

California Regional Water Quality Control Board  
North Coast Region

Minutes January 23 and 24, 2002  
Regional Water Board Workshop  
Regional Water Board Hearing Room  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

On January 23, 2002, at 1:35 p.m. the Regional Water Quality Control Board-North Coast Region workshop was called to order by Chair William Massey.

i. Pledge of Allegiance

William Hoy lead the Pledge of Allegiance

ii. Roll Call

Board Members Present: Shawn Harmon, Bev Wasson, John Selvage, John Corbett, Richard Grundy, William Hoy, Dina Moore, and William Massey

Regional Water Board Staff Present: Executive Officer, Susan Warner; Acting Assistant Executive Officer, Frank Reichmuth; State Water Resource Control Board Counsels, Sheryl Freeman and Erik Speiss; Division Chiefs Ranjit Gill, and Luis Rivera; Seniors Tuck Vath, Tom Dunbar, David Leland; Technical Staff Matt St. John, Staff Service Manager Kathleen Daly; Office Assistant Julie Sayre; Secretary Jean Lockett; State Water Board Chief Deputy Director Tom Howard

**1. Discussion of Section 303(d) of the Clean Water Act as it relates to the process for generating listing and de-listing recommendations.**

David Leland introduced the staff and briefly outlined the points of the workshop.

In his presentation, Matt St. John reviewed the requirements of the Clean Water Act (CWA) Section 303(d); which says that the state is required to submit an updated 303(d) list of impaired waterbodies to US EPA every two years. He reviewed the language of the federal CWA Section 303(d), the language of Code of Federal Regulations (CFR) Part 130 of Title 40, and briefly covered Parts 130.7, 130.2, and 130.10, of the CFR. Mr. St. John defined the meaning of "impaired" and he identified impaired waterbodies listed on the 303(d) list. The 303(d) list contains the name of the waterbody, the pollutant or stressor causing impairment, source of the pollutant/stressor, and the priority and schedule for developing Total Maximum Daily Load (TMDL).

Matt St. John stated that the Regional Water Board staff used the "weight of evidence" in their approach in evaluating the condition of a waterbody. He discussed using readily available data/information, the sources, the categories, and the quality of the data/information used to evaluate the conditions of a waterbody.

As the Regional Water Board staff reviewed the data, a determination of one of three conclusions was made. The first conclusion could be that the waterbody is meeting water quality standards and is not impaired. The second conclusion could be that the waterbody is not meeting standards and is impaired and therefore, must be added to the 303(d) list. A third conclusion, based on the available information, is that standard attainment cannot be determined at the present time and therefore, the waterbody is added to the "Watch List." The Watch List is not a part of the formal 303(d) list, but is used by the Regional Water Board staff to prioritize a waterbody if impairment is suspected, but present information is conflicting or insufficient. The Watch List identifies these

waterbodies to staff as areas where more information is needed. If additional information indicates that impairment exists, then the waterbody is placed on the 303(d) list. Mr. St. John stated that, the State Water Board's "1998 Clean Water Act" and the federal regulations are the two guidance documents for listing and de-listing. Information leading staff to determine that the 303(d) listed waterbody is no longer impaired results in the waterbody being proposed for de-listing.

Mr. St. John summarized the Regional Water Board staff's approach to placing waterbodies on the 303(d) list. He stated that staff considered the federal and state guidance to develop the list. Staff reviewed data/information readily available to the TMDL staff, evaluated data/information using Basin Plan Water Quality Objectives, relevant criteria and guidance, peer reviewed literature, and best professional judgement to determine their recommendations. Recommendations are applied to the entire watershed, unless there is available data that is sufficient enough to make a reach-specific determination.

Sheryl Freeman, Regional Water Board's legal counsel, gave a legal overview of regulatory issues related to the 303(d) list. She stated that the listing of a waterbody does not add any regulatory authority, but rather it is a regulatory heads up. However, it does confer an obligation to look at alternative means of regulating in order to bring the waterbody up to water quality standards, which is the TMDL preference. Section 303(d) requires us to ask the question, "is what we are doing working?" We are challenged to look at all of our waterbodies to see if they meet water quality standards. The two legally binding authorities are the Clean Water Act Section 303(d) and the federal regulations Part 130. She concluded by saying that these two authorities provided to us by the Clean Water Act along with the 1998 state guidelines, are also technical resources for staff.

As reported by Matt St. John reported that workshops for the 303(d) list are scheduled in May 2002 to hear testimony and comments on the Statewide recommendations. The final stage is at the state level when the statewide 303(d) list is submitted to the State Water Board for adoption in September 2002.

Dave Smith, the TMDL team leader with US EPA in San Francisco, addressed the Board by stating that Congress gave their directives to the state. The state must stay in the lead on the 303(d) listings. He stated that staff is doing the right thing in using the flexibility available to them. Although TMDLs are an important tool in the Clean Water Act, it is not the only tool. We can identify impaired waterbodies and try something else and not use TMDL, if those other tools work.

Mr. Smith continued by saying that the ultimate idea is to move through the steps in the process of the 303(d) listing and make adjustments as we go along. Because there should be some changes in the waterbodies over time there should be some movement on and off the list. The federal government is considering lengthening the listing cycle to every five years instead of every two years; this will give a little more time to focus on the TMDLs and other processes. He said that US EPA issued an updated listing guidance document in November 2001. The guidance urged the state to list all of the waterbodies that may need monitoring. US EPA's intent is to not let waterbodies fall through the cracks. Mr. Smith summarized by saying that the Regional Water Board staff is on the right track and doing a great job.

David Leland discussed the Regional Water Board staff's approach to evaluating temperature data. He reviewed the Basin Plan Water Quality objectives. The first step in assessing temperature data is to characterize species life stage requirements, the second is to assess historical and current salmonid distribution, and the third step is to compare current temperatures to estimate historical temperatures based on historical distribution of salmonids. Chronic (sub-lethal) temperature metrics were discussed, such as: Instantaneous maximum, maximum weekly average temperature (MWAT), and maximum weekly maximum temperature (MWMT). Mr. Leland presented a graph showing the levels of temperatures and discussed the selected metric used as the basis for the data evaluation.

Mr. Leland used several graphs to discuss the Coho and Steelhead temperature criteria. He stated that staff would concentrate on the months of June, July, and August, which seem to be the most

sensitive time for the Coho and Steelhead. He noted that that Steelhead seem to have more resilience to high temperatures than Coho.

Mr. Leland discussed thresholds and standards. He displayed a chart giving information/description of the range (78.8F) temperatures considered lethal to salmonids and the range of temperatures showing chronic (sub-lethal) effects to salmonids. Staff was trying to use a value that would indicate a supportive environment. He discussed the comparison of temperature monitoring data to salmonid thresholds by showing a list of the six watersheds that showed MWAT temperatures that correlated with growth reductions of 10% for Coho and Steelhead in the Russian, Gualala, Big, Ten Mile, Mad, and Redwood watersheds. He reviewed the Big and the Russian River maximum weekly average temperatures.

Matt St. John discussed approaches to evaluating sediment impairment issues of waterbodies. He used Redwood Creek as an example to show how impaired waterbodies were added to the 303(d) list for sediment impairment in 1992. In 2002 there is continued evidence of sediment impairment in Redwood Creek and staff recommends continued listing of the creek. He discussed in-stream conditions by saying that percent fines and D50 data do not meet TMDL thresholds; suspended sediment loads are not consistently meeting TMDL thresholds, and suspended sediment concentrations are at levels that impair salmonids. He displayed a graph that showed changes in Mean Residual Depth from 1975 to 1999. He also displayed a graph of a ten-year rolling average for suspended sediment yield in Redwood Creek.

Gregg Bundros, a geologist with the Redwood National Park, discussed the TMDL for Redwood Creek. He urged the Board to continue listing Redwood Creek as sediment impaired and temperature impaired. He entered a letter into the record addressed to the Board from Dr. Marya Ann Madej.

Scott Stinebough, representing the City of Santa Rosa, stated that the potential listing of dissolved oxygen and nutrients in the Laguna is of concern, and that phosphorus is not and should not be identified as a reason to list the Laguna in Santa Rosa on the 303(d) list. This can have a large and costly impact for those in the basin if listed. He recommended that the Laguna be placed on the watch list for diazinon and copper, and added that since diazinon (a pesticide) is scheduled to be phased out in 2003 and there should be no reason for 303(d) listing.

Johanna Rodoni a resident of Humboldt County addressed the Board by introducing the following speakers:

Tom Herman, representing Barnum Timber Co, stated that he is concerned about Redwood Creek being placed on the 303(d) list. He requested that the Board carefully consider the evidence before placing waterbodies on the 303(d) list.

John Rice, who is involved in the Van Duzen, stated that he is concerned about the hardship that may be placed on him as a result of the Regional Water Board's decision. He went on to say that temperature changes by natural causes might not be correctable.

Sterling McWhorter stated that he believes that the TMDL is mainly aimed at timber companies like PALCO. He believes TMDL creates fear. Landowners will use their land as best they can. He requested the Board to continue to ask the hard questions that will protect the public's interest.

Lawrence Dwight, president of Del Norte Cattlemen's Association, stated that TMDL is quite a discussion in the association's meetings. The stewards of the land are concerned.

Jay Russ, representing the Russ family that owns and manage the upper portion of land in Redwood Creek, stated that they disagree with the waterbody being listed on the 303(d) list.

Bernie Bush, representing the Redwood Creek Landowners Association, cited threshold levels that different agencies or other groups use. He stated that he disagreed with Redwood Creek being listed on the 303(d) list.

Pam Jeane, Sonoma County Water Agency, thanked staff for meeting with them regarding their concerns. She stated the concerns regarding the 303(d) listing.

Peter Ribar, manager of the timberlands at the Hawthorne Timber Co., requested clarification of staff's decision to use 14.8-degree threshold. He suggested that staff determine if the threshold is an appropriate number to use.

Brenda Adelman, resident of the Russian River, stated that the organization that she represents has concerns regarding the public input if the 303(d) process goes to Sacramento for adoption.

**ACTION:** John Corbett moved to concur with the staff recommendation but because of the controversy over sediment and temperature, suggested that any use of these parameters should be scrutinized now and in the future. Bev Wasson seconded the motion. After discussion, Dina Moore amended John Corbett's motion by requesting that the Russian River, Gualala, Big, Ten Mile, Mad, and Redwood Creek be placed on the watch list of the Regional Water Board for temperature, and be removed from the 303(d) list. Bev Wasson requested that the Russian River remain on the 303(d) list for temperature due to the volume of data available for the river. Ms. Moore concurred with the modification, and the motion passed unanimously, to be transmitted to the State Board in a letter of clarification to the staff report. Richard Grundy moved that the letter of clarification include reference that these additions were to the 1998 list. Bev Wasson seconded the motion, and the motion passed unanimously.

## 2. Status report on Statewide TMDL Prioritization

Tom Howard from the State Water Board said that he has a great deal of passion for the TMDL Program. The newly adopted strategic plan includes a need to prioritize activities. A needs analysis was conducted a few years ago the results showed that there was a need of about 1600 staff to work in the core regulatory program, however there are only 400 staff working in the program. He stated that at a WQCC meeting he pitched that TMDL should be the state's first priority. Mr. Howard referred to the "*Regulatory Craft*," by Malcolm Sparrow as a book that Board members may want to read. He stated the book deals with how to identify and solve problems. Mr. Howard stated that the state would like to see more of an institutionalized process of identifying and problem solving approach. He stated that the State Water Board perceived TMDL as a way to move toward an environmental problem solving approach. What does it mean that the TMDL is a high priority with the State? It means that there is going to be a commitment from the State Water Board to meet the needs of the Regional Water Boards in an effort to move the TMDL program a long.

Meeting adjourned at 6:29 p.m.

**Thursday, January 24, 2002**

On January 24, 2002, at 9:05 a.m., the Regional Water Quality Control Board-North Coast Region Board meeting was called to order by Chair William Massey.

### i. Pledge of Allegiance

Dina Moore lead the Pledge of Allegiance

**ii. Roll Call**

Board Members Present: Shawn Harmon, Bev Wasson, John Selvage, John Corbett, Richard Grundy, William Hoy, Dina Moore, and William Massey

Regional Water Board Staff Present: Executive Officer, Susan Warner; Acting Assistant Executive Officer, Frank Reichmuth; State Water Resource Control Board Counsels, Sheryl Freeman and Erik Speiss; Division Chiefs Ranjit Gill, Robert Tancreato and Luis Rivera; Seniors Tuck Vath, Tom Dunbar, David Leland; Technical Staff Matt St. John, Cathy Goodwin, Mark Neely, Scott Gergus, Staff Service Manager Kathleen Daly; Office Assistant Julie Sayre; Secretary Jean Lockett

**iii. Election of Officers**

Bill Hoy nominated William Massey as Chair and Dina Moore as Vice Chair of the Regional Water Board.

**ACTION:** William Hoy moved to elect William Massey as Chair and Dina Moore as Vice Chair. Bev Wasson seconded the motion. The motion passed with a unanimous vote.

**iv. Minutes of Past Meetings**

The June 28 and 29, 2001, and the August 23, 2001, minutes were presented for adoption.

**ACTION:** John Selvage moved to accept the minutes as presented to the Board. Bev Wasson seconded the motion. The motion passed with a unanimous vote.

**v. Board Member Ex Parte Communication Disclosure** - Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code Section 11430.50.

Ms. Sheryl Freeman briefly covered the meaning of ex parte communication disclosure for Board members.

Bill Hoy announced that he had ex parte communication on items 12 and 13 of this agenda. In the course of his duties as a County Supervisor, he had a discussion with a county staff member on both of the subjects and as a result he must recuse himself from the discussion and voting process. Although there is no law that says a Board member must leave the room at the time of recusal, the Chair suggested that the Board adopt the policy that Board members leave the dais at the time of recusal.

**iv. Resolution for Daniel Crowley**

On behalf of the Board, Bill Massey read a resolution written in appreciation of Dan Crowley's work while Chair of the Board in 2001.

**v. Public Forum**

Brenda Adelman addressed the board by requesting clarification on the motion on the 303(d) workshop item on January 23, 2002. She stated several concerns and said that she felt that there was not enough information to make a decision.

Cynthia Elkins of the Environmental Protection Information Center stated that she attended the State Water Board hearing in Sacramento on Wednesday, January 23, 2002. It was clearly stated at the Board meeting that TMDL was not the end all. She stated her concern that other options also be considered because the threats to water quality are increasing and action is needed now.

### **CONSENT CALENDAR WASTE DISCHARGE REQUIREMENTS**

3. *Order No. R1-2002-0008* **Sonoma Oaks** (Formerly Laguna Oaks Vineyard and Winery), Sonoma County, New Waste Discharge Requirements, WDID No. 1B00096RSON
  
4. *Order No. R1-2002-0001* **Arcata Redwood Company**, Orick Sawmill, Humboldt County, Recision of Waste Discharge Requirements, WDID No. 1B87006UHUM
  
6. *Order No. R1-2002-0003* **College of the Redwoods**, Wastewater Treatment Facility, Humboldt County, Modification of Permit Pursuant to 40CFR122.62(a)(15), NPDES Permit No. CA 0006700, WDID No. 1B80121OHUM
  
7. *Order No. R1-2002-0004* **California Department of Forestry**, On-site Wastewater Treatment Facility, Alder Camp, Del Norte County, Recision of Waste Discharge Requirements, WDID No. 1A75266ODN

Item 5 was removed from the consent calendar and scheduled for discussion at a later time on this agenda.

**ACTION:** John Corbett moved to adopt items 3, 4, 6, and 7 of the Consent Calendar. John Selvage seconded the motion. Motion passed unanimously.

5. *Order No. R1-2002-0002* **California Department of Transportation**, Seismic Retrofit Project, Humboldt Bay Bridges, Humboldt County, New Waste Discharge Requirements (NPDES Permit No. CA 0025119), WDID No. 1B01114NHUM

John Selvage requested information on the nature of the work and the pouring of concrete and contact with water. Tom Dunbar, Regional Water Board staff, responded to John Selvage's questions regarding the contact with bay water and pH levels. John Selvage also asked for clarification on whether the contractors are held directly responsible for permit compliance. Tom Dunbar clarified that our permit is with CalTrans, who must hold their contractor responsible. Tom Dunbar requested to make an addition to the Permit. He recommended the following: on page 4

under Discharge Prohibitions A-5, now reads “the discharge to Humboldt Bay of clearwater from sealed coffer dams and/or CISS piles having the potential to violate any receiving water limitations is prohibited.” For better clarification, Dunbar requested an addition, “the discharge of clearwater having a pH greater than 8.5 or less than 6.5 is prohibited.” David Milentes of Cal Trans expressed concurrence with the modification to the permit. John Corbett requested clarification on a finding, which was provided. Richard Grundy requested information on the monitoring and reporting program, and Tom Dunbar provided clarification. John Selvage requested information on the scheduling of inspections, and Tom Dunbar responded that inspections would likely be frequent due to the location, and that CalTrans would inform the Regional Board when they were actually conducting work in the Bay.

**ACTION:** John Selvage moved to adopt Order No. R1-2002-0002 (item 5) with the added amendment. John Corbett seconded the motion. Motion passed unanimously.

### **WASTE DISCHARGE REQUIREMENTS FOR DISCUSSION**

8. *Order No. R1-2002-0009 Monte Rio Community*, Waste Discharge Requirements, Sonoma County, WDID No. 1B01021RSON

This item was removed from the agenda until a later date.

9. *Order No. R1-2002-0013 Town of Windsor Wastewater Treatment*, Reclamation and Disposal Facility, Sonoma County, Renewal of Waste Discharge Requirements Permit, and Issuance of Master Reclamation NPDES Permit, No. CA0023345, WDID No. 1B820370SON

Cathy Goodwin addressed the Board by giving a brief introduction of the wastewater treatment, reclamation and disposal facility of the Town of Windsor. She discussed ultraviolet light disinfecting and the reclamation efforts. Cathy summarized Sections 13512, 13521, and 13523 of the Porter-Cologne. She briefly described the Department of Health Services Water Recycling Criteria by referring to Title 22 of the California Code of Regulations. She discussed and defined dual plumbed and non-dual plumbed water systems. Windsor’s recycled water uses are non-dual plumbed and dual plumbed.

Ms. Goodwin stated that the key Permit provisions regarding recycled water uses are the following: comply with engineering report, enforce recycled water use ordinance, periodic inspections of recycled water areas, immediate correction of user violations by termination of delivery if necessary, inspect dual-plumbed system to assure that no cross-connections occur; backflow prevention devices installed, and an operable system.

Ms. Goodwin entered an errata sheet into the record that provided changes in the order.

Mr. Grundy required clarification that the order should state that the authority is delegated to the Executive Office and not the staff. Susan Warner stated that she would look for other references within the order and change the statements that referred to staff and replace it with Executive Officer.

Matt Mullein representing the Town of Windsor updated the Board on the Town's activities. Because the Permit is so detailed, the Regional Water Board staff has worked with the Town to provide explanations on some of the specifics of the Permit. For the past ten years since 1991 Windsor has operated in compliance. The yearly goal is to reclaim approximately 2/3 of the produced water. The Town's system is challenged on a yearly basis to try and keep up with Mother Nature. He stated that the Town Council was able to adopt the Water Reclamation Master Plan in 2000 with no opposition. The Town sought a need to promote the education of the community on the recycled water program. Water provided to the newly developed subdivision is free for the first 12 years. The Town of Windsor has adopted an Ordinance for useable water, which states that non-residential irrigation is required to use recycled water when it is available from the Town. Mr. Mullein stated that the Town is looking for more opportunity for residential, school, parks use, and agriculture re-use. They have recognized that the Town now has a commodity that has value. Mr. Mullein respectfully requested that the Board consider the weather impact on facilities, the next time the Basin Plan is up for review. He also requested that the Board provide some provision for urban round off, and consider exploring other ways to facilitate the use of recycled water. In his conclusion, he extended an invitation to the Board to come and view the plant.

Bill Hoy suggested that a tour be scheduled for the Windsor and Santa Rosa area.

**ACTION:** John Corbett moved to adopt the Permit as specified in the staff report and with the amendment made by Mr. Grundy during the Board meeting. Bev Wasson seconded the motion. Motion past unanimously, with Dina Moore abstaining.

**10. Order No. R1-2002-0012 General Waste Discharge Requirements**, for Discharges to Land by Winery Wastewater Treatment and Disposal Systems, and Adoption of Resolution approving a Negative Declaration, All Counties in Region One

Shawn Harmon recused himself from this item stating that he own a percentage in a family winery and the General Waste Discharge Requirements (GWDR) may affect his winery.

Chair Massey administered the Oath to all those who were expected to participate in this item.

Mark Neely stated in his presentation that the Regional Water Board issues Waste Discharge Requirements (WDRs) for winery wastewater treatment and disposal systems with surface treatment and/or disposal of wastewater. Waste Discharge Requirements are used in the case where you have classes of similar facilities that have similar characteristics. Generally, if there is a pond, a WDR is adopted. He gave history of the regulatory approach. Mr. Neely discussed the water quality impacts of winery wastewater. He discussed the discharge of treated wastewater to land, the odor problems in ponds, and the potential groundwater impacts. The seasonal wastewater concerns are during crush periods. Provisions on winery waste discharge requirements have changed over the years; for example, the current waste discharge requirements have dropped the pH requirement, added dissolved oxygen limits for aerated ponds, provided pond cleaning guidance, and increased monitoring requirements for subsurface systems. The benefits of the General WDRs are a streamlined enrollment process, and another benefit is regulator consistency, and a more thorough coverage industry-wide.

An Errata sheet was entered into the record stating the changes in the order on page 1 finding 3; page 2 changing the finding numbers, page 2 and 3 deleting Findings 8-12, page 4 changing the Finding numbers and on page 4 and 5 inserting an additional section which contains some of the previously deleted paragraphs that were under Findings A. Application Procedures 1, 2, 3, 4 and 5.

John Corbett raised a question concerning the negative declaration as it applies to modifications of projects. Richard Grundy raised a question on the Order's effective date as being the date of the adoption, and the potential for wineries to immediately be in non-compliance. Bill Hoy raised a question regarding the definition of a winery. Bev Wasson indicated that a federal definition exists in relationship to bonding. She also raised a question regarding the economic impact of the general WDRs, and who was notified of the possible adoption. John Selvage asked about Provision 23, and indicated the word "remove" is probably not sufficient without telling the regulated party where to move the material. John Short responded that the provision could be changed to reflect removal to a legal point of discharge. Dina Moore reiterated the need to have information on the economic impact of the general WDRs.

**ACTION:** The Board continued item 10 until the March Board meeting to allow staff to address the concerns of the Board.

11. *Order No. R1-2002-0014* **Geysers Power Company, LLC**, Geysers Distribution Pipeline System and Injection Project, The Geysers, Sonoma County, Revision of Waste Discharge Requirements, WDID No. 1B86002RSON

Scott Gergus addressed the Board on this item, explaining that The Geysers Power Company, LLC proposes to inject advanced treated wastewater from the City of Santa Rosa's Laguna Sub-Regional Wastewater Treatment Plant into the Geysers geothermal reservoir. The use of treated wastewater would increase steam production in the Geysers geothermal area, which enhances the generation of needed electricity. He gave a history of geothermal development at the Geysers, and he discussed the groundwater impacts. Mr. Gergus ended his presentation by stating that the reason for this order is to protect the resources found in Big Sulfur Creek in the Geysers Geothermal Field.

Bev Wasson asked about the potential for any water removal from Big Sulfur Creek. Mr. Mark Dillinger, from the Geyser Power Company indicated that only a portion of the peak flows would be diverted from Big Sulfur Creek under the water rights permit. He also indicated that the use of this wastewater would ultimately lead to a reduction in the need for Clear Lake fresh water. He stated that the second phase of the southeast Geyser effluent project (Clear Lake Basin 2000 Project) is under construction and will bring an additional 3000 gallons per minute into the existing system from other regional wastewater treatment facilitating in Lake county which also will drop the amount of water that comes out of Clear Lake.

**ACTION:** Richard Grundy moved to adopt Order No. R1-2002-0014. John Corbett seconded the motion. Motion passed unanimously

### **CORRECTIVE ACTION**

12. *Order No. R1-2002-0006* **CONTINUED PUBLIC HEARING** to Consider Whether to Affirm, Reject, or Modify a Complaint for Administrative Civil Liability Issued on May 4, 2001, and/or to Adopt a Time Schedule Order for **Michael Menges** for failure to submit a technical report (cleanup investigation workplan for the Macdoel General Store in Macdoel, California), pursuant to Section 13267(b) of the California Water Code

Mr. Hoy recused himself due to ex parte communication.

Chair Massey administered the Oath for the public hearing to those who expected to give testimony in this matter.

Cody Walker addressed the Board on the status of Michael Menges' Administrative Civil Liability and Time Schedule Order. He gave background information regarding four Underground Storage tanks that were removed from the site on December 28, 1994. Contamination was observed during the removal of the tanks and laboratory analysis confirmed soil contamination. Mr. Walker gave a chronological account of Michael Menges' non-compliance. A hearing was held on this matter at the Regional Water Board meeting on July 26, 2001, at which time Mr. Menges addressed the Board. The Board directed Mr. Menges to comply with staff's directives and directed staff to prepare a Time Schedule Order. The matter was held over to the September 2001 Board meeting to be reevaluated and at which time the Time Schedule Order would be considered. At that time Mr. Menges was directed to bring before the Board a site investigation work plan, documentation of having made financial arrangement for the cleanup fund deductible. Mr. Menges was to re-apply for the cleanup fund and obtain a written contract with a consultant. To date, Mr. Menges has submitted the following: documentation stating that he has arranged financing for the cleanup fund deductible, obtained a consultant contract, complied with the Regional Water Board staff to submit a work plan and reestablished his cleanup fund illegibility and submitted a site investigation work plan. Due to weather conditions, Mr. Menges' efforts toward plan implementation compliance were delayed.

Susan Warner recommended that the Time Schedule Order to Mr. Menges be issued by the Executive Officer in case amendments are needed.

**ACTION:** John Selvage moved to adopt the recommendation that a Time Schedule Order will be issued to Mr. Menges by the Executive Office if compliance is not met within a reasonable time. Bev Wasson seconded the motion. The motion passed with 6 votes. John Selvage moved to continue the hearing on the Administrative Civil Liability pending the resolution of the Time Schedule Order. Bev Wasson seconded the motion. Motion passed with 6 votes. Mr. William Hoy recused himself and Mr. Richard Grundy abstained from voting because he had not had the opportunity to listen to the tape of the July 2001 proceedings. Messrs. Selvage, Corbett, and Harmon had not been present at the July 2001 hearing, but acknowledged receiving and reviewing the record (minutes, written material submitted at the July hearing, and the audio tapes of the hearing) on the Menges matter.

The Board observed a lunch break at 12:00. The meeting was scheduled to continue at 1:30 p.m.

Closed sessions were conducted during the lunch hour. Sheryl Freeman stated that the items for discussion in the closed session are as follows: Item 27, In re Motor Vessel and In re Robert Peters; Item 28, employee evaluation; Item 29 as listed on the agenda; Item 26 will not be discussed

The Board reconvened at 1:34 p.m., Sheryl Freeman stated that there was nothing to report from the closed session.

13. *Order No. R1-2002-0010* **CONTINUED PUBLIC HEARING** to Consider Whether to Affirm, Reject, or Modify a Complaint for Administrative Civil Liability Issued on May 4, 2001, to **James Doyle** in the amount of \$5,000 for failure to submit a Spill Prevention, Control, and Countermeasure (SPCC) Plan and Storage Statement for an Aboveground Petroleum Storage Tank at Doyle Camp in Cecilville, California, pursuant to Section 13267(b) of the California Water Code

Bill Hoy recused himself from this item due to ex parte communication.

Chair Massey administered the Oath for the public hearing to those who expected to give testimony in this matter.

Dean Prat entered the Doyle site file into the record. He requested that all Board members not present at the July 2001 hearing, acknowledge receiving and reviewing the record (minutes, written material submitted at the July hearing, and the audio tapes of the hearing) on the Doyle matter. Board members Shawn Harmon, Jack Selvage and John Corbett stated that they had reviewed the record for this item. Mr. Richard Grundy indicated that he had not had the opportunity to review the record, and would abstain from voting on this matter.

Dean Prat stated that the Regional Water Board staff became involved in January 2000 when Siskiyou County Environmental Health Department informed staff that there was an above ground storage tank that did not have secondary containment. The complaint was followed up with a letter from the Regional Water Board staff dated March 22, 2000, addressed to Mr. Doyle requesting a storage statement, Spill Prevention Control Countermeasure (SPCC Plan) and to install a secondary containment. Mr. Doyle did not respond to the letter. Dean Prat stated that after his inspection of the storage tank on July 18, 2000, a 13267 (b) Order was issued to Mr. Doyle on November 27, 2000. The Order requested submittal of a storage statement; spill prevention, control and countermeasure plan (SPCC Plan); and installation of secondary containment. Mr. Doyle did not respond to the 13267 Order; and consequently, an Administrative Civil Liability (ACL) was issued on May 4, 2001. Mr. Doyle elected to have a hearing before the Board and did not pay the fines of the ACL.

Mr. Prat reviewed the July 26, 2001, Regional Water Board meeting. He stated that the Board tabled the matter until the September 27, 2001, Board meeting, giving Mr. Doyle 60 days to come into compliance. However, the Board was unable to hear the Doyle matter because of quorum issues. Mr. Prat reported that Mr. Doyle had taken the following steps to come into compliance since the July 26, 2001, Board meeting by: hiring an engineer to design and prepare engineering plans for the spill containment structure, developing engineering plans, and submitting a permit application to the county. Mr. Doyle received a building permit on November 14, 2001; He has also received a draft SPCC Plan from his engineer. Due to harsh weather conditions, construction of the new containment area has been delayed.

James Doyle addressed the Board by going over his efforts to comply with the Regional Water Board's Order. His presentation included pictures that showed the amount of snow that delayed the progress of his efforts to comply with the Regional Water Board's Order.

Dina Moore requested clarification on the increased staff costs from the July hearing, and Dean Prat explained the additional costs arose from efforts spent in communications with Mr. Doyle and reviews of documents since July.

**ACTION:** John Corbett moved to vacate the existing ACL without prejudice and directed the Executive Officer to issue a 13267 Order and an appropriate timetable for Mr. Doyle to come into compliance. Bev Wasson seconded the motion. The vote was unanimous, with one recusal and one abstention.

- 14.** *Order No. R1-2002-0005* **PUBLIC HEARING** to consider Modification of Cease and Desist Order for **City of Crescent City**, Wastewater Treatment Facility, Del Norte County, WDID No. 1A84006ODN

Chair Massey administered the Oath to those expected to participate in the discussion of the Crescent City item.

Board Member Jack Selvage recused himself from participation in this item.

Tom Dunbar addressed the Board by briefly going over the history of the Cease and Desist Orders for Crescent City. He then introduced Ben Zabinsky, staff engineer who reported that the Crescent City wastewater treatment facility is overloaded. Mr. Zabinsky went on to give a brief discussion on the problems with the design of the ocean outfall. In his presentation, Mr. Zabinsky stated that the City is violating or threatening to violate Order No. R1-2000-71 until such time as the existing facility is brought into compliance or replaced. He covered the City's violation history by saying that the City was violating effluent limitations for Biological Oxygen Demand and chlorine, with effluent overflows to the harbor, and other violations.

Mr. Zabinsky concluded by stating that the proposed Cease and Desist Order sets the time schedule for completion for financing, design and construction of a new wastewater treatment plant; retains the connection restriction of 220 sewer connections, of which 60 have been used; and dovetails with the Cleanup and Abatement Order issued for cleanup of part of the Elk Creek site. Mr. Zabinsky indicated that the consultant was reviewing the effluent pump design and was collecting infiltration data this winter. An RFP had been released for design of the treatment plant and the financing has been secured for the conceptual design.

Michael Young, director of the City of Crescent City, stated that they have complied with the orders of 1997, 1998, and 1999 which also included the September 2000 completed plan; however, the plan was 30 days late. Mr. Young said that the new schedule is acceptable with some reservations. He stated that the City is interested in purchasing the McNamara and Peepe former sawmill site for the new treatment plant. However, the site has a Cleanup and Abatement Order, which calls for information the City would like to review before purchasing the property. Mr. Young reported that information on the site would not be available until August 2003. He gave several solutions/alternatives that may best work for the City to meet or come into compliance. Mr. Young said that the Board could re-hear this item a year from now or modify some of the deadlines. He covered the City's activity accomplishments in their efforts to come into compliance. Susan Warner indicated that the hearing record, and minutes for the meeting, could clearly set out that an extension to the Cease and Desist Order schedule would be pursued and the matter returned to the Regional Board if delays in compliance with the McNamara and Peepe Cleanup and Abatement Order resulted in delays for the City's wastewater treatment plant siting efforts. Dina Moore requested information on the financing process, and the city responded. John Corbett asked about the new siting location and possible impacts of tsunamis.

**ACTION:** Mr. Hoy moved to adopt the amended Cease and Desist Order with the stipulation that the matter return to the Regional Board if the McNamara and Peepe studies were delayed. John Corbett seconded the motion. The vote was unanimous, with one recusal.

Break observed at 2:50 p.m., followed by closed session until approximately 3:30 p.m.

### **OTHER BUSINESS**

The Board reconvened to open session at 3:43 p.m. Sheryl Freeman reported that there was nothing to report from the closed sessions.

Board member William Hoy excused himself for the remainder of the meeting.

#### **15. Quarterly Progress Report on Coordination Activities with the California Department of Forestry**

Nathan Quarles gave an overview of the Regional Water Board's regulation of the timber industry. He then discussed the Timber Harvest Plan (THP) review process. Mr. Quarles stated that Regional Water Board staff would like to open up the lines of communication with California Department of Forestry and keep it open. He discussed coordination issues, conflict resolution, and Basin Plan violations with the THPs. He gave a progress report on action items from the August 2001 meeting. He stated that the Regional Water Board staff and California Department of Forestry staff discussed water quality monitoring and TMDLs. He also stated that an interagency liaison committee meeting was scheduled for January 29, 2002.

Mr. Quarles briefly reviewed the questions and recommendations that appeared on the THPs being reviewed by staff. He stated that the Regional Water Board is having an impact in on-the-ground water quality protection and that was addressing issues through liaison meetings, bi-monthly management meetings, and by working with the industry.

Dina Moore indicated support for staff training, and mentoring by senior staff of more junior staff.

Richard Gienger stated that the frustrations are long standing. He called on the public to persist in their efforts. CDF has not begun to evaluate the process for monitoring. He stated that the process needs improvement, and designs in the water crossing. CDF has not responded to the Dunne report that was issued in 2001.

Cynthia Elkins encouraged the Board to continue talking about accumulative impacts. She discussed monitoring issues and the Forest Practice Rules and the authority of the Regional Water Board to request pre-project monitoring.

**ACTION:** This was an informational item and no formal action was taken.

**16. Request by City of Santa Rosa and County of Sonoma for Funds from the Cleanup and Abatement Account for Water Connections in the West College Avenue/Clover Drive area**

Mark Bartson, senior engineer for the Santa Rosa Cleanup Unit, spoke on the West College/Clover Drive groundwater contamination. He displayed a map showing the areas of contamination in the West College area, and summarized the expenditures of \$839,195 of cleanup and abatement account funds for work efforts including connections to the City water system for contaminated parcels. The total overall projected cost for connecting 140 homes to the City system is approximately \$749,000. There are 35 additional homes in the Borden Villa complex that may have other funds available to them, but would cost about \$103,000. Mark reviewed the available funds and stated that there is a short-fall of about \$330,000 to \$437,000.

Luis Rivera, Cleanup Unit Supervisor, stated that staff does not have a specific proposal for the Board. Staff's purpose was to update the Board on the funds for this project. He stated that there had been changes in the funds since December 2001. Mr. Rivera noted that \$150,000 was allocated in the state budget for the current year to assist in the City connections; however, the funds are now "frozen." There is a balance of approximately \$10,000 from the original \$100,000 contributions of the City and County, correcting the staff report in the Board's agenda package.

Jane Bender, a member of the City Council of Santa Rosa, stated that the West College/Clover Drive residents are experiencing the contamination through no fault of their own. She stated that it is the intent of both the City and County to put in an additional \$150,000 each and come up with the sum of \$300,000. They will address the Board in March 2002 with a completed budget and request the Regional Water Board to add an additional \$150,000. With the additional funds, the project should be completed.

Lorraine Dickey, welcomed all the new members of the Board. Ms Dickey stated that she lives on West College Avenue and has a contaminated well. She also stated that the Regional Water Board has been outstanding in their efforts to resolve the contamination problem. She said that the "frozen funds" of the governor had been committed and does not understand how the funds were frozen. She requested the Board to submit a letter to the governor and Senator Chestbro and request that previously committed funds be released/un-frozen.

Susan Warner suggested that a letter be generated by the Executive Officer to the Legislative Office and Senator Chesbro stating that the now "frozen funds" were considered part of the package for construction and connection for the homes to the water lines for the West College/Clover Drive site. The Chair agreed with Ms. Warner and obtained consensus from the Board that such a letter be sent.

**ACTION:** This was an informational item and no formal action was taken.

**17. State and Regional Water Board Communications**

Nathan Quarles reported that he attended a hearing at the State Board on a petition by the Humboldt Watershed Council on Elk River, Freshwater Creek, and three other watersheds. The State Water Board remanded the petition by the Humboldt Watershed Council back to the Regional Water Board. Mr. Quarles suggested that the remanded issues lead towards TMDL. Although, the Board did not issue a mandatory directive to conduct TMDLs or take other actions. One of the State Water Board members strongly suggested that the Regional Water Board staff require monitoring for every timber harvest plan in the five watersheds. Mr. Quarles relayed to the State Water Board member that the Regional Water Board staff would like some flexibility to access the

need for monitoring on a case by case basis. Nathan Quarles pointed out to the State Water Board that the Regional Water Board staff wanted to work with Pacific Lumber Company in establishing a watershed wide monitoring program and site specific monitoring program for specific THPs within the watersheds.

Richard Gienger, on the board of the Humboldt Watershed Council, stated that the position of the Watershed Council is that the Regional Water Board should hold hearings on PALCO within 60 days.

#### **18. Regional Water Board 2002 Board Meeting Agenda Schedule**

The 2002 Board Meeting schedule was approved, and the final location of the October board meeting would be held in Fort Bragg or Yreka, depending on particular items of interest to those areas.

#### **19. Violation and Enforcement Report**

The Board asked general questions regarding the information listed on the report. Frank Reichmuth and Robert Tancreto responded to questions proposed by the Board.

#### **20. Executive Officer Administrative Civil Liabilities**

Susan Warner reported that the Craig Administrative Civil Liability, which had been previously issued, was reissued to correct a due process matter.

#### **21. North Coast Regional Water Quality Control Board 18-month Workplan of Activities**

Discussion of this item was continued until the February meeting.

### **EXECUTIVE OFFICER'S REPORT**

Items 22, 23, and 24, stand as written.

- |            |   |                     |
|------------|---|---------------------|
| <b>22.</b> | Monthly Report to the Board                     | <i>Written</i>      |
| <b>23.</b> | Leaking Underground Storage Tanks/Sewage Spills | <i>Written</i>      |
| <b>24.</b> | Proposition 65 Notifications                    | <i>Written</i>      |
| <b>25.</b> | Other Items of Interest                         | <i>Susan Warner</i> |

The Regional Water Board members reviewed a draft letter transmitting the results of the prior day's workshop on 303(d) listing. Board Member Grundy requested clarification of language in the draft letter, which would be sent under the Executive Officer's signature.

### **CLOSED SESSIONS**

Items 26, 27, 28, and 29 were discussed in closed session earlier in the day. There were no reports made.

There being no further business to come before this meeting body, the meeting adjourned at 6:00 p.m., until the next scheduled Board meeting on February 27 and 28, 2002.

The Secretary, E. Jean Lockett recorded the minutes of the January 23 and 24, 2002, workshop and Board meeting of the North Coast Water Quality Control Board, to be approved by the Board at its next meeting.

\_\_\_\_\_ Chair

\_\_\_\_\_ Date