

MINUTES OF MEETING

June 22 and 23, 2004
Regional Board Meeting
Regional Water Board Hearing Room
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Chairman William Massey called the Regional Water Board meeting to order at 1:12 p.m. on June 22, 2004.

i. Pledge of Allegiance

Richard Grundy 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: Catherine Kuhlman, Frank Reichmuth, Mark Neely, Lauren
Clyde, Dave Hope, Ranjit Gill,

iii. Board Member Ex Parte Communication Disclosure

John Corbett reported that he met with a representative of the Buckeye Conservancy who had concerns on the upcoming waste discharge requirements. Mr. Corbett suggested that their comments be made to the Executive Officer of the Regional Water Board.

Gerald Cochran stated that he received a call on gravel regulation and he referred the call to the Executive Director of the Regional Water Board.

iv. State Board Liaison's, Board Chair's, Board Members' and Executive Officer's Reports:

This item was moved to the Wednesday June 23 board meeting.

Public Forum –

Bernie Bush, representing Green Diamond Resource Management Company, addressed the Board and gave a report on the growth of timber on private land and industrial land. He indicated that most think that forestland is owned by timber companies when in fact the majority of forestland is owned by private landowners. He presented summary information on timber production and industry costs.

Consent Items

1. Order No. R1-2004-0036, **City of Arcata Wastewater Treatment Facility**, Humboldt County, Renewal of NPDES Permit No. CA0022713, WDID No. 1B82114OHUM

2. Order No. R1-2004-0034, **Stockton Pacific Enterprises, Inc.**, Samoa Pulp Mill, Revision of Waste Discharge Requirements Order No. R1-2001-0063 for Change of Ownership from Samoa Pacific Cellulose, LLC, Humboldt County, NPDES Permit No. CA 0005894, W DID No. 1B77005OHUM

Richard Grundy requested clarification from staff that the purpose of the permit revision in item number 2 is to update the permit to reflect the current legal ownership of Stockton Pacific Enterprises. Mr. Grundy expressed concerns for locating the legal owner in the event the Board may need to take action on the Permit. Mr. O'Connor affirmed that this was indeed the reason for the permit amendment, to make the permit accurately reflect the new ownership, and that the permit as proposed correctly identified the current owner. Mr. Grundy expressed his understanding that this permit amendment was only to update the ownership. When the permit expires the next renewal would reflect any substantive changes in water quality permitting requirements, such as the Ocean Plan and receiving water monitoring. Mr. O'Connor confirmed that was the intent, and that the permit proposed today has a monitoring requirement intended to lay the foundation for those changes when the permit comes up for renewal.

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

INFORMATION ITEMS

3. Report on the 2004 Triennial Review of the Basin Plan

Lauren Clyde presented a brief presentation on the upcoming Triennial Review Process. The presentation covered the format of the Basin Plan, legal requirements for updates, and the Triennial Review schedule for 2004. The Federal CWA and State Porter Cologne (Water Quality Control Act) require a review of Basin Plans every three years in order to keep the Basin Plan up to date with changes in regulations, policies, new technologies, and physical changes in the region. The Basin Plan provides the basic framework for all of the Regional Board's activities. Each regional board in the state has a basin plan that is specific to their region. Ms. Clyde stated that the other seven Regional Water Boards are also conducting their Triennial Review this year, and that after many years a Statewide Planning Roundtable has been formed.

Ms. Clyde gave the schedule for the workshops to be conducted before staff brings the item to the Board for their consideration at the October 6, 2004 board meeting. The Resolution to be adopted by the Board at the conclusion of this review process will contain a priority list of issues to direct the planning efforts of the Board's staff during the three-year period from the end of 2004 through 2007.

Richard Grundy requested that water quality objectives for bacteria in freshwater a priority. Mr. Grundy indicated that consideration should be given on how the Regional Water Board intends to address the Sonoma County and Russian River issues on a long-term bases in the Basin Plan. He stated that there is an opportunity for the Regional Water Board to make a difference.

John Corbett stated that he agreed that the issues of Santa Rosa needed to be addressed. Mr. Corbett also stated that analysis of Humboldt Bay is also needed. He indicated that the TMDL Implementation Strategies should be one of the Region's highest priorities.

4. Update on work efforts in five Humboldt County Watersheds: Elk River and Stitz, Bear, Jordan and Freshwater Creeks

Mark Neely gave a summary of the major activities in the five watersheds and the Van Duzen. Mr. Neely displayed a graph to demonstrate the different initiatives that staff is working on and the status of those initiatives. He reported on the past, ongoing, and foreseeable activities on the watershed wide WDRs in North Fork and South Fork, Elk River, and Freshwater Creek. He stated that Report of Waste Discharge request letters were sent to Pacific Lumber Company and Green Diamond Resource Company, in preparation for Watershed-Wide WDRs in Elk. Mr. Neely covered the specific information the Report of Waste Discharge request letters requested from both Pacific Lumber Company and Green Diamond Resource Company

Mr. Neely reported that the subcommittee membership for the Elk River Sensitive Watershed nomination to the Board of Forestry is in flux, and some members have dropped out. The next schedule meeting to discuss the nomination is July 6, 2004. Mr. Grundy asked that a report on BOF's position regarding the nomination be brought back to the Board so that a determination can be made if more nomination will be submitted.

Richard Grundy observed that it would be helpful to summarize the activities that were ordered by the State Water Board remand order when submitting the document to the State Board. Mr. Grundy further observed that the Board needed to be clear about regulatory action to be taken. He, also indicated that the State Water Board needed to be informed of Region 1's priority to reach out to other agencies in this and other matters and that we are being proactive in this particular issue.

Mr. Horner introduced Chuck Center as the new governmental relations representative for Pacific Lumber Company. Mr. Horner indicated that Pacific Lumber Company's main objective is to recover the five watersheds, and that Pacific Limber Company has been working cooperatively to deal with some of the issues in the watersheds. Mr. Horner stated that Pacific Limber Company is serious about the sensitive watershed process for the Elk River. He urged the Board to delete any reference of the Van Duzen in any reports to the State board.

5. Executive Officer Administrative Civil Liabilities

There were no reports given.

6. Board Member Requests for Future Agenda Items

None requested

7. Violation Report

Written report.

8. Monthly Report to the Board

The monthly report to the Board is a written report. Ms. Kuhlman reported that the Beneficial Use Basin Plan Amendment was approved by the State Water Board, with some modifications.

9. Other Items of Interest

There were no discussions of items of interest by Board members.

Closed Session

The Board went into the closed session at 3:30 p.m. At 4:08 p.m., Chairman William Massey opened the Board meeting to the public with nothing to report. At 4:10 p.m., the Board meeting adjourned until the next day's continuation of the Board meeting.

Wednesday, June 23, 2004**8:30 a.m.****v. Pledge of Allegiance**

John Corbett led the Pledge of Allegiance

vi. Roll Call and Introductions

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

State Board Liaison: Gary Carlton

Absent: Dina Moore

Regional Water Board staff: Catherine Kuhlman, Frank Reichmuth, Bob Tancreto, Bob Klamt, Mark Neely, Lauren Clyde, Dave Hope, Ranjit Gill, Fred Blatt, Sheryl Schaffner, Terry Barnes, Jean Lockett,

vii. Board Member Ex Parte Communication Disclosure - Board Members will

There were no reports of ex parte communications.

State Board Liaison's, Board Chair's, Board Members' and Executive Officer's Reports:

Gary Carlton, State Board liaison, reported that:

- The State Board adopted guidelines pursuant to the Small Community Wastewater Grant (SCWG) Program, funded by Proposition 40 and Proposition 50, provides grant assistance for the construction of publicly owned wastewater treatment and collection facilities.
- The State Water Board modified the fact sheet to the NPDES General Permit for storm water discharge associated with construction activities in order to explain the sampling and analysis requirements.
- The State Water Board approved the water quality fee schedule. A surcharge was added to the fee schedule to support SWAMP.
- The 2004-303(d) list was put out on May 3 and comment period ended in June.

Chairman Massey requested that Bob Klamt give a report on the Klamath Fish kill. Mr. Klamt displayed a map to demonstrate the area of discussion and stated that he and other agencies have put together a coordinated group to provide early warnings of a fish die-off, called the Klamath Fish Health Assessment Team. Meetings have taken place since August of 2003. Mr. Klamt gave details of the activities that Department of Fish and Game, other state and federal agencies, different tribes in the area, the North Coast Regional Water Board staff and the public is doing for early warning of a fish die-off such as the adult salmon die-off in 2002.

Mr. Klamt updated the Board on a recent fish health reconnaissance survey of the Klamath Mainstream. A "hot spot" of infection occurs below the Highway 5 crossing down to around the mouth of the Scott River. Infection and mortality rates then fall off as one moves downstream. While the infection and mortalities are high in the "hot spot" area, fish were not observed dead and dying in large numbers over a large area.

Mr. Klamt informed the Board that the Klamath Fish Health Assessment Team will continue to monitor conditions and provide upper level management in the agencies and tribes with recommendations if the Team has ideas on how to ameliorate a die-off event. In the event a full-scale fish die-off occurs, the Team will respond to document conditions in the river and enumerate the extent of the event.

He fielded a couple of questions, and promised the Board a more comprehensive report on Klamath River issues at the upcoming August meeting.

Craig Bell thanked the Board for Bob Klamt's time and hoped that Mr. Klamt will be available on short notice if a call comes in on the fish die-off. He reiterated that increasing water temperatures can stress the juvenile fish and cause mortality from other diseases. He also stated that he hoped that staff would provide comments on the re-licensing of the PacifiCorp hydropower facilities on the Klamath River, especially regarding concerns for water quality and fisheries.

11. Approval of Meeting Minutes

The March 23 and 24, 2004, minutes were presented for approval.

MOTION: Richard Grundy moved to adopt the March 2004 Minutes. Bev Wasson seconded the motion. Motion passed unanimously.

Public Forum

Sal Steinberg, community coordinator for the Friends of Van Duzen, indicated that the needs of the Van Duzen have not been met. Regional Water Board staff has filed a non-concurrence with California Department of Forestry on 14 Pacific Lumber Company Plans and has been unable to resolve this conflict through upper level management meetings with CDF. He urged the Board to find more staff for pre-harvest inspections, for THP comment, and to protect the beneficial uses of water in the Van Duzen.

Steve Horner with Pacific Lumber Company responded to Mr. Steinberg's comment. He stated that the Van Duzen is a very large watershed and Pacific Lumber Company has new data. Mr. Horner indicated that he will spend time with Mr. Steinberg to try to understand more of his concerns.

Consent Items

12. Order No. R1-2004-0029, Recision of Waste Discharge Requirements Order No. 88-16 and Monitoring and Reporting Program No. 88-16, for **Schmidbauer Lumber, Incorporated**, Eureka Sawmill, Eureka, California
13. Order No. R1-2004-0032, **City of Tulelake, Siskiyou County Department of Public Works**, Sheepy Ridge Class III Solid Waste Disposal Site, Siskiyou County, Issuance of Closure Waste Discharge Requirements, Recision of Order No. 89-74, and Amendment to Order No. 93-83, WDID No. 1A74141OSIS

14. Order No. R1-2004-0040, **Sonoma County Department of Public Works Central Landfill** and East Canyon Expansion, Revised Waste Discharge Requirements for Continued Operations and Corrective Action I.D. No. 1B80149OSON and 1B99011RSON

Robert Tancreto discussed a meeting that was held at the Santa Rosa County Board of Supervisors on Tuesday, June 22 where the Sonoma County Supervisors discussed the Central Landfill. Mr. Tancreto indicated that the County identified several resolutions to the landfill issues, including out hauling, new technology and careful expansion. The County Supervisors asked their staff to come back to them in the next two months with more information and ideas on how to resolve the long-term issues in the landfill. Mr. Tancreto said that he believed that the supervisors understand the gravity of the issue and that a "business as usual" solution would not work.

Kim Kiernan thanked Terri Kinney for her work on the landfill issue and for writing such a comprehensive report to the Regional Water Board. She voiced her concerns that the groundwater be kept safe and wanted assurance that there are no leaks going on in the canyon. Ms. Kiernan requested to be included in the meetings between the county and the state to make sure she is kept aware on what is going on.

Richard Grundy observed that the landfill issue is a priority for the Board. He stated that he would give the issue his personal attention.

John Myers stated that he lives near the landfill and has endured the noisy activities and dead animals that feed on garbage from the landfill. Mr. Myers stated that he refuse to endure contaminated water.

Joe Tresch stated that he supports Mr. Myers' statement. Mr. Tresch indicated that his property and the surrounding hills are their water supply.

Kathy Tresch stated that they have submitted written comments regarding the landfill. She requested that the Regional Board not modify the requirements in the order. Ms. Tresch indicated that cleanup and abatement and closure should begin now.

MOTION: John Corbett moved to adopt item 14 with discussion. Gerald Cochran seconded the motion: Motion passed. William Massey abstained.

15. Order No. R1-2004-0039, **Recision of Waste Discharge Requirements**, NPDES Permits and Monitoring and Reporting Programs for the following Industrial Facilities, Humboldt, Mendocino and Sonoma Counties

MOTION: John Corbett move to adopt items 12, 13, and 15. Gerald Cochran seconded the motion. Motion passed unanimously.

Chairman Massey commended Bob Tancreto and Terri Kinney on their work on the Sonoma landfill.

Action Items

16. PUBLIC HEARING (CONTINUED FROM THE MAY 11 AND 12, 2004, BOARD MEETING) Order No. R1-2004-0016, to Consider Adoption of Negative Declaration and **Categorical Waiver for Timber Harvest Activities** on Non-Federal Lands in the North Coast Region

Frank Reichmuth addressed the Board by giving background information on waiver activity. Mr. Reichmuth entered into the record charts that were written on the Boardroom wall and the two aerial, remote sensing based photo-maps (timber harvesting maps showing Oregon and Northern California) that were displayed there as well.

He discussed the two types orders being proposed concurrently at today's hearing: a general categorical waiver of waste discharge requirements for timber operations that meet certain eligibility criteria, and general WDRs for operations not eligible for coverage under the waiver. The categorical waiver and General WDRs are the first steps in the Regional Board's plan to adopt individual watershed or ownership wide WDRs for those watersheds that are in need for recovery of beneficial uses.

Fred Blatt entered into the record the revised order, comments, and staff responses to the comments. Mr. Blatt covered the significant changes, as suggested by Board members and changes recommended by staff as a result of the comments received, in the Order.

Mr. Blatt discussed four options that the Board could consider for addressing already approved THPs, and submitted but not yet approved THPs, when adopting the Categorical Waiver for Timber Harvest Activities on Non-federal lands.

Mr. Blatt stated that staff hopes that the Board will adopt both the waiver and General Waste Discharge Requirements so that they both can go into effect at the same time.

Comments were taken from:

Bill Snyder, California Department of Forestry and Fire Protection
Tom Schultz, Mendocino Redwood Company
Steve Horner, Pacific Lumber Company
Bernie Bush, Green Diamond Resource
Johanna Rodoni, Executive Director of the Buckeye Conservancy
Ms. Tospen ENTP
Dan Fisher, Fruit Growers Supply Company
Lane Russ
Alan Levine, Coastal Action Group
Mike Lozeau, EPIC, Humboldt Watershed Council, and Earthjustice
Sal Steinberg, Friends of the Van Duzen
Craig Bell, Salmonid Restoration Federation
Daniel Myers, Mendocino Group Redwood Chapter Sierra Club
Dan Weldon, Forest Landowners of California

Board Discussion:

Mr. Grundy stated that he wanted a clarification of what was the pending item before the board. Chairman Massey asked staff why it is not advisable to not adopt the waiver today. Ms. Kuhlman stated that the State Board has a draft order pending that could invalidate the existing waiver before the Regional Board could take this item up at a future meeting, and if that happened, it is that the result could be no timber operations would be able to happen for the rest of the year.

Mr. Corbett stated that the Board is dealing with many issues and that can get confusing. Because we do not have unlimited staff, the board will need to pick and choose between tough options. The Board recognizes that it is not desirable to place a disproportionate burden on the non-industrial timber operations, where they are not the problem, and therefore a more complex approach was appropriate.

MOTION: John Corbett moved to adopt the original staff draft Order for the, Categorical Waiver for Timber Harvest Activities, as it was mailed for

the June 2004 board meeting. Richard Grundy seconded the motion.

MOTION: John Corbett moved to amend the original document to the revised document distributed to the Board on June 23, 2004 with the yellow and blue markup. Richard Grundy seconded the motion.

MOTION: John Corbett moved to adopt Option 4 of the Grand Personing and adding, "all other dischargers", and time frame. Gerald Cochran seconded the motion.

The Board deliberated on the issue of how to deal with those THPs that have been submitted to, but not yet approved by, CDF. The board engaged with some consultation with staff as to how different scenarios would play out and the related timelines, coming to a general consensus that the new waiver should give such projects until October 15 to gain compliance under the new waiver.

Sheryl Schaffner made four suggestions for technical amendments to the proposed language to effectuate the Board's intent regarding Option 4. First, Ms. Schaffner suggested that the last sentence, regarding rescision, in finding number 6 on page 1, be removed. Second, she suggested that the last paragraph on page 5, that begins with "IT IS HEREBY ORDERED that effective June 23, 2004...." be removed. Third, she suggested that, on page 6, top of the page, the paragraph that begins "It is further ordered that projects that have been accepted for filing but not yet approved ..." be removed as well. And fourth, Ms. Schaffner suggested that the Option 4 language - - the language replacing the removed language just noted - - be amended to read as follows:

"IT IS HEREBY ORDERED that effective June, 23, 2004, Order No. R1-2003-0116 is rescinded, except for application to Projects that have been accepted for filing but not yet approved by the California Department of Forestry and Fire Protection as of the adoption date of Order No. 2004-0016 and Order No. R1-2004-0030. Such projects are eligible for coverage under Order No. R1-2003-0116, until October 15, 2004, should they qualify under the terms of that order. All Dischargers seeking coverage under this Order shall comply with the following:"

MOTION: The mover and seconder accepted counsel's recommended language changes. Motion passed unanimously.

MOTION: John Corbett moved to adopt the Negative Declaration for proposed order R1-2004-0016 and include the proposed waiver. Richard Grundy seconded the motion.

MOTION: John moved to adopt with the negative declaration the Order R1-2004-0016. Gerald Cochran seconded the motion. Motion passed.

The board observed lunch at 12:20 p.m. and returned at 12:59 p.m.

17. PUBLIC HEARING Order No. R1-2004-0030, to Consider Adoption of a Negative Declaration and **General Waste Discharge Requirements for Timber Harvest Activities** on Non-Federal Lands in the North Coast Region

Chairman Massey administered the oath to those who expected to participate in the hearing. Fred Blatt admitted into the record the administrative record, amendments, public comments and staff response to those comments. Mr. Blatt introduced the tentative order that staff propose for adoption. Mr. Blatt covered the changes made in the order as a result of the public comments, board suggestions, and the changes for clarification purposes.

Comments were accepted from:

Bill Snyder, California Department of Forestry
Peter Ribar
Tom Shultz, Mendocino Redwood Company
Steve Horner with Pacific Lumber Company
Bernie Bush with Green Diamond Timber Company
Al Alan Levin, Coastal Action Group
Mike Lozeau, representing EPIC
Sal Steinberg, with the Van Duzen

Mr. Corbett and Mr. Grundy thanked bill Snyder for CDF cooperation.

The Board observed a 5-minute break at 2:24 p.m. and returned at 2:30 p.m.

- MOTION: John Corbett moved to incorporate the changes highlighted in the Waste Discharge Requirements June 23, 2004, draft document that with the blue and yellow markings. Gerald Cochran seconded the motion. Motion passed unanimously
- John Corbett amended his motion to add a technical amendment under G page 7 to strike the word, "with the intent of", and replace it with, "to prevent discharge". Richard Grundy seconded the motion. Motion passed unanimously.
- John Corbett amended his motion (page 20 under the section 5 recision of denial of coverage) to insert a new paragraph 8 that reads "the project meets the general waste discharge requirement conditions, but may still result in a discharge that could effect the quality of water of the State. Richard Grundy seconded the motion. Motion passed unanimously.
- John Corbett moved to choose Option 4 as amended in order number R1-2004-0016 with the date of October 15. With the strikeouts on page 5 of the white copy. Motion passed unanimously.
- John Corbett moved to adopt Order No. R1-2004-0030 the original document presented to the board on June 9 version of R1-2004-0030 as amended by the prior motions. Gerald Cochran seconded the motion. Motion passed unanimously.

John Corbett moved to approve the Negative Declaration. Gerald Cochran seconded motion. Motion passed unanimously

John Corbett moved to adopt the WDR as amended in the previous motions. Gerald Cochran seconded. Motion passed unanimously.

MOTION:

John Corbett moved It is the Board's intent that, within 180 days following the enactment of this Order, the Executive Officer shall prepare and submit to the Regional Water Board a report describing the application of General Waste Discharge Requirements Section V A 4 and 5, Categorical Waiver Section V A 5 and 6 to all the watersheds within Region One. The purpose of this report will be to evaluate which watersheds and watershed segments warrant additional regulation. Such a review will give, in addition to the above criteria, special attention to 303 (d) designated watersheds, and the ability to streamline the Timber harvest approval process whether there could be environmental improvements prior of development of TMDLs adopted pursuant Section 303 (d) of the Federal Water Pollution control Act. This applies to both orders R1-2004-0016 and R1-2004-0030. Richard Grundy seconded the motion. Motion passed unanimously.

John Corbett directed staff to provide the Board with on going evaluations of what is working and what is not working.

There being no further business to come before the meeting body, the meeting adjourned at 2: 45 p.m., until the next scheduled Board Meeting for August 25, 2004.

The Secretary, Jean Lockett recorded the minutes of the June 22 and 23, 2004, Board meeting of the North Coast Water Quality Control Board.

Chairman _____

Date: _____