

California Regional Water Quality Control Board
North Coast Region

Minutes of August 22, 2002
Regional Water Board Meeting
Redwood Acres
Harris Street
Eureka, CA

Thursday, August 22, 2002

Chair Massey opened the Regional Water Board meeting at 8:00 A.M. The Board immediately went into closed session.

9:00 a.m.

Chair Massey opened the Regional Water Board meeting to the public. There were no reports from closed session.

i. **Pledge of Allegiance**

Jack Selvage led the Pledge of Allegiance

ii. **Roll Call**

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

Regional Water Board Staff Present: Executive Officer, Susan Warner; Legal Counsel, Sheryl Freeman and Erik Spiess; Division Chief, Robert Tancreto and Nathan Quarles; Seniors, John Short, Tuck Vath, Diana Henriouille-Henry, and Holly Lundborg; Technical Staff: David Kuzmar, Adona White, Dean Prat, and Joelle Geppert; Administrative Staff, Greg Nash, Terri Korell, and Jean Lockett

iii. **Minutes of Past Meetings**

The March 27, 2002, minutes were presented for approval.

MOTION: Bev Wasson moved to approve minutes of the March 2002 board meeting. John Corbett seconded the motion. Motion passed unanimously.

iv. **Board Member Ex Parte Communications**

Sheryl Freeman summarized Ex Parte communications as an opportunity for Board members to disclose any Ex Parte communications they had regarding any item(s) pending before the Board.

No Ex Parte communications were reported.

iv. **Public Forum**

There were no participants for public forum

**CONSENT CALENDAR
WASTE DISCHARGE REQUIREMENTS**

Jack Selvage recused himself from the consent calendar.

1. *Order No. R1-2002-0076 Fairhaven Power Company*, Humboldt County, renewal of Waste Discharge Requirements (NPDES Permit No. CA0024571), WDID No. 1B85026RHUM

Susan Warner called the Board's attention to an errata sheet for Fairhaven Power Company to be entered into the record.

MOTION: John Corbett moved to adopt Order No. R1-2002-0076 with the submitted errata sheet. Dina Moore seconded the motion. Motion passed with six votes.

WASTE DISCHARGE REQUIREMENTS FOR DISCUSSION

2. *Order No. R1-2002-0042 Sierra Pacific Industries, Inc.*, Arcata Division Sawmill, Humboldt County, Issuance of Waste Discharge Requirements (NPDES Permit No. CA0024520), WDID No. 1B830650HUM

Dina Moore and Jack Selvage recused themselves from this item.

Chair Massey opened the floor to members of the public to speak on the Sierra Pacific Industries, Inc. item.

There were no responses from the audience.

MOTION: John Corbett moved to adopt Order No. R1-2002-0042, including the errata sheet. Bev Wasson seconded. Motion passed unanimously

CORRECTIVE ACTION

3. **Samoa Pacific Celulose, LLC** was removed from the agenda.

OTHER BUSINESS

4. **Part I: Background on City of Santa Rosa on Long Range Plan on waste disposal system**

Bob Tancreto briefly discussed the history of the City of Santa Rosa's wastewater treatment facility and how it has been expanded and upgraded over the last 50 years to protect public health and water quality. He described the Regional Water Board's role over the years including: 1) establishing waste discharge requirements for the first modern treatment plant in 1950. 2) The Regional Water Board investigations and enforcement which led to a major upgrade of facilities in the 1970's including removal of all discharges from the Russian River in the summer months. 3) The Regional Water Board enforcement actions and Basin Plan Amendments in 1995 and beyond which led to the current upgraded facility designed to protect public health, water quality while recycling the majority of waste flow.

Mr. Tancreto gave information on the upcoming tour on September 25 and indicated that part 2 of the day's presentation is scheduled for the September 26 board meeting.

Ed Brauner described the City of Santa Rosa's Sub-regional Reclamation System. He stated that the system covers the cities of Cotati, Rohnert Park, Santa Rosa, and Sebastopol. He displayed a map outlining the facility, and photos of its operations. Mr. Brunner described the method used to treat, store, and recycle sewage water for irrigation purposes.

Mr. Brauner reported that the Geyser pipeline has been constructed to carry 16 million gallons of water a day. The pipeline that extends out to Alexander Valley will carry 40 million gallons of water a day. The existing Incremental Recycled Water program system alone with the Geysers will include irrigation and geyser discharges.

Jack Selvage asked about the Geysers' capacity. Mr. Brunner stated that the Geyser pipeline has a 16-million gallon a day capacity, but has the ability to take on more water. Mr. Selvage asked if a study to test the full capacity of the Geysers was scheduled. However, Mr. Brunner indicated that the City would be evaluating capacities.

Brenda Adelman implied that the Laguna is listed on the 303(d) list because there are serious problems. The City did not mention the endangered species, nor concerns that the Incremental Recycled Water Project is unnecessary.

10:30 – 10:42 The Board observed a break.

At the public's request, Chair Massey re-opened the Public Forum for a late arrival.

Lia Alcontera voiced her concerns for the water quality in the Mattole watershed. Pacific Lumber Company is logging under five THPs in the area. She requested that the Regional Water Board consider the Mattole area in a state of emergency and take action.

Jack Monn stated that he is passionate about the Mattole area, and feels that it needs the Board's urgent attention by ordering Pacific Lumber Company to stop logging.

5. Update on implementation of SB 390 on Waivers of Waste Discharge Requirements

Susan Warner referred to written material prepared by Ben Kor on the SB 390 Waivers. Ms. Warner stated that two separate public hearing are scheduled for the September 26 Regional Water Board meeting.

- The first hearing will address the waivers of waste discharge requirements with exception of the timber harvesting waivers. The staff report addressing only non-timber waivers includes changes in recommendations that staff previously proposed to the Board.
- The second public hearing is scheduled as a scoping hearing to address the timber harvesting waivers. No Board action is being requested for this hearing. Staff is drafting a revised proposal for addressing timber harvesting waivers, and a proposal to address timber-harvesting operations, which may not qualify for waivers.

Dina Moore questioned what would happen when the waivers sunset on January 1, 2003 and there are no replacements. Ms. Warner suggested that the Board could issue waivers on a case by case basis.

Mr. Corbett complimented staff on the SB390 report.

Mark Rentz indicated that the waivers were critical and expressed an interest in receiving a draft of the waivers before the September 26 board meeting.

Ms. Warner gave clarification on the waiver scoping hearing schedule for September 26 board meeting. She stated the hearing is to develop the scope of alternative procedures for waiving waste discharge requirements for timber harvest operations.

Bernie Bush with Simpson Timber Company relayed his concerns on the staff report being available in order to submit comments before the September 26 board meeting.

6. Update on Facilitated Watershed Working Group, Monitoring, Cleanup Activities, and TMDLs for Elk River, Freshwater, Jordan, Bear, and Stitz Creeks

Jack Selvage recused himself as advised by the Fair Political Practices Commission.

Holly Lundborg spoke on the Regional Water Board staff's current activities in Elk, Freshwater, Jordan, Bear, and Stitz Creeks. She indicated that activities in the last month have been:

- On-going activities to gather, analyze, and identify technical information needed to develop a TMDL with the emphasis on Freshwater and Elk.

- As a part of the Regional Water Board Public Outreach Program, information has been distributed to Elk and Freshwater residents and stakeholders, informing them of the activities, meetings for the TMDL, and to seek participation.
- The Regional Water Board received \$600,000 of State Water Board Cleanup and Abatement Funds to expedite the TMDL
- Staff worked with CONCUR to formalize the scientific review process.
- The second TMDL meeting was held with Freshwater Creek and Elk River residents, and stakeholders.
- A Proposition 50 grant request for \$5 million was submitted to the State Water Board for cleanup activities for the Humboldt Freshwater and Elk area.
- Monitoring and Reporting Program was issued to Pacific Lumber Company to develop instream data for the Elk River TMDL.
- The Scientific Review Committee progress entailed:
 - Selection of the scientific review panel
 - Use of the convening committee's criteria to finalize panelists
 - Panel to have ready a report for the October Board meeting
 - Panelist would view the watersheds on September 12, 13, and 14.
 - There are 54 people signed up to be a part of the facilitated Watershed-working group. The Watershed Working-Group's first meeting will be in September.

John Corbett inquired if the TMDLs were coordinated with the monitoring program. Ms. Lundborg's response was that staff used as much of Pacific Lumber Company's existing program as they could. The Regional Water Board staff choose stations consistent with, but not duplicative of, Pacific Lumber Company's existing monitoring.

Nathan Quarles updated the board on activities on monitoring, cleanup, the State Water Board Remand Order and the Report of Waste Discharge Order issued in August 2002, noting the following activities.

The Timber Harvest Plan 201:

Pacific Lumber submitted a Quality Assurance Control Plan on July 16. There were several deficiencies in the report. Mr. Quarles stressed the importance of having a good quality plan so that sound water quality data can be achieved. He indicated that the Regional Water Board staff and Pacific Lumber Company's employees will work together to come up with a more sufficient plan to gather sound water quality information.

Pacific Lumber Company's Monitoring Status Report is five days overdue to the Regional Water Board. Staff was informed that the report will be submitted soon. To date 11 plans have been inspected and, timber harvest plans are being reviewed for potential remediation or cleanup sites.

Cleanup Activities:

On June 21, 2002, an order was issued under Section 13267 of the California Water Code directing Pacific Lumber Company to submit a technical report to identify early abatement actions for the Elk River watershed, followed by issuance of a cleanup Order on August 1st.

State Board Remand Order:

In early August, the Executive Officer issued an Order directing Pacific Lumber to submit a Report of Waste Discharge concerning winter operations in the Elk River watershed. The Regional Water Board received a "20-Day letter" from the State Water Board requesting the records of Pacific Lumber Company and the five watersheds. The letter was in response to a re-petition by the Humboldt Watershed Council on May 8, 2002, objecting to the Regional Boards remanded proceedings to date.

Ms. Warner further described the "20-Day letter", noting that on August 6, 2002, a letter was sent to her and Mr. Brecher stating that the State Water Board received a petition filed on behalf of the Humboldt Watershed Council on May 8, 2002. The letter stated that the State Water Board will consider an order addressing the issues cited in the petition at a public workshop on October 2 or 3, 2002.

Jim Branham of Pacific Lumber Company indicated that Pacific Lumber Company wanted to work closer with the Regional Water Board staff. Mr. Branham questioned Pacific Lumber Company receiving a monitoring order without their input. The three orders (cleanup and abatement, monitoring, and request for report of waste discharge) issued to Pacific Lumber Company cause a burden to the Company. If logging is shut down in Freshwater, workers will be laid off.

Guy Bravo stated that Pacific Lumber Company is one of the few companies that will pay more than ten dollars an hour in wages. He voiced his support in Pacific Lumber Company's efforts to rescind any regulations issued by the Regional Water Board.

Jay Bell, a Pacific Lumber Company employee, asked the Regional Water Board for a level playing field by giving them rules.

Randy Anderson, with Pacific Lumber Company stated that Pacific Lumber Company in their efforts to follow the Regional Water Boards directions have changed how they conduct business. He asked Regional Water Board to work out a fair agreement.

Hugh Hauer suggested there was a prejudice against Pacific Lumber Company. He added that Pacific Lumber Company is not the only company that contributes to the sediment down stream. He urged the Regional Water Board to make a fair decision.

Jesse Franks stated Pacific Lumber Company layed off 300 employees last year. Families are devastated by the financial hardship. Mr. Franks asked the Board to work with Pacific Lumber Company.

Ed Underwood indicated that the regulations imposed on Pacific Lumber Company affects his family. If Pacific Lumber Company lay employees off because of the

Regional Water Board insistence on imposing the regulations, every family in the county will be effected.

Jim Hinrichs said that the regulations the Regional Water Board has imposed on Pacific Lumber Company will stop logging. He opposed regulations on logging.

Frank Vitgenos indicated he worked for Pacific Lumber Company for 10 years. He requested that the Regional Water Board investigate other logging companies and not just Pacific Lumber Company.

Ron Bush, employed with Pacific Lumber Company for 30 years, requested the Regional Water Board to direct the staff to cease the bias behavior towards Pacific Lumber Company.

Don Luther stated Pacific Lumber Company is following the agreement of the THP. The old logging practices have caused sediment in the streams. To shut down Pacific Lumber Company will affect every family in the county.

Rod Sanderson, a pastor of Rio Del area and a Pacific Lumber Company employee, stated the Regional Water Board's decisions will affect the community a great deal.

Steve Horner stated that science is a valuable tool used by the opposition. If regulations are necessary Pacific Lumber Company will abide by it, but don't regulate before considering the facts.

Allen Cook implied that the condition of Freshwater Creek was good in 1975. It wasn't until 1999 when the creek was listed for water impairment. Mr. Cook suggested that residents have supported and will continue to support the TMDL efforts.

Rick Ross asked what were the facts used to regulate to Pacific Lumber Company. He expressed hope that the agencies involved, will come together and resolve the issues.

Gerald Farnsworth voiced his concerns on the financial affect that it will have on his family.

Sal Chinnici, a Pacific Lumber Company employee, implied that Pacific Lumber Company has a HCP and designs that help keep sediment out of the stream. He said that Pacific Lumber Company is being singled out.

John Sneed urged the Regional Water Board to consider the impact of a waste discharge requirement order. The Regional Water Board's action will cause considerable hardship for families. Pacific Lumber Company seems to be under stringent operating restrictions.

Barry Dobosh stated that scientific reviews were not performed before the report of waste discharge requirement was issued. He requested the Regional Water Board to direct its staff to look at the good efforts of Pacific Lumber Company.

Matt Dias discussed the history of the forest industry in Humboldt County. Mr. Dias stated that Pacific Lumber Company is being singled out.

Sandra Von Arb, a wild life biologist with Pacific Lumber Company, voiced her disappointment that the Regional Water Board staff is targeting Pacific Lumber Company. She urged the Regional Water Board to let the HCP work.

Robert Vogt stated that the hardship that employees are being put under is affecting the community. Pacific Lumber Company and the Regional Water Board need to work together and come up with a solution.

Len Nelson stated that the report was unnecessary and requested the Regional Water Board to order its staff to rescind the order.

Robert Darby indicated that people have observed a high level of fish in the north watersheds.

Steve Jorgensen said Pacific Lumber Company has waited for over two years to get its THP plans approved. Although, he does not agree with the report of waste discharge requirements, he will take on the challenge of making sure that sediment doesn't enter into the streams in the wintertime. He urged the Regional Water Board to direct its staff to work with Pacific Lumber Company.

Ken Miller suggested that the Pacific Lumber Company employees read the Charles Horowitz's report that predicted the present situation in the watersheds. He stated he supports the Regional Water Board issuing the order. He asked the Board to issue a 13267 order for Bear, Jordan and Stitz before the winter months.

Adrian Miller stated that the winter road restrictions limit Pacific Lumber Company's winter operations.

Michael Dunkelberger, a Pacific Lumber Company employee, indicated that the orders issued by the Regional Water Board have created adverse communications with Pacific Lumber Company employees. He urged the Regional Water Board staff and Pacific Lumber Company to work together.

Harriet Lou Hill, a resident of Lower Freshwater Creek, voiced her appreciation to the Regional Water Board for taking action in Elk watershed. She requested that the Board request a report of waste discharge for Freshwater before the winter operation months.

Ayr stated she believed that Pacific Lumber Company is being singled out. She voiced her concerns for the drinking water and the employment of the people.

Joyce King, with the Freshwater Working Group, thanked Pacific Lumber Company for their efforts in taking the responsibility to work with the Regional Water Board staff. She voiced her understanding for the employee's concerns in losing their jobs, but hopes that Pacific Lumber Company will need to look at their timber practices.

Kristi Wrigley thanked the Regional Water Board for issuing the report of waste discharge requirements, and reminded the Board that it has taken five years to get to this point.

Eliza Barrett said that she felt threaten by the herbicides and the logging in the watershed areas.

Nananada stated that the Regional Water Board's decisions are very important for the drinking water of the people.

7. Economic Analyses and the California Water Code

Sheryl Freeman, Regional Water Board counsel, discussed economic analysis considerations. Ms Freeman said that the subject of economic analyses occurs with several actions of the Board:

Economic effects must be considered in the Basin Plan process, specifically when:

- adopting water quality objectives;
- designating or de-designation beneficial uses,
- when adopting a TMDL action plan,
- adopting agricultural policies, and
- when adopting a rule that requires the installation of specific pollution control equipment.

There are specific statutory directives to consider certain economic effects in assessing enforcement liabilities, such as:

- The ability of the discharger to pay
- The affect to the discharger

Ms. Freeman discussed various instances when the Board is required to consider economics and when there are no requirements. There is a state board unit that assists Regional Water Boards with the process of economic analyses.

Susan Warner asked for specific directions from the Board on what information on economics consideration would they like brought back to them at a future Board meeting.

Board members and Ms. Warner discussed the economic analysis process used for the Garcia TMDL. There was a lengthy discussion on what the Regional Water Board would like to see in terms of information for staff or the procedures for considering economic analyses.

Richard Grundy stated that he had concerns when public health standards are compromised in an economic test. He requested clarification on the terminology used, standard setting, and permit issuance.

A lunch break was observed at 12:06

8. Update of the North Coast Regional Water Quality Control Board Press Policy

Ms. Warner discussed the North Coast Regional Water Quality Control Board's official Press Policy. Ms. Warner stated, that the press policy was outdated and needed revisions.

MOTION: Dina Moore moved to adopt the Resolution on the press policy. John Corbett seconded the motion. Motion passed unanimously

9. Update on Prop 13 Grants

Ms. Warner stated that Dave Hope's presentation was re-scheduled for the September Board meeting.

11. Update on Municipal areas subject to Storm Water Phase II permitting

John Short updated the board on the Storm Water Phase II permitting program. He gave a brief history of the stormwater permit history. The Chair asked what would a municipality have to do in terms of monitoring. Mr. Short responded by saying it is up to the communities to develop their own program.

12. Violation and Enforcement Report

This item stands as written.

13. Executive Officer Administrative Civil Liabilities

Ms. Warner reported that Administrative Civil Liabilities was issued to Hopland Public Utilities District for about \$45,000, and to Sonoma County Water District.

14. State and Regional Water Board Communications

Gary Carlton, State Water Board liaison, gave a brief report on some of the activities of the State Water Board.

Water Rights Issues

There is a pending application for water transfer from the Imperial Irrigation District to the San Diego Water Authority. A draft order on water transfer issues will be available in mid or late September.

The second issue in water rights or water transfer has to do with an application filed by several communities in the Delta area to divert water from the Sacramento River to fulfil the area's growing needs.

Stormwater Phase II

The stormwater program will involve development of programs and permits for communities under 100,000. Mr. Silva has conducted a workshop to get public input on the proposed draft of the Phase II regulations.

Stormwater Phase I

Permits for Phase I, which are issued to communities with larger than 100,000 population is being issued. The State Water Board has received a number of petitions from the Southern California area regarding these permits.

Total Maximum Daily Load

The central valley and southern areas of California have a great deal of TMDL activity related to beach closures and bacterial contamination. As the State move forward with the TMDL programs, questions are being raise to the Basin Planning Document.

California Toxic Rule

There are a couple of petitions that raised issues on compliance schedules, protection of beneficial issues, effluent dominated waterbodies that came before the State Water Board regarding the California Toxic Rules, and the State Water Board's Implementation Plan for implementation of that rule.

Dina Moore asked how the Regional Water Board could balance their development with the TMDL for the Klamath basin water rights issues. Mr. Carlton replied that the issue has not been dealt with, as yet.

EXECUTIVE OFFICER'S REPORT

15. Monthly Report to the Board

This item stands as written.

16. Leaking Underground Storage Tanks/Sewage Spills

This item stands as written.

17. Proposition 65 Notifications

This item stands as written

18. Other Items of Interest

Public Forum

Dr. Denver Nelson spoke on the Klamath River. He stated that he spoke at the May 16th Board meeting on wells being drilled in the area, and the water had mercury and the temperature of the water was too hot. He also reported that the town of Bonanza has problems with their drinking water.

MOTION: John Corbett moved for adjournment. Shawn Harmon seconded the motion to adjourn. Motion passed unanimously.

There being no further business to come before this meeting body, the meeting adjourned at 4:52 p.m., until the next scheduled Board meeting on September 25 and 26, 2002

The Secretary, E. Jean Lockett recorded the minutes of the August 22, 2002, meeting of the North Coast Water Quality Control Board, to be approved by the Board at a subsequent Board meeting.

_____ Chair

_____ Date