

California Regional Water Quality Control Board  
North Coast Region

MINUTES OF MEETING  
May 11 and 12, 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 1:08 p.m.

**i. Pledge of Allegiance**

Gerald Cochran 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

Regional Water Board Staff attended: Catherine Kuhlman, Frank Reichmuth, Sheryl Schaffner, Christine Wright-Shacklett, Holly Lundborg, Dr. Ranjit Gill, Fred Blatt, Mark Neely, Greg Nash, David Kuszmar, Adona White, Terri Korell, and Jean Lockett

**iii. Board Member Ex Parte Communication**

Gerald Cochran stated that he had a conversation with the Chairman of the Crescent City Harbor District regarding the District's permit.

1. PUBLIC HEARING Order No. R1-2004-0016, **Categorical Waiver** for Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region.

Chairman William Massey administered the oath to those who expected to participate in the item.

Catherine Kuhlman gave a brief update on the Categorical Waiver and the State Water Board's ongoing review of the existing "Interim Waiver" and the related proposed State Board remand order. Agreeing to hold off on adopting the proposed order invalidating the Interim Waiver, the State Water Board asked the Regional Water Board to replace the existing Waiver within 30-days. Ms. Kuhlman stated that in response to the draft State Water Board's order and remand, the Regional Board staff prepared, and the Regional Board adopted on March 24, 2004, Order No. R1-2004-0015, a categorical waiver for timber harvest activities conducted on federal lands by the United States Department of Agriculture, Forest Service.

To prevent duplicative Regional Water Board orders, Order R1-2004-0015 rescinded and replaced the specific sections of Order No. R1-2003-0016 that pertained to the United States Department of Agriculture, Forest Service. The tentative Order No. R1-2004-0016 for the Regional Board's consideration, applies to low-impact timber harvest activities conducted on non-federal lands in the North Coast Region.

Fred Blatt entered the administrative file into the record. Mr. Blatt reviewed the proposed amendments to the previously circulated draft of proposed Order No. R1-2004-0016.

Mark Rentz stated that the waiver that the Board adopted in 2003 is adequate. He stated that the issue was not in the content of the waiver but the procedures. He expressed his concern that the waiver is not very broad – there is not a need to narrowly define the waiver up for adoption, that the waiver would create a hardship and it would be premature to rescind the present waiver that is already in place and put the new waiver into action.

Fred Blatt stated that it is not the Regional Water Board's staff intent to create a gap in coverage in the waivers.

Bernie Bush representing Green Diamond Resource Company, stated that he hoped that the board would delete a reference rescinding the present waiver in place. If the gap occurred there would be hundreds of jobs lost.

Chairman Massey stated that is not the Board's desire to create any gaps of coverage in the waivers.

Peter Ribar stated that his goal was to try and broaden the waiver. Mr. Ribar urged the Board to not adopt the waiver.

Jim Ostrowski, representing Timber Products Company, stated that in Timber Products Company case 100% of the timber harvest plans would not qualify for the waiver. He gave the following suggestions: In order to broaden the waiver, and continue the review with the Department of Forestry it must include most timber harvest plans. He suggested to delete items 2 through 14 that would remove all of the site specific and general provisions because they did not necessarily represent general or low impact activities.

Charles Greenloaf, private landowner, suggested that the Board abandon the waiver and issue WDRs to all, to keep the process fair.

Ted Stephens, private landowner, stated that he viewed the waiver as another obstacle to landowners to try and keep their land. He stated that the WDR is an overkill. The unintended consequences will make the situation worse than the benefit of the intended consequences.

Helen Libue stated that in her opinion there was good work done on the waiver. She referred to page 5 of the proposed amendment. She requested that a clear definition of a qualified professional be spelled out.

Dan Weldon, representing the Forest Landowners of California, stated that the current proposal will not work for the members of the Forest Landowners of California. The General Waiver conditions leave landowners concerned about the prospect of costs spiraling out of control. He referenced items number 7, 10, and 11 and stated the he did not agree with the provision. Mr. Weldon suggested that the current proposal fails to accomplish the Board's statement of purpose of February 2004.

Matt Green stated that the small landowners could not afford the extra cost and the additional time it takes for the NTMP. There is a cost difference for THP and NTMP's. Mr. Green stated that there is not a difference in timber harvest, landowners are forced to apply for THPs which is a higher cost.

Bonnie Burchal, representing the California Licensed Foresters stated that the California Forest Practice Rules protect water quality. She urged the Board to abandon the waiver and re-adopt the 2003 waiver.

Ms. Kuhlman reiterated that the State Board had informed the Regional Water Board that the 2003 waiver was not adequate and would be invalidated by a remand order from the State Board.

Sterling McWhorter, representing the Buckeye Conservancy Association and the Humboldt Cattlemen Association, indicated that the Board needs to visit the areas with issues and they may find that the areas are not as bad as they are being portrayed.

John Williams stated that the waiver is making it more expensive for landowners to operate. He stated his concerns on the new changes in the waiver. Mr. Williams urged the Board to keep the public comment period open.

John Rice stated that the report has many "catches" in it. He stated that he is not against regulation, but it is costly. The more regulations the more it will cost the landowners. The board's decision will have an affect on non-industrial timber owners.

Mike Lozeau, representing the Environmental Protection Information Center (EPIC), stated that the Board should allow everyone to comment on the most recent proposed changes by keeping the public comment period open until June 2004.

Cynthia Elkins with EPIC stated that EPIC sees many problems with the waiver.

Allan Levine requested that the board make stricter requirements for the waiver.

Larry Mailliard requested that the non-industrial category be changed to family landowners. Mr. Mailliard asked if he needed a waiver if he is in an approved TMDL watershed.

Ms. Christine Wright-Shacklett responded to Mr. Mailliard's question. She stated that Mr. Mailliard is in compliance with the TMDL Compliance Schedule, and the Executive Officer has written a letter stating that he was in compliance.

The Board discussed what direction they wanted to move in. Mr. Grundy asked for the Executive Officer's recommendation. Ms. Kuhlman suggested that staff work on the comments that they received today and bring the item back to the board tomorrow, and at that time the Board can decide if they wanted to act on the item or re-notice it for another board meeting.

Mr. Massey stated that the Board and public need to understand that the Regional Water Board is under the direction of the State Water Board on this matter.

The meeting was adjourned until 9:a.m. Wednesday, May 12, 2004.

### **Wednesday, May 12, 2004**

Chairman William Massey called the Regional Water Board meeting to order at 9:05 a.m.

#### **i. Pledge of Allegiance**

Dina Moore led the Pledge of Allegiance

#### **ii. Roll Call and Introductions**

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

Regional Water Board Staff attended: Catherine Kuhlman, Frank Reichmuth, Sheryl Schaffner, Christine Wright-Shacklett, Holly Lundborg, Dr. Ranjit Gill, Nathan, Fred Blatt, Mark Neely, Greg Nash, David Kuszmar, Adona White, Terri Korell, and Jean Lockett

#### **iii. Ex parte Communication Disclosure**

There were no ex parte disclosures.

**vii. State Board Liaison**

Gary Carlton, State Water Board Liaison, reported that the State Water Board has spent long periods of time on the fee issues, both for waste discharge requirements and water rights permits. There was a workshop held last week where the board received public comments on the new proposal on the new wastewater discharge fees for the up-coming year. The principal changes were to provide a significant reduction in fees for smaller committees. The collection of fees in the water rights program has gone well.

**viii. Public Forum**

Gordon Main, with Granite Construction Company, stated that his company supports the Regional Water Board's General Permit for aggregate extraction activities in Mendocino, Humboldt, and Del Norte Counties. The development of a Regional General Permit proves to be mutually beneficial to the Regional Water Board and approximately 25 individual operators within the three counties. A general permit would streamline the permitting process and allow for a more consistent budgetary planning. He also commented on the current 401-Cert fee structure. He advocated for the board to reduce the paperwork. Tom Dunbar described the process of the 401-certification and the fee for dredging that cost \$2,000 dollars an acre.

Keith Hess, representing the Mercer, Fraser Company, Hansen Sand and Gravel, Leland Rock Company, stated that he supported the regional 401 Certification for aggregated extraction.

Paul Kraus, Regulatory Manager for the Eureka Ready Mix Company, stated that he supports the general 401 Certification process for gravel extraction in Humboldt and Mendocino counties.

**Item 2. Minutes**

The February 10 and 11, 2004 minutes were presented for approval with the errata sheet and suggested changes made by Dina Moore on item 7 on page 6.

MOTION: Richard Grundy moved to adopt the February 10 and 11, 2004 minutes. Bev Wasson seconded the motion. Motion passed unanimously.

**Consent Items**

2. Order No. R1-2004-0020 to consider **General Waste Discharge Requirements** for Discharges Resulting from In Situ Chemical Oxidation (The Addition of Hydrogen Peroxide, Acids, and/or Iron Catalyst to Groundwater) of Contaminated Soils and/or Groundwater. *(Kasey Ashley)*
3. Order No. R1-2004-0021 to consider **General Waste Discharge Requirements** for Discharges Resulting from In Situ, Enhanced Bioremediation (the Addition of Nutrients, Microbes, and/or Oxygen Source) of Contaminated Soil and/or Groundwater. *(Dan Warner)*
4. Order No. R1-2004-0023, **Trinity River Lumber Company**, Trinity County, Adoption of Waste Discharge Requirements and Recision of NPDES Permit No. CA0025046, WDID No. 1A96069NTRI *(Miguel Villicana)*
5. Order No. R1-2004-0024 **Crescent City Harbor District Seafood Processing**, Del Norte County, Renewal of NPDES Permit No. CA0024473, WDID No. 1A84005ODN *(Tom Dunbar)*

MOTION: Gerald Cochran moved to adopt the Consent Calendar with the Errata sheet for Crescent City Harbor District Seafood Processing. John Corbett seconded the motion. Motion passed unanimously.

**Item 7** PUBLIC HEARING: Order No. R1-2004-0033 to consider whether to affirm, reject, or modify a Complaint for Administrative Civil Liability and/or take other enforcement action in the matter of **Pacific Gas & Electric Company**, The 137 Santa Rosa Group Partnership, Madeline Musco, George Lawry, Kenneth Coker, Joel DeSilva, Richard Colombini and Upway Properties for property at First & B Street in Santa Rosa, Sonoma County WDID 1B1SR228NSL

PG&E item was removed from the agenda to be heard at a future board meeting.

**Item 1** (Continued from May 11 Board meeting) PUBLIC HEARING Order No. R1-2004-0016, **Categorical Waiver** for Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region.

Catherine Kuhlman suggested that the Board extend the comment period to May 28, 2004, to receive written comments and hear the item at the June 2004 board meeting. Mr. Corbett requested that legal counsel put a time limit on when scientific reports or exhibits will come in for testimony. Mr. Corbett voiced his concerns about CDF's comments and stated that he did not want to prohibit any comments from CDF.

Motion: John Corbett moved to extend the comment period on the Categorical Waiver Order No. R1-2004-0016 until May 28, 2004 and bring the waiver back to the Board in June. Gerald Cochran seconded the motion. Motion passed unanimously.

**Item 8** **Public Workshops on General Waste Discharge Requirements for Timber Harvest Activities.**

Fred Blatt presented the item to the Board by covering the structure and details of the General Waste Discharge Requirements for timber.

Mr. Corbett stated that the general regulations tend to over-regulate the less sensitive areas and they tend to under-regulate the more sensitive environmental areas. The Board needs to make a professional judgement to not over regulate or under regulate. It needs to be recognized that there are many other tools to use. Mr. Corbett indicated that there should not be a large investment in this WDR process because it is the wrong tool.

Mark Rentz, California Forestry Association, suggested that the Board visit other opportunities. He suggested that the Board look back at the notion that when the THP is approved and moves forward, that could be a valid option of when the general waste discharge requirements are satisfied. He stated that the additional regulatory enhancement would burden the timber members of California Forestry Association. He urged the Board to reconsider the general waste discharge requirement.

Bernie Bush, Green Diamond Timber Company, indicated that Green Diamond will provide written comments. Mr. Bush voiced his concerns for most of the THP plans should not have to go through an extensive micro-managing process. The timing of issuance is a huge issue. He voiced his concerns that every THP plan that would be a focus.

Peter Ribar, Campbell Timberland Management, stated that until there is full understanding of the definitions in the waiver, it is difficult to determine the full cost of the waiver. He referenced the definition, and the timing of the process is critical to the applicant. Mr. Ribar read his statement addressing his concerns with the general Waste Discharge Requirement. He advocated for a more streamlined approach. He requested that applicants receive the dates of entry by the Regional Water Board staff, photos, or other information that staff collects during their inspection on landowners property.

Dan Fisher, Fruit Growers Supply Company, stated that the approach taken may work best for Water Quality, but it has to work for everyone. Mr. Fisher suggested that the fruit growers would be able to afford to comply with the WDRs. The THP is a tough plan and it would double the cost and efforts to comply with both the THPs and the WDR. It might be best to broaden the waiver process.

Sheryl Moore, Mendocino Redwood Company, stated that there is no defined time period for a company to come into compliance for those THPs that have been approved. She suggested that there needed to be some period to come into compliance.

John Williams, representing the forest landowners and small landowners, stated that the proposal waste timberland owners' and waste state money. The requirements in the draft Categorical Waiver and the General Waste Discharge Requirements represents a substantial increase in the regulatory burdens in the small landowners above their already excessive and burdensome regulatory load.

**Item 10            EPA Update On Potential NPDES Permits for River Rock and Graton Casinos**

Doug Eberhart with US EPA addressed the board on the River Rock and Graton Casinos. Mr. Everhart stated that EPA has stressed the need for River Rock Graton Casino tribes to work closely with the Regional Water Board staff. Mr. Everhart stated that the casino does not have a permit at this time and he is not aware of any extensive discharge from the Casino. However, River Rock Graton Casino is exploring if there is a need to go to a surface water discharge in the summer months. They are concerned about their current treatment process and they plan to change the treatment process to an UV disinfection process system rather than the current system. He stated that US EPA has not inspected the facility nor is he aware of any planned inspection.

**Item 13            Executive Officer Administrative Civil Liabilities**

There were no Civil Liabilities issued since the last board meeting.

**Item 12            Bypass/Upset in Wet Weather Issues**

Robert Tancreto addressed the board concerning the issues of Bypass and Blending.

Bypass is the diversion of waste streams from any portion of a treatment facility. Bypass is limited by conditions contained in NPDES Permits which may only permit bypass to perform essential maintenance under specific circumstances if the treatment process and collection systems have been properly operated and maintained.

As provided for in an NPDES Permit, blending is the intentional diversion of waste streams around a waste treatment unit process and the mixing of that waste stream with treated effluent to comply with effluent quality limits. Blended effluent may appear to meet water quality standards, however, due to the dilute nature of influent, and pathogen removal may not be adequately

addressed during blending incidents. Therefore, appropriate monitoring must be included to assure compliance.

Blending is the subject of a proposed EPA Policy which, if adopted as proposed, would require that: effluent limits be met; volume blended be minimized; minimum treatment levels maintained; monitoring increased; and proper operation, maintenance and non excessive Infiltration/Inflow demonstrated.

The Board discussed the issue and received clarifications concerning anti-backsliding and anti-degradation policies. Board members Wasson and Grundy recognized that several proposals have occurred that proposed blending effluent as a method to avoid necessary facility upgrades which was inappropriate. Following a discussion of the Board indicated that, in lieu of the adoption of the EPA Policy, staff should continue to implement, what has developed as the

Board's standard practice in these matters:

- The current Bypass provision in NPDES Permits stands
- Consideration of effluent blending may be reviewed on a case by case basis depending on demonstration of the following:
  - blending may not be used to circumvent water quality regulations
  - blending may not substitute for proper operations and maintenance or appropriate facility upgrades and expansions
  - volume of blended effluent must be minimized
  - system infiltration/inflow must not be excessive
  - anti-backsliding and anti-degradation policies must be satisfied
  - appropriate water quality monitoring will be required to assure protection of beneficial uses, water quality standards and regulations

Mr. Grundy stressed that the minutes reflect Mr. Tancreto's presentation so that when the item is brought to the Board at a later date he wanted to make sure that the Board is clear and what they are adopting.

The Board observed a lunch break and went into closed sessions at 12:55 p.m.

The Board returned from closed session at 1:45 p.m. Chairman Massey opened the meeting to the public. There were no reports from the closed session.

Cynthia Elkin requested that the record show that EPIC's lack of participation from item 8 was due to an understanding that the item would be discussed in the afternoon and therefore arrived too late to participate in the discussion.

**Item 9. Response to Bill Bertain's Petition for Clean-up and Abatement Order for Dredging of Elk River**

Catherine Kuhlman stated that item 9 is before the Board to discuss how to respond to Bill Bertain's petition. Ms. Kuhlman read the petition asking the Board to require dredging for the North Fork of Elk River, South Fork of the Elk River, and the Mainstem Elk River and to issue WDR's.

Bill Bertain stated that he disagreed with the proposed resolution. He urged the Board to require dredging. Mr. Bertain also asked that, if the Board was going to adopt the resolution as proposed, to please correct it to make it clear that Mr. Bertain did not file the petition solely on his own behalf, but on behalf of 64 Elk River residents.

The Board discussed the item at length, and the Executive Officer briefly recapped what had been done on the subject to date.

Mr. Bertain stated that there were some residents that were not getting water as the Regional Water Board had ordered Pacific Lumber in to accomplish 1999. He requested a report on the activities of Pacific Lumber steps taken following the Board's direction to install water systems for the residents in the mainstem.

Jesse Noel stated that there have been hundreds of violations by Pacific Lumber Company. The Regional Water Board seems to impose fines on the smaller landowner but seems to not impose fines on Pacific Lumber Company. There needs to be some investigation in the Regional Water Board's practice in this situation.

In response to the Board dialogue, Sheryl Schaffner suggested the following three changes to the draft resolution:

- 1) In finding number one, add statement that William G. Bertain submitted the petition "on behalf of 64 Elk River residents".
- 2) Add a new finding #4 – "The Executive Officer has issued three Cleanup and Abatement Orders to Pacific Lumber Company to date, requiring remediation activities in the subject watershed and the Regional Water Board has directed that further Cleanup and Abatement Order requirements be pursued and reported back to the Board."
- 3) The following language be added to the end of finding number 8, now renumbered number 9, to note that the Executive Officer "has ongoing delegated authority to require cleanup activities under Water Code section 13304."

Motion: Gerald Cochran moved to accept the Resolution No. R1-2004-0042, with the added amendments. John Corbett seconded the motions and suggested amending the resolution to add that the Regional Water Board has affirmed that the Executive Officer has the authority to require cleanup and abatement orders for the affected watersheds.

Mr. Grundy voiced concern on acting on the petition before reviewing all of the motions of the December 2003 board meeting. He suggested that the board table the issue until the June report.

Motion: Richard Grundy moved to table voting on the Petition until the next board meeting in June 2004. Bev Wasson seconded the motion. Two votes to table the motion and three votes to not table the motion. Dina Moore abstained.

Motion: Motion to accept the resolution. Motion passed with Cochran, Moore, Massey and Corbett voting yes, and Grundy and Wasson voting no.

**Item 11            How Components of Sediment Total Maximum Daily Loads (TMDLs) are derived**

Presentation by Matthew Buffleben

**Item 14            Violation Report (Frank Reichmuth)**

Written report

**Item 15            Board Member Requests for Future Agenda Items** *(Catherine Kuhlman)*

Dina Moore requested that the Triennial Review be placed on the August agenda. Ms. Moore also requested that a meeting be held in April and not June 2005.

Richard Grundy inquired about minimum mandatory penalties to come before the Board. Ms. Kuhlman stated that staff will add information on the on the MMP's in the Violation Report for the June 2004 board meeting.

**Item 16            Monthly Report to the Board**

Written report

**Item 17            Other Items of Interest**

There being no further business to come before the Board, the meeting adjourned at 3:11 p.m., until the next scheduled Board Meeting for June 22 and 23, 2004.

The Secretary, Jean Lockett recorded the minutes of the May 11 and 12, 2004, Board meeting of the North Coast Water Quality Control Board.

Chairman \_\_\_\_\_

Date: \_\_\_\_\_