraged to contact Water Board staff directly with any future concerns or informational needs. Water Board Senior Engineering Geologist Thea Tryon informed Mr. Olsen that the next PCAG meeting was on December 12, 2008 from 2:00 p.m. to 4:00 p.m. at the Lions Club in San Martin.

(Post meeting note: Following his comments, Water Board staff Engineer Hector Hernandez spoke to Mr. Olsen and obtained his contact information. Subsequently, Mr. Hernandez emailed informational material to Mr. Olsen concerning the perchlorate cleanup project and PCAG. Mr. Olsen was added to the Water Board's Olin site interested party list and will receive informational material concerning this cleanup project).

20. Agro-Jal Farms ACL Order No. R3-2008-0086

The Discharger waived the hearing and the item was settled before the Board meeting. No action was taken.

35. Enforcement Report Status Report

Executive Officer noted that this is a written report. The Board had no questions.

38. Appointment by the Chair of Board Panels for Administrative Civil Liability Hearings....Board Motion

Executive Officer Briggs noted that this Board meeting had several Administrative Civil Liability (ACL) hearings scheduled but that a significant number of the dischargers settled before the hearing. Mr. Briggs suggested that the Board agree to have the Chair appoint panels within the Board if necessary to accommodate future ACL hearings.

MOTION: John Hayashi moved to approve the item.

SECOND: Russell Jeffries.

CARRIED: Unanimously (5-0)

39. Reports by Central Coast Water Board Members Status Report

Vice Chair Jeffries said a few words regarding the dedication of the City of Hollister's new wastewater treatment plant, which he attended this year. He stated he was pleased that despite the long tedious process the Water Board and the City of Hollister went through, the result was a successful project. He praised Clint Quilter, City Manager, the former Mayor, and the Hollister City Council for pursuing approval from the city's residents to move forward with fee increases, which assisted in building the new treatment plant. He went on to say that the City of Hollister completed the project under budget and ahead of schedule.

The Board briefly discussed the WQCC meeting and the Low Impact Development (LID) presentation that Roger Briggs provided. Board member Hunter is glad to see that our efforts are consistent in leading the way with LID.

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

Executive Officer Briggs covered the report on septage management within the various counties in our region. Sorrel Marks provided the report and also included parts of Kern County that are in the Central Coast region. Alison Jones provided an update on the Irrigated Agriculture Program. The program is scheduled to expire in July 2009, and staff is currently in the process of rolling out and updating the ag order for adoption in July. Toxicity and pesticide issues were also covered in the ag update. Board questions on the ag report are addressed in the Question and Answer document. Board member Hunter asked about enforcement action on dischargers who failed to enroll in the ag program. Chair Young clarified that five dischargers settled their enforcement actions prior to the Board meeting. Mr. Briggs noted that these were the first ag enforcement actions and Regional Board staff will promote advertisement to raise awareness to other ag agencies of the enforcement actions. Mr. Packard provided specifics regarding enforcement requirements for ag dischargers. Mr. Briggs covered the update on the municipal stormwater regulation program. He also noted that he and staff met with a subgroup of San Luis Obispo (SLO) County, the cities within SLO County, and the City of Santa Maria. The meeting focused on the post-construction management control measure, which included hydromodification. The meeting was successful in narrowing differences and creating a better understanding between agencies. Michael Thomas asked the agencies to focus on prioritizing the work being done in their respective stormwater programs. The Regional Board staff is available to assist the agencies in prioritizing their tasks. The Board discussed having workshops to specifically include decision-makers in the stormwater processes. Board member Jeffries suggested providing a presentation at an AMBAG meeting. The Board suggested that Regional Board staff provide a Powerpoint presentation and be present at these workshops/presentations. The Board also discussed follow-up on stormwater management plans and decided that agencies that are having problems with implementation would be a priority. Mr. Briggs reported that we will likely have more general fund cuts. He noted that staff will be doing priority work.

The meeting adjourned at 4:03 p.m. The meeting will reconvene on Friday, December 5, 2008 at 8:30 a.m.

Friday, December 5, 2008

Vice Chair Russell Jeffries called the meeting of the Central Coast Water Board to order at 8:45 a.m. on Friday, December 5, 2008, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. Mr. Jeffries announced that Board Chair Young will arrive a little later.

18. Roll Call.....Executive Assistant Carol Hewitt

Board Members Present:

- Chairman Jeffrey Young (arrived at 9:30 a.m.)
- Vice Chair, Russell Jeffries
- David Hodgins
- Monica Hunter
- Gary Shallcross
- John Hayashi

19. Introductions Executive Officer Roger Briggs

Executive Officer Briggs introduced staff and asked interested parties to complete testimony cards and turn them in. Supplemental sheets for items are as follows: Item 22, 24, 25, 26-27, and 30. Mr. Briggs noted that Item 20/Agro-Jal Farms was settled and will not be addressed today.

24. General Permit for Discharges from Aquaculture Facilities
and Aquariums Order No. R3-2008-0059

Water Resources Control Engineer Ryan Lodge presented information regarding the proposed General Permit for Discharges from Aquaculture and Aquarium Facilities (General Permit). Board member Hunter asked why we do not discuss state marine protected areas in the General Permit when we mention areas of special biological significance (ASBS). Mr. Lodge pointed out that there are regulatory requirements associated with ASBS's in the California Ocean Plan but there are currently no water quality regulatory requirements for marine protected areas. Mr. Lodge explained that including discussions of marine protected areas or discharges to sanctuaries could cause confusion for potential General Permit enrollees. Board member Hayashi asked why the General Permit no longer covers discharges to inland surface waters. Mr. Lodge explained that inland aquaculture facilities are different from marine aquaculture facilities and inland facilities would need coverage under a different permit.

Steve Shimek, Executive Director of the Otter Project, commented that the enrollment criteria fail to mention facilities that do not produce animals. Mr. Shimek indicated that the ASBS exception process should not be an excuse to not cover the Monterey Aquarium or the Hopkins Marine Station. Mr. Shimek commented that four out of the five facilities covered by the General Permit should have to re-apply because they have permit violations. Mr. Shimek pointed out that facilities enrolled in the General Permit should conduct benthic monitoring. Mr. James Ferro, Ocean Conservancy, generally agreed with Mr. Shimek's comments.

Board members Hodgkin and Hunter asked Mr. Lodge to go through the list of facilities in the Otter Project comment letter and explain their status. Mr. Lodge provided a status of each facility in the Otter Project comment letter.

Board member Shallcross commented that the General Permit does not seem to cover aquariums because aquariums do not produce animals. Mr. Lodge explained that the General Permit allows the Executive Officer to require permit coverage for facilities that do not meet the General Permit sizing criteria. Board member Hayashi suggested removing the criteria relating to animal production and just use the minimum pounds of food fed per month as an enrollment criteria. Board counsel Frances McChesney explained that the sizing criteria are in the federal regulations and could not be changed, but that we could add the minimum feeding criteria to the Executive Officer's enrollment criteria.

Board member Shallcross asked why the General Permit does not require benthic monitoring. Mr. Lodge explained that benthic species vary naturally based on location and time. Attributing changes in benthic communities to an aquaculture facility would be very difficult to do given the natural variation.

MOTION: Gary Shallcross moved to adopt the Order with an amendment to use the exact sizing criteria found in the federal regulations and to add that the Executive Officer will enroll facilities under the General Permit that feed 5,000 pounds of food per month or more.

SECOND: Monica Hunter.

CARRIED: Unanimously (5-0)

21. Uncontested Items.....Board Motion

Items to be included on the consent calendar are: Item 23, 28, 29, 30, and 36. Vice Chair Jeffries commended Mr. Clint Quilter/City Manager and Doug Emerson/City Councilman with the City of Hollister for their efforts on the Hollister WWTP project. Clint Quilter, City Manager spoke to the Board. He thanked the Water Board members and staff for providing the leadership necessary to get the job done and firm direction for a successful project. Doug Emerson, former Mayor and now City Council member, spoke to the Board. He thanked the Board for giving the City of Hollister an extension beyond the October 2005 deadline that was not going to be met due to such a complex project. He expressed that the project has been a hardship for the community but the City of Hollister did it right.

MOTION: David Hodgin moved to approve the consent calendar.

SECOND: Monica Hunter.

CARRIED: Unanimously (5-0)

(Chairman Young arrived at the meeting at 9:40 a.m.)

(Vice Chair Jeffries announced a break at 9:46 a.m. The meeting reconvened at 9:58 a.m.)

22. Salinas Stormwater Development Standards.....Board Approval

Board member Shallcross recused himself from this item to avoid any appearance of bias.

Chairman Jeff Young responded to the City of Salinas' request to postpone the hearing until March. This request was submitted late the previous afternoon. Chairman Young explained postponement would not be fair to other members of the public who would be traveling to the hearing.

Chairman Young responded to the October 31, 2008 letter from the City of Salinas. He explained that he asked the Water Board Executive Officer, Roger Briggs, to bring the item back to the Water Board to set the record straight and clarify any confusion. He said he suggested this to Roger Briggs after he learned that Monterey Coastkeeper and the City of Salinas both filed petitions with the State Water Resources Control Board disputing the Water Board's action at the September 4th hearing. Chairman Young stated that as far as he was concerned, the Water Board never intended to remove hydromodification controls from Salinas' Stormwater Development Standards at the September 4th hearing. The Water Board removed language from the Standards in response to concerns raised by Salinas staff that parts of Section One were redundant with Section Four. Chairman Young explained the regulatory basis of hydromodification control requirements, and went through the letter to the Board from the City Council and answered the letter point by point. Board member Monica Hunter stated she did not intend to delete hydromodification controls from the Development Standards. Her recollection of the September hearing was the Water Board made an attempt to clarify the issue of redundancy in the Development Standards.

Water Resource Control Engineer Jennifer Epp provided background information on the September 4th Water Board hearing and the subsequent dispute over language in the Table of Required Revisions prepared by Water Board staff. She noted the wording of the final Water Board motion stated removal of Development Standards Section 1.5.3.4; however, Water Board staff believed the Water Board intended to eliminate redundancies in the Development Standards and did not intend to remove hydromodification controls. Ms. Epp explained that removing Section 1.5.3.4 would remove hydromodification control language. She explained Water Board staff originally intended only to ask the Water Board to clarify its intent of their September action; however, comment letters from the City of Salinas and Monterey Coastkeeper caused Water Board staff to take another close look at the Development Standards language. In doing so, Water Board staff realized the Development Standards needed additional modifications to contain clear hydromodification control requirements and meet the Clean Water Act's

Maximum Extent Practicable standard. Ms. Epp recommended to the Board they require the City of Salinas to modify the language in their Stormwater Development Standards per Attachment 7 of the Water Board staff report.

Salinas Attorney Christopher Callihan indicated the City of Salinas objected to the proceedings. The City of Salinas believes a complete record already exists for this item from the September hearing. The City of Salinas objected to what appears to be a full reconsideration of this item.

Salinas City Engineer Carl Niizawa played audio excerpts from the September Water Board hearing. He described some of the unique hydrology considerations in the Salinas Valley. He stated hydromodification controls do not work in the City of Salinas and would be costly. Controlling flows locally could negatively impact flood control in the Salinas Valley due to sedimentation as well as the timing of local runoff and the timing of runoff reaching the City of Salinas from the upper Gabilan watershed.

(Chairman Young announced a break at 10:50 a.m. The meeting reconvened at 11:00 a.m.)

Harvey Oslick of RBF Consulting, a hydrology consultant to the City of Salinas, stated the list of proposed revisions does not provide enough information for an engineer to know how to implement the Development Standards. He described the unique hydrology of the Salinas Valley and provided an example of how delaying the peak runoff of new development would have negative impacts on flood control for the City of Salinas.

Steve Shimek of Monterey Coastkeeper stated his support of Water Board staff's recommendation. He requested the Water Board re-insert source control best management practices (BMPs) language into the Development Standards.

Stephen Kovacich of the Uni-Kool Company stated he has a development site slated for agricultural processing facilities in the Salinas Valley (Salinas Ag-Industrial Project). He is concerned hydromodification control requirements at this site would be so expensive his project would no longer be financially viable.

Jim Bogart of the Grower-Shipper Association of Central California supported Salinas' position on the proposed revisions and supported postponing the item to a subsequent board meeting.

Sarah Corbin of the Surfrider Foundation supported Water Board staff's recommendation.

Kenneth Tunstall of Tunstall Engineering stated hydromodification control requirements would be onerous to implement. He was concerned with some of the source control BMPs and would object to the Water Board adding them back into the Development Standards.

Alon Perlman of Los Osos spoke about Low Impact Development in general.

(Item 22 will be continued after the lunch break)

(Chairman Young announced a break for lunch and closed session at 12:45 p.m. The meeting reconvened at 1:35 p.m. The meeting began with Item 25/Sand City Desalination Plant)

25. Sand City Desalination Plant..... Order No. R3-2008-0017

Mr. Jim Hersinger, City Attorney for Sand City addressed the Water Board indicating that the City and Mr. Steve Shimek of Monterey Coastkeeper had resolved their differences. Mr. Briggs read the proposed amendment to Finding 21 of Waste Discharge Requirements Order No. R3-2008-0017 relating to California Coastal Commission requirements on the water used from the desal plant. Mr. Shimek indicated his agreement to the proposed amendment.

MOTION: Gary Shallcross moved to approve Order No. R3-2008-0017 to include the proposed amendment to Finding 21.

SECOND: Russell Jeffries.

CARRIED: Unanimously (6-0)

22. Salinas Stormwater Development Standards (continued)

After asking several questions of staff and brief deliberation the Board took a vote on the Salinas stormwater item.

MOTION: John Hayashi moved to rescind the Water Board’s motion from the September 4 2008 hearing with respect to References 2 and 3 of Attachment to Resolution R3-2008-0068.

SECOND: Monica Hunter.

CARRIED: (5-0) Note: Gary Shallcross was recused.

After more questions and deliberation, Board member Hunter made a second motion.

MOTION: Monica Hunter moved to accept Attachment 7 as presented in the staff report (Attachment to Resolution R3-2008-0068 as revised on November 14, 2008).

SECOND: John Hayashi.

CARRIED: (5-0) Note: Gary Shallcross was recused.

(Chairman Young announced a break at 3:30 p.m. Vice Chair Jeffries left the meeting at 3:35 p.m. The meeting reconvened at 3:43 p.m.)

26.-27. Moeller Residence.....Resolution Nos. R3-2008-0060 and R3-2008-0061

Water Board staff Engineer Matthew Keeling made a combined presentation for Items 26 and 27 providing background and recommending adoption of Resolution No. R3-2008-0060 and No. R3-2008-0061. Mr. Keeling discussed the site-specific technical issues of the proposed Resolutions regarding the relevant onsite system Basin Plan criteria and comments received from project opponents contained within the staff reports for the two items.

Neighboring property owners LeLand Lewis, Judy Lewis, David Garnham, Russel Hoxie, and Ann Hoxie provided comments against the projects based on concerns generally regarding building density, steep slopes and the proposed lot line adjustment. Selected project opponents were also represented by their technical consultant Steve Wilson and attorney William Daniels. Mr. Wilson indicated the project applicant was trying to fit two homes on a single lot and that the proposed projects were not compatible with the proposed lots because of physical constraints. Mr. Daniels focused his comments on the legality of the proposed lot line adjustment and reiterated his proposal [presented in a supplemental sheet to the two items] for a condition to be added to the two resolutions making them contingent upon approval of the lot line adjustment by Monterey County. Mr. Daniels indicated he was not in favor of Mr. Keeling's proposed modification to his recommended condition language and questioned why staff was only proposing it for the project at 194 San Remo Road (Resolution No. R3-2008-0061).

In response to Mr. Wilson’s comments, Mr. Keeling reiterated that the proposed projects are consistent with a readjustment of the lot lines for two existing lots of record that are not subject to the one acre minimum requirement and that approval of the proposed projects outside of the recommended Basin Plan criteria did not constitute a variance. Mr. Keeling further stated that, as proposed, the lot line adjustment and proposed advanced system designs were more protective than the existing lot configurations and the potential implementation of conventional septic systems for both projects. Mr.

Keeling also briefly discussed his rationale for changing the condition proposed by Mr. Daniels and not adding it to Resolution No. R3-2008-0060.

The project applicant, Mr. Moeller, his attorney Pamela Silkwood, and system designer Andrew Brownstone provided comments in support of the proposed projects and in rebuttal to the comments made by Mr. Wilson and Mr. Daniels. Janna Faulk from Monterey County Division of Environmental Health also provided comments and responses to Board Member questions regarding the permitting history of the two projects and county permitting requirements.

Chairman Young asked staff if there was a way to provide ongoing protection of the disposal areas from potential damage via digging or other site activities. Mr. Keeling and Mr. Brownstone both indicated that it was a good idea, but that controls would be difficult to implement and maintain beyond the system homeowner's manual provided by Mr. Brownstone to the owner. Board Member Shallcross questioned whether there was enough space on the lots to repair or replace the disposal systems. Mr. Keeling responded that a dual disposal system was being proposed to handle 200% of the design flow pursuant to county ordinances even though the Basin Plan only recommended redundant disposal systems. Mr. Keeling further added that there was sufficient area available for replacement disposal systems via conventional deep leachfield trenches or seepage pits.

In response to additional questions by Chairman Young regarding system pressure [power] requirements and comments by project opponents regarding regular power outages in the area due to storm events, Mr. Keeling, Mr. Briggs, Mr. Brownstone and various Board Members discussed the need for requiring backup power systems. The discussion concluded with no additional conditions for backup power being proposed.

Chairman Young proposed a condition be added to the resolutions requiring the submittal of as-built system design drawings to the county and questioned how the agencies could ensure the conditions of the resolutions were being met. Ms. Faulk indicated that the county would use as-built drawings or designer certification for final permit issuance. She also indicated that the operations and maintenance contract permit requirements included maintenance reports.

Chairman Young stated that although the Water Board is not insensitive to developmental issues and concerns regarding density and congestion, the purview of the Water Board is confined to water quality issues.

MOTION: Gary Shallcross moved to adopt Resolution No. R3-2008-0060 and No. R3-2008-0061 with an added condition requiring the submittal of as-built drawings or designer certification to Monterey County and the addition of the lot line adjustment condition to Resolution No. R3-2008-0060 proposed by Mr. Keeling in the supplemental sheet.

SECOND: David Hodgin.

CARRIED: Unanimously (5-0)

37. Public Forum..... Board Direction

The individuals listed below had comments:

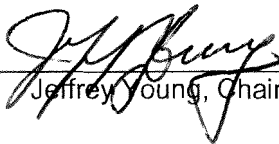
- Steve Shimek, Monterey Coastkeeper – spoke about irrigated ag and the role of Monterey Coastkeeper
- Frank Ausilio, resident of Los Osos – spoke about seawater intrusion to the lower groundwater aquifer in Los Osos.
- Dave Duggan, resident of Los Osos – spoke about reuse of wastewater and asked the Board to provide written support for reuse.
- Alon Perlman, resident of Los Osos – spoke about chemicals that are threatening the aquifer and asked for interagency cooperation.

34. **Scotts Valley Dry Cleaners** Status Report

A written report was provided for this item. The Board had no questions.

Chairman Young adjourned the meeting at 4:50 p.m. The next Board meeting will be held in February 2009 in San Luis Obispo.

The meeting was audio recorded and the minutes were reviewed by management and approved by the Board at its February 5, 2009 meeting in San Luis Obispo, California.



Jeffrey Young, Chairman

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