

California Regional Water Quality Control Board
North Coast Region

MINUTES OF MEETING
Thursday, March 27, 2003
Regional Water Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

Chairman Massey called the Regional Water Quality Control Board regularly scheduled meeting to order at 9:07 a.m.

1. Pledge of Allegiance

Richard Grundy led the Pledge of Allegiance

2. Roll Call and Introductions:

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

Regional Water Board staff: Executive Officer: Susan Warner; Assistant Executive Officer: Frank Reichmuth; Legal Counsels: Sheryl Schaffner Freeman and Erik Spiess; Administrative Officer: Kathleen Daly; Division Chiefs: Robert Tancreto and Ranjit Gill; Interim Division Chief: Nathan Quarles; Technical staff: Cathy Goodwin, Paul Keiran, David Kuszmar, and Holly Lundborg; Administrative Assistant: Terry Barnes; Secretary: Jean Lockett

3. Board Members Ex Parte Communication Disclosure

The Chairman called for ex parte communication disclosures. He asked Sheryl Freeman to give a brief overview/explanation. Ms. Freeman stated that it was an opportunity for Board members to disclose any ex parte communications that they may have had regarding any item(s) on the agenda. The Chairman called for such disclosures from the Board members, if any.

Gerald Cochran disclosed a short conversation that he initiated with Pacific Lumber Company and Simpson Lumber Company in reference to a March 7 article in the Humboldt Times-Standard on stream clearance and restoration.

Chairman Massey stated that he spoke with several members of the Santa Rosa water community in his capacity as the Chairman of the Association of California Water Agencies.

Public Forum

Dina Moore read into the record the following statement: "Due to my actions or statements to this Board an effort was initiated to review all public documents on the family ranch on which we reside and do business, a ranch that belongs to my 82-year-old mother in law. My husband's family have been stewards to this working landscape for five generations. The purpose of reviewing the documents and public deeds on this ranch appeared to be very disingenuous. False allegations were made. The fact that it was alarming and intimidating to my elderly mother-in-law, who was the individual directly affected by these allegations deeply distresses me. Over the course of the last several weeks, my husband and I have worked openly and thoroughly with

the Assistant Chief Counsel of the State Water Control Board, as well as other professionals who are familiar with our business in an effort to ensure that I am fully disclosing all that is required. We have approached this in as comprehensive a manner as possible. After a diligent and exhaustive review of my interest as well as those of my husband and his family, I have every reason to continue to serve on the North Coast Regional Water Quality Control Board. I look forward to continue working with my peers in addressing the many important issues that come before this board and share with them the heavy responsible of achieving balanced regulatory compliance. “

Dwayne Dewitt stated that 19-years ago toxic substances were found in the Roseland area. He requested that the Roseland area be de-listed from the State Super Fund list so that the problem could be solved.

Don Albini, a Windsor resident, stated that he had sent the Board a letter requesting an exemption for a very small family owned winery. Chair Massey requested that all Board members receive a copy of Mr. Albini's letter. Mr. Albini stated that the new requirement for wineries is that they must apply for a WDR. He described the process of how the winery's annual 550 gallons of wastewater is handled, and requested an exemption from fees and WDRs.

Chairman Massey asked Ms. Warner for the status of Mr. Albini's request. Ms. Warner responded by stating that she will direct staff to look into the status and get back to Mr. Albini.

Ted Stephens, representing the Stephens Family on the Garcia River, stated that he had compassion for Ms. Moore as she read her statement. Mr. Stephens discussed the intimidation he and other landowners in the Garcia River experienced. The stakeholders cannot come forward because of the fear, and a couple of property owners have sold their property as a result.

Mr. Grundy asked for the source of Mr. Stephens' intimidation. Mr. Stephens stated that it was a public member who had worked with staff. Mr. Grundy wished to clarify that the Regional Water Board staff was working with Mr. Stephens. Mr. Stephens said that staff has not been forthright in a positive effort.

Larry Mailliard voiced his support for Dina Moore. He also stated his support for Mr. Stephens and what he has experienced. He indicated that there were landowners in his watershed that felt threatened. Mr. Mailliard stated that the ranchers depend on its existence through timber operations, and feel that outside influences have an effect on staff, but that he gets along with Lisa Huelette and Jonathan, and looks forward to a good working relationship. He recognizes he needs to work with staff and he intends to.

5. Minutes of Past Meetings

The minutes of the November 7, 2002 and December 5, 2002 meetings were presented for approval. Mr. Grundy thanked Jean Lockett for the changes.

MOTION: John Corbett moved to approve the November 7, 2002 and December 5, 2002 minutes. Richard Grundy seconded the motion. Motion passed unanimously.

6. Board Communications:

Chairman Massey gave a brief overview of the Chair's meeting he attended by teleconference on March 20. He discussed Assembly Bill 2010 that proposes to change the number and composition of Board Members allowed to serve on Regional Water Boards in the State of

California. In addition, changes in the categories that Board members represent are being proposed. Extensive discussion on actions that the Board could take in response to AB2010 ended in the Board requesting Ms. Warner to draft a letter for the Board to make formal comments, with the intent of sending the letter to the legislation and/or State Board. Ms. Warner suggested that she would work with the Office of Legislative and Public Affairs and the Chair to provide comments in the most appropriate manner, and the Board agreed.

Chairman Massey further reported that the Chairs discussed the budget and the need for Regional Water Board to prioritize their work. He reported that the MOU had been signed. He stated that the state will hold an evidentiary hearing on timber waivers. Due to the budget, the state is raising fees and cutting services.

John Corbett stated that he attended a meeting on March 18, 2003, with persons in Del Norte County. There were 12 people in attendance. He stated that names were not introduced, but there seemed to be representatives of governmental entities of Del Norte, Siskiyou, Trinity, and Humboldt County, and major engineering firms of special districts. Mr. Corbett indicated that the concerns of the group were: solid waste, frustration in short time to resolve issues, request for an ombudsman, concerns for loss of senior staff, desire for mentoring, frustrated with inconsistency of approach, and no longer feel comfortable working with Board staff to identify problems and seek solutions.

Mr. Corbett suggested that the group invite the Executive Officer of the Regional Water Board to their next meeting. Mr. Corbett stated that he will give the comments to Jack Selvage.

Ms. Warner stated that Frank Reichmuth the AEO is also the Ombudsman.

Mr. Grundy stated that he attended a group Watershed Council meeting who is working with fish and wildlife. He requested background information on the Watershed Council work project.

Mr. Cochran reported that he was at a seminar in Del Norte County that staff attended.

Susan Warner informed the Board that on March 19 Celeste Cantu issued a procedure description for speaking engagements. If any board member is scheduled to speak at groups or other engagements, they must complete the new forms, which Ms. Warner will provide copies with Ms. Cantu's memo. Ms. Warner indicated that she could help the Board members determine when the speaking engagement forms were needed, and for filling them out.

CONSENT CALENDAR WASTE DISCHARGE REQUIREMENTS

Ms. Warner stated that Items 10 and 11 were removed from the agenda, and that an Errata had been prepared for item 13.

7. *Order No. R1-2003-0002* **Robert Benson, Prestige Lincoln Mercury**, Sonoma County, Issuance of New Waste Discharge Requirements, WDID No. 1B02025RSON
8. *Order No. R1-2003-0009* **The Natural Resources Conservation Service (NRCS) and The Mendocino County Resource Conservation District (MCRCD) Navarro Watershed Restoration Projects**, Mendocino County, Issuance of Waste Discharge Requirements, and Adoption of a Resolution Approving a Negative Declaration, WDID No. 1B02195RMEN

9. *Order No. R1-2003-0029* **Mayacama Golf Club, LLC**, Sonoma County, Amendment to Waste Discharge Requirements Order No. 97-80, Sonoma County WDID NO. 1B97026RSON.
12. *Order No. R1-2003-0022* **Sonoma County Department of Transportation and Public Works/Sonoma County Water Agency**, Sonoma County, Recision of Waste Discharge Requirements, Healdsburg Memorial Dam Fish Ladder, WDID No. 1B00034RSON; Warm Springs Creek Bridge, WDID No. 1B99057RSON; Hacienda Bridge, WDID No. 1B97011RSON and Westside Road Bridge, WDID No. 1B98018RSON
13. *Order No. R1-2003-0040* **Former Masonite Wood Preserving Facility**, Asti Road, Cloverdale, Sonoma County, Issuance of New Waste Discharge Requirements, WDID No. 1B03036RSON

MOTION: Jerry Cochran moved to adopt the Consent Calendar with the errata sheet. John Corbett seconded the motion. Motion unanimously passed.

OTHER BUSINESS

A break was observed at 10:15 a.m., to 10:30 a.m.

Bev Wasson informed the Board and public that she met with Tom Barr and others to discuss how to apply for the Garcia TMDL. She extended the same service to others that wished to meet with her.

14. **PUBLIC HEARING** *Order No. R1-2003-0020 and No. R1-2003-0021* **Occidental Wastewater Treatment Facility**, Sonoma County, Revised Cease and Desist Order, and Revised Time Schedule Order, WDID No. 1B830010SON

Chairman Massey abstained from participation and voting on this item.

Vice-Chairman Dina Moore administered the oath to those expected to participate in the discussion to consider revising Occidental's enforcement orders.

Cathy Goodwin entered the administrative file and an errata sheet into the record. Ms. Goodwin stated that the purpose of the enforcement hearing was to give the Board additional information, a detailed financial plan, and a time schedule for completion of the wastewater treatment facility upgrade project. The discharger is requesting an extension to complete the remaining tasks in Cease and Desist Order (CDO) No. R1-2002-47 and Time Schedule Order (TSO) No. R1-2002-48 for the Occidental County Sanitation District (CSD) and the Sonoma County Water Agency (SCWA).

Ms. Goodwin displayed a map to point out the location and surrounding communities of the Occidental WWTF that is owned by Occidental CSD and operated and maintained by SCWA. It is a secondary treatment plant that processes 50,000 gal/day of wastewater using an antiquated pond system.

Ms. Goodwin reviewed the Board's modification of the CDO and TSO. The Discharger had requested additional time and modifying the CDO/TSO to complete the capital improvement project. The four major proposed changes are: 1) extend the time schedule from December 1, 2003 to June 30, 2008; 2) Require an interim project that will involve improvements to the aeration pond to increase the efficiency of the biological treatment process; 3) Require detailed

progress reports describing the status of interim operations of the plant and the status of obtaining funding and the status of construction of the capital improvement project; and 4) require modifications to the connection ban.

Ms. Goodwin stated that staff's recommendation is to extend the Time Schedule Order for completion of the CIP to June 30, 2008; Complete Phase I by December 31, 2003 and award bid for Phase 2 by December 31, 2004. The time schedule order provides for additional penalties.

Ms. Goodwin stated that Occidental had requested the Board to suspend the \$50,000 penalty due from a prior Administrative Civil Liability Order. She informed the Board that the Board will be requested to make a recommendation to the State Board on such suspension since only the State Board can modify an ACL Order adopted by the Regional Board and enacted after the 30-day petition process had passed.

Mike Thompson, representing the SCWA, presented information to the Board on Occidental's efforts to secure funding for the project. He stated that he supports the staff recommendations.

Brenda Adelman, Russian River County Water Association, stated her concerns about the project. Ms. Adelman stated that it is unacceptable that Occidental has more than 60 violations. This situation has been on going for years and the penalties should not be waived.

Mr. Grundy expressed concern with not taking action on the violations. Specifically, he understood that the \$50,000 was from a 1998 set of violations, but questioned staff on the violations between 1998 and 2000, and actions, which could be taken. Staff described the options.

Mr. Giorgi was concerned that the time schedule just extended a problem, and that we might be just treading water. He indicated that it was time to make serious decisions. He suggested putting the penalties into an escrow account.

MOTION: Richard Grundy moved to approve the new Time Schedule Order and John Corbett seconded the motion.

There was a question on whether or not SCWA continued to be in violation from the old orders. Mr. Thompson stated that those violations had been addressed and yes, there are new violations that are coming up. Mr. Grundy discussed whether they should consider the violations and monitoring program at a subsequent meeting, where the violations up through 1997 could be set out, and how they were addressed, the violations up to 2000 could be set out, and so forth. He indicated he was interested in knowing the aggregation of the funds, and being able to distinguish between fines for schedule violations and those for effluent violations, plus having greater information on the funds currently spent on the facility. Mr. Grundy suggested staff come back with penalties, including the \$50,000, and to draft a letter to the State Board on the Order. Staff agreed to provide the Regional Water Board with a draft of the letter to the State Board together with a draft proposed Order for the State Board to consider.

MOTION: Mr. Grundy moved to adopt the revised CDO with the connection ban, and Time Schedule Order.

Poll:	John Giorgio	Vote: No
	Shawn Harmon	Vote: Yes
	Bev Wasson	Vote: Yes
	Dina Moore	Vote: Yes
	Richard Grundy	Vote: Yes

John Corbett	Vote: Yes
Gerald Cochran	Vote: Yes
William Massey	Recused

MOTION: John Corbett moved to direct staff to provide the Regional Water Board with a comprehensive review of the violations. Jerry Cochran seconded the motion. Motion passed unanimously.

15. **PUBLIC HEARING** *Order No. R1-2003-0025* **City of Santa Rosa Geysers Recycle Project**, Revised Cease and Desist Order, WDID No. 149S313237

Vice Chairman Moore administered the oath for those who expected to participate in the item. Chairman Massey re-entered the room and chaired the meeting.

Paul Keiran entered the administrative file into the record. He updated the Board on the Cease and Desists Order history for the City of Santa Rosa. Mr. Kerian indicated that the City of Santa Rosa is in the process of completing the Geysers Recharge Project in order to fulfill the requirements of the Cease and Desist Order (CDO) No. 2000-14. Mr. Keiran displayed pictures of the project and said that three per cent of the installation work remains to be completed by December 31, 2003.

Ed Brauner stated that if the project goes according to schedule, there will be water pumping in three or four months.

Ms. Moore asked how the power was delivered to the pump station. Mr. Brauner indicated that the power came from the Geysers.

Mr. Cochran asked when was the original approval/implementation of the plan occurred. Mr. Brauner stated that the process started 10 years ago, there were a number of lawsuits that held up the project, and the City continued to move forward, but that construction problems also delayed the project.

Mr. Giorgi asked a question regarding the capacity of the storage facility, and Mr. Brauner replied that the City would have a weather-independent facility for the first time.

Mr. Grundy asked whether the Board was considering a longer extension than necessary and staff indicated that the extension length was to ensure that the plant was operational even if there were some start-up problems. Mr. Brauner added that the project would carry the City through the year 2010, and because of the California Toxics Rule (CTR) the City wished to make sure that they can modify the incremental program if all river discharge was prevented because of CTR requirements.

Brenda Adelman stated that the city is on a fast track to develop a new long-range plan beyond the Geysers project. Ms. Adelman stated that she has not seen growth to justify taking the pipeline to 26 million gallons a day. Their long-range plan does not eliminate discharging into the river. She encouraged the Board to watch that they do not downgrade the regulations.

MOTION: John Corbett moved to adopt the CDO with extended time schedule. Richard Grundy seconded the motion. Motion passed unanimously.

The Board broke for lunch and adjourned into Closed Session. The Board reconvened and had nothing to report from closed session.

16. Status Report on the North Coast Watershed Assessment Program

Mr. Corbett abstained from participation and voting on this item because of his involvement with property in the Mattole River.

Bob Klamt stated that the North Coast Watershed Assessment Program (NCWAP) is made up of five agencies that include the Department of Fish and Game, California Geological Survey, Department of Forestry and Fire Protection, Department of Water Resources, and North Coast Regional Water Quality Control Board. The five watersheds targeted for assessments are the Redwood Creek, Mattole River, Big River, Albion River, and Gualala River. The primary purpose of the effort is to provide the public and agencies with comprehensive assessment of current watershed conditions, an interdisciplinary synthesis of watershed information that involves exploring trends, and recommendations for stream restoration and improvements in land use activities.

Mr. Klamt indicated that the commitments for the Fiscal year 02/03 includes: completion of final assessment reports for Redwood Creek, Mattole River, and Gualala River; completion of public draft assessment reports for the Big and Albion rivers, revision of the NCWAP menthols manual, and, continued involvement at some level in the Scott and Middle Fork Eel River watersheds. Assessment process started out with public scoping to gather all of the information in the watersheds to look for data gaps. When the information is gathered the analysis look for gaps.

Ms. Moore indicated her appreciation of Mr. Klamt's leadership.

Mr. Cochran wanted to know whether staff was involved with stream restoration, and Mr. Klamt indicated that we were, and referred to the Grants Unit of our organization.

Mr. Grundy commented on assessment time period being current conditions, and the need to restore to past better conditions. Mr. Klamt suggested using the 303(d) tools for using a process for defining restoration goals.

17 Update on the five watershed monitoring

Nathan Quarles updated the Board on the five motions of the Board at the January 2003 board meeting.

Re Motion 1. Mr. Quarles displayed a table that presented the pertinent Forest Practice Rules section that is a summary of the information required to be submitted to the Board of Forestry as part of a "Sensitive Watershed" nomination package for each watershed that is nominated and the status of compiling the required information.

Re Motion 2. On March 26, 2003, the Executive Officer issued two Section 13276 Orders to Pacific Lumber Company requesting technical reports that are necessary for the refinement of the Empirical Sediment Budget, and Modeled Sediment Budget. The first letter requested draft copies of the layers and the seconded requested electronic copies of the GIS layers.

Re Motion 3. Staff is attempting to obtain base GIS information from landowners and once the information is gathered, staff will then work with Dr. Twiss on GIS database and digital library.

Re Motion 4. Collaborate with HCP signatory agencies for potential mechanisms to use the HCP in achieving some of the water quality requirements.

Re Motion 5. This motion has been completed by working with the facilitated working group and CONCUR to frame the next TOR for Phase II of the Panel.

Schedule of Activities:

Mr. Quarles reviewed the task schedule for cleanup and abatement activities, waste discharge requirements, and monitoring in Bear, Jordan, and Stitz Creek watersheds.

Mr. Grundy complimented the staff on the fantastic job of addressing the five motions the board directed to staff.

David Kuszmar referenced the staff report that updated the board. Mr. Kuszmar directed the board to attachment D that gave explanations or definitions of assessment monitoring, trend monitoring, effectiveness monitoring, compliance monitoring, implementation monitoring, and forensic monitoring. He displayed color-coded map graphs to demonstrate areas where different types of monitoring were conducted.

Mr. Kuszmar briefly walked the board through the monitoring progress in the five watersheds. He reported that all sites on table 4 have monitoring stations which have been brought on line.

Ms. Moore thanked Mr. Kuszmar for his report. Mr. Grundy also complimented Mr. Kuszmar on his report, and Mr. Corbett added his commendation.

There was discussion on the definition of turbidity (NTU), rainfall return periods, and other issues. Mr. Kuszmar stated that an update will be presented to the Board sometime in the early fall.

Holly Lundborg discussed the TMDL development and the scientific review panel and Phase II TOR. The draft action plan for the TMDL Implementation will be brought to the Board at the March 2004 board meeting. After the development of the action plan, workshops will be scheduled as directed by the Board. State Water Board will also have workshops at their discretion. The document then goes to the Office of Administrative Law, and US EPA, once approved the TMDL becomes effective.

Ms. Lundborg gave clarification on the Dunne Report, referenced at the January 2003 board meeting. Two reports exist, and the one that staff refers to is the UC Report No. 46 on cumulative effects. In addition, a second Dunne report was sent to the Regional Water Board by Pacific Lumber Company that is referred to as the 1999 flooding document..

Mr. Corbett directed staff to follow-up on the letter from CDF and have an informal discussion on how their letter will be addressed.

Mr. Grundy stated that he would like to separate out what the HCP delivers and what is needed to protect water quality.

Bill Snyder, deputy of the Department of Forestry, commented on the 4 motions made by the Board. He noted that CDF was omitted from the list. He suggested that CGS also be included in meetings with the HCP wildlife agencies.

Mr. Grundy stated that it was his intention when he made the motion to invite all the signatory agencies (signatory to the SYP as well as the HCP).

Ms. Moore asked if Ms. Lundborg thought it would be a good idea to invite CGS to be a part of the agencies. Ms. Lundborg stated yes.

MOTION: Richard Grundy moved to accept the Terms of Reference and John Corbett seconded the motion. Motion passed unanimously.

19. Development of a Regional Water Board Mixing Zone as provided under the State Water Board Policy for implementation of Toxic Standards

Dr. Ranjit Gill gave a definition of a mixing zone, and stated that the Basin Plan does not allow mixing zones for region 1. He gave the rule for the 2000 California Toxic Rule, and referred to the State Implementation Plan (SIP), which says that "the regional board may grant mixing zones and dilution credit to dischargers in accordance with the provision of this section." Allowance is discretionary and is determined on a discharge-by-discharge basis. A graph was displayed to show what a mixing zone might look like.

Dr. Gill stated that the scope of work is developed on policy issues that's developed by the Regional Board staff. The budgetary constraints lead the staff to seek funds to initiate development of a science-based mixing zone policy.

Dr. Gill stated that the mixing zones for discussion today is only for toxic pollutants. Mr. Grundy requested information on where mixing zones are permitted elsewhere in the state and nation. There was discussion on the types of materials eligible for the mixing zones.

Miles Ferris, utilities director for the City of Santa Rosa, stated that the CTR and SIP present some unique challenges for the City of Santa Rosa, Town of Windsor, etc., and development of a mixing zone policy is needed.

Don MacEnhill, representing friends of the Russian River, said that the concern is that the mixing zone policy be as protective as possible. He indicated that he looks forward to the workshop and/or study on development of a mixing zone policy.

Brenda Adelman stated that she was pleased to hear the board ask questions which indicated that the board was interested. Full involvement by the public and other agency is important. She suggested that it might be important to look at Mr. Ferris's numbers that he reported as a cost for the city. She also indicated that source reduction should be part of the study as well.

John Giorgi commented on the joint letter with Oregon and California. He requested more clarification. Dr. Gill responded by saying that the letter was put together however essential entities were left off from the copy list, and this oversight has been corrected.

18. Implementation of the State Water Resources Control Board "Water Quality Enforcement Policy," adopted by State Water Resources Control Board Resolution No. 2002-0040

Robert Tancreto reviewed the Enforcement Policy by going over the sections of the policy, which was established with the goal to be fair, firm and consistent in regulation and enforcement. He reviewed the priorities of enforcement policy, with the intent to ensure compliance. Mr. Tancreto described the challenges in determining priority of violations, generally, from required MPPs to those situations that are considered to have real water quality issues. Mr. Tancreto discussed the programs, permits, failure to pay fees, and falsifying information.

Due to the time and the importance of the Mandatory Minimum Penalties for ongoing violations, NPDES permits and other information on pages 20 and 23 of the policy the Board elected to table the discussion until the May 15, 2003 board meeting.

19a. Resolution Establishing a Priority List for State Revolving Fund Loans for FY 2003-04

Mr. Tancreto presented the additions to the list for the State Revolving Fund loans.

MOTION: John Corbett moved to adopt the Resolution establishing a priority list for State Revolving Fund Loans for FY 2003-04. Jerry Cochran seconded the motion. Motion passed unanimously.

20. Executive Officer Administrative Civil Liabilities

None reported

21. Violation and Enforcement Report

Stands as written.

22. Board Member Requests for Future Agenda Items

The Board discussing having the California Toxics Rule (CTR) on for a workshop and innovative technologies for small wastewater facilities. Susan Warner reported on the attempts to schedule a field trip at the Hopland Field Station, and suggested that the 5 Humboldt County watersheds have updates only on a quarterly schedule. The Board concurred.

23. Monthly Report to the Board

Stands as written.

24. Leaking Underground Storage Tanks/Sewage Spills

Stands as written

25. Proposition 65 Notifications

Stands as written

26. Others Items of Interest

None presented

There being no further business to come before the meeting body, the meeting adjourned at 5:58 p.m., until the next scheduled Board Meeting for May 15, 2003

The Secretary, E. Jean Lockett recorded the minutes of the March 27, 2003, meeting of the North Coast Water Quality Control Board, to be approved by the Board at a subsequent Board Meeting.

Chairman _____

Date: _____