

California Regional Water Quality Control Board
North Coast Region

MINUTES OF MEETING
February 10 and 11, 2004
Regional Board Meeting
5550 Skylane Blvd., Ste. A
Santa Rosa, CA 95403

Chairman William Massey called the Regional Water Board Workshop to order at 1:04 p.m.

i. Pledge of Allegiance

Gerald Cochran led the Pledge of Allegiance

ii. Roll Call and Introductions

Board Members present: Dina Moore, Richard Grundy, John Corbett, Bev Wasson, Gerald Cochran and William Massey

Regional Water Board Staff present: Catherine Kuhlman, Frank Reichmuth, Sheryl Schaffner, Ranjit Gill, David Leland, Caryn Woodhouse, Rebecca Fitzgerald, Dave Hope, John Short, Matt St. John, David Kuszmar, Jonathan Warmerdam, Adona White, Drew Bayless, Terry Barnes, and Jean Lockett

1. Guest speakers on the Garcia Watershed

Craig Bell gave a brief presentation on the Garcia Watershed. Escrow closed on about 30,000 acres of the Upper Garcia watershed the purchase will allow restoration planning, and detailed monitoring. Mr. Bell gave background on the Garcia Watershed and TMDL history. His PowerPoint presentation touched on the Clean Water Act, Restoration and the chronological history of the upper and lower Garcia Watersheds.

Larry Mailliard, a landowner in the Garcia Watershed, gave his observations on the day to day activities in the Garcia Watershed. He suggested a correlation between the water temperature and the air temperature in the watershed. Mr. Mailliard indicated that the Garcia Watershed is a healthy watershed and that TMDL has had little affect. He suggested that some sort of mechanism for de-listing the watershed be developed.

Item 2. Status Report on TMDL Development

David Leland gave the presentation.

The TMDL Program addresses the development and implementation of TMDLs for waters included on the state's list of impaired waters developed pursuant to Section 303 (d) of the Clean Water Act. Mr. Leland covered the TMDL Project Phases and, the six projects in the Plan: Klamath River, Upper Lost, Lower Lost, Salmon River, Scott River, and Shasta River

Richard Grundy asked Mr. Leland what were the steps that needed to be taken to address the human health concerns. The river flow in the Russian River will affect pathogens concerns. He requested a recommendation from the staff so that the Board could go to the state and request additional resources to deal with potential health concerns. Ms. Kuhlman indicated that she would put together a proposal addressing the bacteria in the Russian River, to be submitted to the State Water Board after the Regional Water Board's review. Mr. Grundy stated that he is willing to advocate for additional resources from the State Water Board, if needed.

Ms. Moore stated that the Board has expressed that human health is an issue; she requested that staff address the issue in the triennial review.

The Board observed a break at 2:50 p.m. The workshop resumed at 3:04 p.m.

Item 3. Status Report on (1) development of the **Action Plan for the Control of Sediment Waste Discharges** as an amendment to the **Basin Plan** and (2) development of the **Action Plan** for the Albion River, Big River, Noyo River, and Ten Mile River Sediment Total Maximum Daily Loads as an amendment to the Basin Plan.

Part I

Caryn Woodhouse gave the presentation. The goals of the presentation were to:

- ◆ Update the Regional Water Board members and the public on the Basin Plan Action Plan status,
- ◆ Describe the highlights of both amendments,
- ◆ Discuss how the regional Action Plan for the Control of Sediment Waste Discharges will be incorporated into the TMDL Action Plans,
- ◆ Solicit input from the public, and
- ◆ Receive directions from Regional Water Board Members.

MOTION: Richard Grundy moved that the Board supports the staff in the development of the Basin Plan Amendment. It is not the Board's intent that the federal and/or state anti-degradation policies be re-examined. It is the Board's judgment that these policies are independent and enforceable requirements of law whether or not they are incorporated into the Basin Plan and that the proposed language by the staff is describing how the Board intends to implement those policies in a more thorough and user friendly manner. Bev Wasson seconded the motion. Motion passed unanimously.

Part II

Rebecca Fitzgerald gave the presentation on Sediment and TMDL Action Plan for Albion River, Big River, Noyo River, and Ten Mile River Watersheds. She covered the indicators of watershed health & tools useful for determining effectiveness of the Action Plans.

The major components of the implementation plans included:

1. Require Erosion Control Plans from landowners with $\geq 2,500$ acres.
2. Establish an outreach and education program aimed at all stakeholders.
3. Encourage & assist local agencies.
4. Focus grant funds into the four watersheds.
5. Address possible future discharges by applying the Regional Sediment Amendment.

The Board discussed the issues and asked questions of staff.

Comments were accepted from:

Helen Lebiu, a small landowner in the Garcia Watershed
Peter Dobbins, representing FROG
Larry Mailliard, landowner in the Garcia Watershed
Allen Levin, representing the Coast Action Group
Peter Ribar, representing Campbell Timberland Management
Dianel Myers, resident in the Navarro watershed
Tom Schultz, representing the Mendocino Redwood Company

Item 4. **Public Workshop and CEQA Scoping meeting for the Compliance Schedule Amendment.**

The Compliance Schedule Amendment workshop also served as a CEQA Scoping Meeting to receive comments and recommendations from the public and the Board related to potential environmental consequences and alternatives to the proposal, and to receive other comments on the draft Amendment. Lauren Clyde gave the presentation.

The proposed amendment is intended to supplement the State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (CTR-SIP).

The Recommended Alternative would authorize the Board to include schedules of compliance in NPDES permits. The amendment states that the language in a permit will specify the documentation that must be provided by dischargers, and specifies that the need for additional information and analyses which will be determined by the Regional Water Board on a case-by-case basis. This amendment will return the options available to the North Coast Regional Water Board (prior to USEPA's *StarKist Caribe* decision), in its permitting functions on a case-by-case basis, while ensuring that water quality is protected.

Staff recommended that the Board consider adoption of a Basin Plan amendment to incorporate the "Recommended Alternative" NPDES permit compliance schedule

authorization language at a Public Hearing (currently planned for the March 2004, Board Meeting).

Gerald Gall, the waster treatment superintendent for the City of Ukiah, stated that the City of Ukiah supports the language in the Compliance Schedule.

Brenda Adleman implied that she had concerns that dischargers might expect an extension beyond 5 years. Ms. Adelman suggested that the board exercise caution when considering extending the timeline in a discharger's compliance schedule.

Craig Johns, representing the City of Santa Rosa, stated with the changing and complicated nature of wastewater treatment needs, it is necessary to allow facilities time to comply with the regulations. Mr. Johns discussed the time in planning, and making the necessary changes to comply with the regulations. He submitted suggested changes for the Board to consider.

There being no other business the meeting adjourned for the evening at 5:37 p.m., to be continued to the next day, at the same location.

Wednesday, February 11, 2004

Chairman William Massey called the Regional Water Board meeting to order at 9:06 a.m., on February 11, 2004.

i. Pledge of Allegiance

Bev Wasson led the Pledge of Allegiance

ii. Roll Call and Introductions

Board members present: Richard Grundy, John Corbett, Bev Wasson, Gerald Cochran, and William Massey

Absent: Dina Moore

v. Election of Officers

MOTION: Gerald Cochran moved to appoint William Massey as chairman and Bev Wasson as vice-chair. John Corbett seconded the motion. Motion passed with five votes. Dina Moore absent.

iii. Board Member Ex Parte Communication Disclosure

Gerald Cochran stated that he had a conversation regarding item 9 (Revision of Cease and Desist Order No. R1-2000-72, City of Crescent City MWTF) on the day's agenda with the City of Crescent City and the County Del Norte director. Mr. Cochran stated that he is recusing himself from the item. Ms. Schaffner clarified, for the record, that the recusal was based on Mr. Cochran's property interests in the area affected by the order, not the ex parte communication.

William Massey stated that acting in the capacity of a LAFCO commissioner he spoke with Sonoma County Supervisors, and Lisa Schaffer, who is an attorney for City of Healdsburg. All discussions were LAFCO related. Mr. Massey toured Mendocino Redwood with EPA Secretary Terry Tamminen; EPA Under Secretary Jim Branhnan, State Board Chairman, Art Baggett, and Regional Water Board Executive Officer, Catherine Kuhlman. He recused himself from the meeting when it involved Pacific Lumber Company. He also toured Freshwater and Elk with members from the Humboldt Watershed Council.

Gary Carlton, State Water Board liaison, updated the Board on statewide actions:

- ◆ The State Water Board upheld the Central Valley agricultural waiver program with two minor changes in the conditions for enrollment and in the coalitions program.
- ◆ Timber Harvest waivers for Region's 5 and 6 were also upheld with some minor changes.
- ◆ Region 1's waiver hearing will be held in the near future.
- ◆ Non-point source control plan that is based on the three-tier plan now has a voluntary approach, but Regional Boards will be required to clearly lay out what the regulatory alternatives will be.
- ◆ A workshop on the 303-(d) listing procedures and guidance document for implementation plans was held.
- ◆ A workshop was held to receive comments on the staff proposal for modification on the Ocean Plan.

[Dina Moore entered the board room at 9:17 a.m.]

viii. Public Forum

Brent Siemer, City of Eureka senior engineer, introduced himself as a new member on staff with the City of Eureka.

Scott Stegeman, representing Healdsburg neighbors, spoke on the Healdsburg Basalt pond, indicating that all ponds should require an NPDES Permit.

Item 5. Approval of Minutes

Minutes were moved to the end of the agenda.

Item 6. Resolution for Shawn Harmon

Catherine Kuhlman read the resolution for Shawn Harmon.

MOTION: Dina Moore moved to adopt Resolution No. R1-2004-0014. Bev Wasson seconded the motion. Motion passed unanimously.

Item 7. **Presentation of US EPA priorities**

Alexis Strauss, Director of Water Program with EPA, shared the common ground that both the Regional Water Board and US EPA share in their agendas. Her focus was on water resources. She stated that the Clean Water Act relationship among EPA, State Water Board and the nine Regional Water Boards is the main point of engagement. Ms. Strauss urged adoption of permits and TMDLs. Basin Planning is the foundation on which permitting, compliance actions, and the TMDL work is based. She commended the North coast Regional Board for being up to date in its tri-annual Review.

Ms. Strauss expressed her gratitude for the assistance of the Region 1 staff for their help in the Mattole. Ms. Strauss asked the Board how best could EPA assist in any response to any query that the Board may have.

John Corbett asked what type of management is needed to ensure a relative speedy adoption of NPDES permits? Ms. Strauss stated that EPA and the State Water Board are working towards standardized permits and monitoring plans for each of the nine Boards. She stated that if the nine Boards keep a certain number of permits on the Board's agenda it would keep a steadier pace of getting the NPDES adopted.

Dina Moore stated although EPA gives grant money through the 319 program. The current challenge is that there is a tremendous lag time between when the request proposal is due and the contract is actually signed. Though Region 1 is moving forward with the TMDL implementation plan, the 319 process, at the State Water Board level, is uniquely long in getting the resources on the ground to those landowners that need them.

Bev Wasson suggest that EPA look into BLM's process on up-front funding. Ms. Strauss stated that she will look into the program and give any information to the Executive Officer.

Richard Grundy voiced his concerns for the 303 (d)'s watch list for temperature that the State did not approve. Ms. Strauss discussed the lack of funds both for EPA and for the State Water Board in their monitoring efforts for the 303-(d) list on a regular two-year listing cycle. She stated that it is difficult for monitoring to happen for the list and the watch list.

Consent Items

Item 8. Order No. R1-2004-0002, **Sonoma County Water Agency**, Mirabel/Wohler River Div., Sonoma County, Recision of Waste Discharge Requirements Order No.92-139, WDID No. 1B92025RSON

MOTION: John Corbett moved to adopt the Consent Calendar. Gerald Cochran seconded the motion. Motion passed unanimously.

Action Items

Item 9. PUBLIC HEARING on Order No. R1-2004-0001 to consider modification (new hookups) of Cease and Desist Order No. R1-2000-0072 for the **City of Crescent City** Municipal Wastewater Treatment Facility

Chairman Massey administered the oath to those who expected to give testimony in the item.

Tom Dunbar admitted the administrative file into the record and gave the presentation.

The City of Crescent City owns and operates a wastewater treatment facility (WWTF) serving the City and adjoining unincorporated urban area of Del Norte County Service Area No. 1. Discharge from the WWTF is to the Pacific Ocean through a short outfall. It is regulated by the National Pollutant Discharge Elimination System (NPDES) Permit issued by the Regional Water Board on September 22, 2000 (Order No. R1-2000-71). The WWTF has reached biological and hydraulic capacity and the Regional Water Board adopted cease and desist orders (CDO) with a restriction on new connections and a time schedule requiring the City to provide additional capacity. Some interim improvements have been completed and the City has requested a limited number of new connections to the WWTF. The Regional Water Board's action today is to consider modifying the CDO to allow a limited number of new connections to the WWTF.

Mike Young, a retired city engineer from the city of Crescent City, provided a detailed description of the City's upgrade of the Municipal Wastewater Treatment Facility.

John Corbett pointed out that it was a very positive situation that all three of the entities were willing to financially fund the project.

Richard Grundy endorsed Mr. Corbett's statement. He stated that it improves the regulatory burden when there is cooperation. He stated some concerns in the Resolution that should state that a condition – there should be some assurance that violations will be prosecuted.

Bev Wasson requested a status report on the project in 2005. Staff offered to provide an update to the Board at the August 2004 meeting regarding implementation and enforcement of the City and County pretreatment programs.

MOTION: John Corbett moved to adopt Resolution No. R1-2000-72 as proposed with the amendment to not exceed 160 hook ups. Richard Grundy seconded the motion with the amendment. With a provision that an updated Ordinance is submitted to the Regional Water Board within a reasonable time. The Ordinance must be acceptable to the Regional

Water Board Executive Officer. Richard Grundy seconded the motion. The motion passed unanimously with five votes, and Gerald Cochran recused.

Roll Call:	Richard Grundy	yes
	John Corbett	yes
	Dina Moore	yes
	Bev Wasson	yes
	William Massey	yes
	Gerald Cochran	recused

Item 13. Discussion: Potential Resolution of the Central Landfill liner failure and proposed corrective action, Sonoma County

Catherine Kuhlman gave a brief introduction on the Central Landfill item. The County requested and was granted a WDR in August 2000 to operate a new cell called the East Canyon. The Board permitted the site with a single liner that sits on the ground water table on an old site of a creek. There is also an underdrain and collection system that underlies that liner. The landfill is to be built in phases. Development of the next phase dependent on two main items: 1) that the single liner that was put in had to work and 2) that there would not be any leaks at the site. Phase I/II have been built and are receiving garbage at the present. The Central Landfill has experienced a design failure and they are leaking. A new WDR will be required for the County to continue with the phases and open a new cell.

The Regional Water Board staff has been in discussion with Sonoma County regarding an issuance of a new WDR and the specific type of liner design that should be used. The Regional Water Board staff and Sonoma County Central Landfill staff have not agreed on the type of liner design that would work for the site.

In a slight change of procedure, Executive Officer Catherine Kuhlman asked the representatives from Sonoma County to make their presentation first. Sonoma County Central Landfill representatives included: Susan Klassen, Deputy Director of Public Works; Margaret Hendrick, an out of area environmental attorney; and Dr. Rudolph Bonaparte, with GeoSyntec Consultants. Ms. Hendrick coordinated the county's presentation that was intended to show that the existing design is adequate.

Dr. Bonaparte displayed the original conceptual liner system design. He stated that the Phase I/II single composite liner system meets or exceeds performance requirements of the federal subtitle D and state title 27 regulations and is highly protective of groundwater. In December of 2003, there was a low concentration of leachate contaminants detected in the underdrain pipe. The flows were collected and conveyed to the treatment plant. The source of the contaminants is under investigation. He stated that activities at site most likely caused identified localized damage to liner. The known liner system damage was repaired in February 2004. The county took steps to improve the operating procedures designed to prevent localized damage due to site activities. Dr. Bonaparte concluded his presentation by stating that the Regional Water Board staff proposed double-composite liner system to provide additional layer of clay that is not needed.

Ms. Hendrick concluded the presentation by requesting that the Board issue directives to the Regional Water Board staff, including:

- ◆ Mandate that the most effective and environmentally sound method for the county to manage its waste is within the county.
- ◆ Direct staff to meet with the county to negotiate a plan that allows the County to continue to manage its waste within the county, including negotiating a compliance plan approving use of the County's proposed Phase IV Liner System design.
- ◆ Direct staff to identify a Senior Management team of the Regional Water Board to work with the County to negotiate the Plan.
- ◆ Direct staff to bring a negotiated waste management plan back to the board at its March 2004 meeting.
- ◆ Direct staff to provide a written agreement of implementation of the negotiated plan by April 1, 2004.

The board observed a lunch at 1:07 until 2:P.M.

The Board returned from a working lunch in closed session at 2:18 P.M. Chairman Massey opened the meeting to the public and stated that there were no reports from closed session.

Continuation of Item 13: **Discussion: Potential Resolution of the Central Landfill liner failure and proposed corrective action, Sonoma County**

Regional Board staff presented its view of the situation. Briefly, staff observed that the liner in question was represented by Sonoma County and its consultants as an engineered alternative that would provide protection of groundwater equivalent to a conservative liner design prescribed by state regulations. However, the liner failed to function after only a few months in service contaminating ground water. Reasons for the failure are many and there is no clear evidence that repairs will be long lasting or complete. Staff believes that new liners at this site need to be more protective of groundwater for all future construction.

Comments were accepted from:

David Tutton, with Happy Acres Homeowners Association
John Burbank, Happy Acres Homeowners Association board member,
Barbara Guggemos, Happy Acres a resident
Kimberly Kiernan, resident of Happy Acres
Barbara Lee, with Northern Sonoma County Air Pollution Control District.
Kathy Tresch, with Tresch Dairy Inc.
Joe Tresch, with Tresch Dairy Inc.
John Mattos, neighboring property owner
Supervisor Mike Kern, Sonoma County Supervisor

Joe Mellow, SWRCB Land Disposal Program Manager

Summary of Board Conclusions and Guidance to Staff:

The Board concluded that the use of a single liner as constructed at the County Central Solid Waste Disposal Site was not protective of waters of the State. The Board also concluded that a double liner with a clay component to protect groundwater, while providing a degree of physical protection from damage due to the placement of garbage on the liner with heavy equipment, would be appropriate for this site. The Board supported efforts by staff to work cooperatively with the County to develop disposal alternatives, but noted that environmental protection should not be compromised simply to provide cost savings or in order to accommodate the consequences of inadequate planning. The Board expressed interest in seeking resolution that would ultimately allow Sonoma County's waste to continue to be handled/disposed of within Sonoma County. The Board also expressed interest in having the existing engineered alternative area retrofitted and in pursuing enforcement action and/or fines for unreported breaches in this area.

Specific Board Comments:

Richard Grundy noted that Phase I/II was something of a test phase and that the Board permitted the County to do something other than what would ordinarily be required. Mr. Grundy commented that if it had worked, there wouldn't be leachate coming out of the liner. He expressed concern that the County had failed to anticipate what was going to be needed, and was not being up front with Board staff in making timely reports of problems with the liner. He concluded that the Board has limited authority to modify any environmental requirement based on cost.

Dina Moore noted that if the present liner system is having problems, similar liners for future areas likely would as well. Dr. Bonaparte responded to Ms. Moore's concern by noting that new operating procedure enhancements, such as third party CQA during liner and ops layer placement, and ops layer screening.

Ms. Moore stated that it was unclear how either of those enhancements will preclude the type of damages that they claim are occurring. Both enhancement suggest some concerns that the Phase I/II liner was not constructed correctly.

Dr. Bonaparte acknowledged one intentional and two or three accidental breaches. Ms. Moore questioned why the County did not inform the Regional Water Board staff of the breaches when they occurred.

Mr. Grundy noted that the burden of proof in demonstrating equivalency of an alternative is on the Discharger; that it appeared that the Board was being asked to move quickly on the issue because of the County's failure to plan ahead and to act in a timely manner; and that if the County wanted to move ahead quickly, they will need to comply with the Title 27/Sub D standards. Mr. Grundy indicated that the Board and its staff should review this in terms of water quality protection over the long term, rather than being swayed by short term economic factors.

Gerald Cochran noted that the County solid waste committee should be coming up with alternatives to resolve this issue; he stated that he was surprised that the County got “this far” with just a single liner; and he said that he thought the only way to resolve this issue would be to remove all the trash that is in place (Ph I/II) and put in a second liner.

Bev Wasson also noted that she thought it needed a clay base, because clay is “more forgiving” in accidents with heavy equipment and she noted that putting contaminants into the water is unacceptable.

Mr. Corbett confirmed that the burden of proof is on the Discharger for demonstrating engineered alternatives.

Sheryl Schaffner concurred, adding that the Discharger must demonstrate equivalent water quality protection. She added that new information at the site will likely require a supplemental EIR, unless we use an enforcement order.

Ms. Moore wondered if an ACLC would be appropriate for the December breach(es), noting the “errors” that occurred.

Mr. Grundy noted that the record suggests that the “original solution was not up to snuff relative to the prescriptive standard.” He added that he would like staff and the Executive Officer to meet with the County and then come back and report to the Board whether or not there is an alternative, and he noted that the alternative must include a remediation plan for the existing problem.

Dina Moore left the board meeting at 3:10 p.m.

Item 12. **Update on Investigation of Channel Modification Options to Reduce Flood Intensity in Elk River and Freshwater Creek**

Adona White gave the presentation. She provided background on:

- ◆ Flooding and Sedimentation Complaints 1997-2004,
- ◆ Past and Current Regional Water Board Actions, and
- ◆ Elk River Petition in October 2003

In the recent agency scoping meetings, the following was discussed:

- ◆ agency concerns for near channel vegetation removal
- ◆ agency concern for dredging

Regional Water Board staff recommendations:

- ◆ Based upon agency input, staff do no further investigation in vegetation removal.
- ◆ Staff continue to investigate areas for further evaluation
- ◆ Adopt a resolution for Executive Officer to pursue a feasibility study for removal of in-stream deposits through seeking a local sponsor to partner with Army Corps, and discussing resource and funding options with Pacific Lumber Company.
- ◆ Staff to conclude the investigation by May 2004

Bill Bertain, attorney for the residents in the Elk River area, urged that the Regional Water Board take some action regarding the petition. He requested that the Regional Water Board direct the upstream neighbor to correct the problem at their expense.

Mr. Bertain also asked that the Board direct its legal staff on how to enforce an order if the ownership of Pacific Lumber Company changes.

Jesse Noel, a resident of Elk River, stated that there has been three flood this winter. He stated that he believed that the source of the sediment must be controlled, and that means controlling the rate of harvest.

MOTION: John Corbett moved to authorize the Executive Officer to explore with other agencies on dredging. Jerry Cochran seconded the motion. Motion past with 5 votes. Dina Moore absent.

Bev Wasson voiced her concern for those residents that are not able to get out of the area when it is flooding.

Mr. Grundy expressed his concern for the Cleanup and Abatement orders previously issued to Pacific Lumber Company. He requested that staff go over the last two years of the CA orders and devise a chart to show the board the status of those CA's and bring to the March 2004 board meeting. Mr. Grundy also, stated that if the Board had received a formal offer before August 2003, from Pacific Lumber Company to bring their equipment and assist with the help stream flow improvement here, he would like the Executive Officer to inquire if that offer is still good and give the Board a recommendation on how the Regional Water Board will respond to that offer.

Item 14. **Executive Officers Administrative Civil Liabilities**

An Administrative Civil Liability Complaint was issued to Vintage Greens LLC Two Cleanup and Abatement Orders were issued: One to Sierra Pacific Industries, Arcata Division and the other to Philip Arnot, McNamara and Peepe Corporation.

Item 5. **Approval of Meeting Minutes:**

The September, November, and December 2003 minutes were presented for approval. Richard Grundy requested that the December 2003 minutes be deferred until the next board meeting.

MOTION: John Corbett moved to approve the September and November 2003 minutes of the meeting. Gerald Cochran seconded the motion.

Item 15. **Violation Reports**

Stand as written

Item 16. **Board Member Requests for Future Agenda Items**

Nothing was requested.

Item 17. **Monthly Report to the Board**

Stand as written.

Item 18. **Other Items of Interest**

Nothing was presented for this item.

There being no further business to come before the meeting body, the meeting adjourned at 4:25 p.m., until the next scheduled Board Meeting on March 23 and 24, 2004.

The Secretary, E. Jean Lockett recorded the minutes of the February 10 and 11, 2004, meeting of the North Coast Water Quality Control Board, to be approved by the Board at a subsequent Board Meeting.

Chairman _____

Date: _____