

California Water Quality Control Board
North Coast Region

MINUTES OF MEETING

8:30 a.m., August 9, 2006
Regional Water Board
5550 Skylane Blvd., Ste. A
Santa Rosa, CA 95403

Wednesday, August 9, 2006

Chairman William Massey opened the board meeting at 8:55 a.m.

i. **Pledge of Allegiance**

John Corbett led the Pledge of Allegiance

- ii. **Board Members Present:** Bob Anderson, Gerald Cochran, John Corbett, Heidi Harris, and William Massey

Regional Water Board Staff: Catherine Kuhlman, Luis Rivera, Robert Klamt, Sheryl Schaffner, Samantha Olson, Tom Dunbar, Holly Lundborg, John Short, Rebecca Fitzgerald, Ranjit Gill, Bruce Ho, Mark Neelly, Dave Evans, Janice Goebel, Greg Nash, Michelle Bautista, Drew Bayless, and Jean Lockett

iii. **Board Member Ex Parte Communication Disclosure**

There were no reports of ex parte communications.

iv. **Public Forum**

There were no speakers for public comment.

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

The State Water Resource Control Board liaison was not in attendance due to a conflict in his schedule.

Catherine Kuhlman stated that the Regional Water Board has new hires. She called upon Tom Dunbar to make the introductions. Mr. Dunbar stated that two previous Regional Water Board staff returned as retired annuitants returned to the Enforcement Unit: Bill Rodriguez, and Manual Baldenegro. Mr. Dunbar also introduced Jeremy Bricker, new to the Regional Water Board, who was also hired to work in the Enforcement Unit.

The Board welcomed the returning retired annuitants and the new staff member to the Regional Water Board.

Ms. Kuhlman updated the Board on the Green Music Center at Sonoma State University. She stated that the Regional Water Board issued a permit to the Green Music Center, and that they are seeking a long term solution that will not include groundwater pumping.

There was a brief discussion on the draft memo addressed to the State Water Resources Board chair concerning mandatory minimum penalties. Ms. Kuhlman stated she had copies of the draft memo for the Board members.

1. **Approval of Meeting Minutes:** May 17, 2006

The May 2006 Minutes were presented for approval.

MOTION: Gerald Cochran moved to adopt the May 2006 Meeting Minutes. John Corbett seconded the motion. Motion passed unanimously.

The June 28 and 29, 2006 Minutes were presented for adoption.

MOTION: Bob Anderson moved to adopt the June 2006 Meeting Minutes with amendments. Gerald Cochran seconded the motion. Motion passed unanimously.

Consent Item

2. Order No. R1-2006-0053, **Bohemian Grove**, Wastewater Treatment Facility, Issuance of Waste Discharge Requirements, WDID No. 1B05160RSON

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

Action Items

3. PUBLIC HEARING to consider Order No. R1-2006-0067, Proposed Waste Discharge Requirements for **Willits Environmental Remediation Trust and The City of Willits Page Property** Groundwater Extraction and Treatment System NPDES Permit No. CA0025143, WDID No. 1B06008NMEN

Chairman Massey administered the oath to those who expected to testify.

Dave Evans, Senior Engineer in the Cleanup Unit, gave a brief presentation describing the proposed Resolution that approved an Initial Study/Checklist, Negative Declaration for the proposed ground water extraction, treatment system, and a new Waste Discharge Requirements that severs as a National Pollutant Discharge Elimination System Permit.

There was a brief discussion on a late written submittal that was received early morning the day of the Board meeting. The submittal was similar in substance to a previously submitted comment that was timely and already considered. After the discussion, the late submittal was not accepted into the record.

Ann Farr, representing Willits Mediation and Trust, assured the Board that they were working with the Regional Water Board staff to address the contamination. She briefly described a cleanup plan that is to be implemented as soon as the proposed permit is adopted.

Comments were taken from:

Ken Berry, representing WCEJ

MOTION: John Corbett moved to adopt Resolution R1-2006-0082 and Order No. R1-2006-0067 and the Errata. Heidi Harris seconded the motion. The motion passed unanimously.

4. PUBLIC HEARING to consider Resolution No. R1-2006-0042 and Order No. R1-2006-0043, Watershed-wide Waste Discharge Requirements for Timber Harvesting Plan Activities Conducted by, or on Land Owned by, the **Green Diamond Resource Company** in the South Fork Elk River Watershed, Humboldt County

Chairman William Massey administered the oath to those who expected to testify.

Mark Neely, Senior Engineering and Geologist, gave a brief description of the proposed WWDRs for the Green Diamond Resource Company in the South Fork Elk River Watershed. Mr. Neely stated that the difference in the WWDRs for Green Diamond Resource Company and Pacific Lumber Company is that the dischargers submitted significantly different project proposals.

He told the Board that Green Diamond Resource Company will institute the "South Fork Elk River Management Plan", instead of special logging prescriptions under a Habitat Conservation Plan; and that the WWDRs for Green Diamond Resource Company rely on the CDF process to fulfill the California Environmental Quality Act (CEQA) requirements, therefore alleviating the need for the project to undergo environmental review at the time of enrollment under the WWDRs.

The Regional Water Board staff is developing Total Maximum Daily Loads for sediment in Elk River and Freshwater Creek that will eventually be the controlling factor for sediment discharges.

Mr. Neely concluded his presentation by saying that once the permit is adopted the Regional Water Board, staff will shift its efforts to developing an appropriate permitting mechanism for small landowners in the Elk and Freshwater watersheds.

After the Board discussion the following finding was added to the permit:

30 a. Nothing in these findings or provisions will serve to preclude the Regional Water Board from enrolling other landowners (for example, small landowners) in the GWDRs, Categorical Waiver, or other permitting mechanism.

MOTION: Heidi Harris moved to adopt Resolution No. R1-2006-0042 and Order No. R1-2006-0043 with the amendments. John Corbett seconded the motion. Motion passed unanimously.

5. PUBLIC HEARING to consider Order No. R1-2006-0081, adoption of a conditional waiver for the **Scott River TMDL**

Holly Lundborg, Regional Water Board staff, provided an overview of the Regional Water Board and State Water Board's actions taken on the Scott River and Shasta TMDLs in the last several months. She stated that the purpose of the day's hearing is to adopt the Scott River TMDL Action Plan so that the TMDL will be in compliance with the May 2004 State Non-point Source Policy, as directed by the State Water Board. Ms. Lundborg discussed the five elements of a non-point source pollution control program that would comply with the waste discharge requirements, and waivers or prohibition that is required by the State's Non-point Source Policy. Ms. Lundborg concluded by saying that the approach for the Scott TMDL is similar of that taken with the adopted Shasta TMDL.

MOTION: Gerald Cochran moved to adopt Order No. R1-2006-0081. John Corbett seconded the motion with amendments. Motion passed with the amended language.

6. PUBLIC HEARING Order No. R1-2006-0068, to consider whether to affirm, reject, or modify a complaint for administrative civil liability issued on May 10, 2006, and/or take other enforcement action in the Matter of **Klamath CSD** Wastewater Treatment Facility for Violation of Cease and Desist Order No. R1-2006-0003

John Corbett recused himself from this item, and the remaining Board Members heard the item as a panel. Chairman Massey provided the hearing panel procedures, and explained that the panel would prepare and present a written report consisting of findings of fact and a recommendation for the full Regional Board's consideration at a regularly scheduled meeting.

Tom Dunbar, Regional Water Board staff, gave the presentation. Mr. Dunbar covered several tasks that the Klamath CSD needed to complete to bring them into compliance with the Cease and Desist Order No. R1-2006-0003. Klamath CSD has accrued daily penalties for submitting late and incomplete reports and other various incomplete tasks. Mr. Dunbar covered communications (oral and written) between the Regional Water Board staff and Klamath CSD regarding these tasks.

Mr. Fred Stockett, president of the Klamath Community Service District (CSD), addressed the Board by stating that there are several problems with employing the appropriate staff to operate the plant and manage the office. He stated that Klamath CSD pays such low wages that it is difficult to hire experienced people. Mr. Stockett gave steps that CSD has taken to help finance the cost that they would incur to bring them into compliance with the CDO. He asked the Board to consider Klamath CSD's small community and the annual income of its residents when the Board is considering the non-compliance penalties.

The panel made the following findings of fact for each alleged violation in the ACL Complaint, to be incorporated into its written recommendation, and required that Klamath CSD submit its audit report and various invoices to the Regional Water Board staff by August 21, 2006.

MOTION: Gerald Cochran moved that the panel prepare findings of fact, a report, and a proposed order consistent with the direction provided at the hearing, and recommend that the Regional Board impose civil liabilities on the Klamath CSD in the amount of \$5,000. Heidi Harris seconded the motion. The motion passed unanimously.

Panel Members: Heidi Harris, Gerald Cochran, Bob Anderson, and William Massey

Information Items

7. **Mandatory Minimum Penalties**

Mark Bradley, with the State Water Resources Control Board, Office of Enforcement, addressed the Board by updating them on the April 2006 WQCC discussion on issuance of mandatory minimum penalties. Mr. Bradley stated that the legislature established mandatory minimum penalties in 2000. This action was taken to address the assertion that the Regional Water Boards were not issuing enough enforcement actions.

Mr. Bradley covered the:

- economic benefit of violations
- payment schedules for ACLs
- use of supplemental projects in settling ACLs
- mandatory minimum penalty statutory requirements, and
- compliance projects for small communities.

8. **Status report on the Region Wide Sediment amendment**

It was noted that there will be an update on the Sediment Amendment at the September 2006 Board meeting.

9. **Executive Officer Administrative Civil Liabilities**

There were no reports.

10. **Board Member Requests for Future Agenda Items**

Ms. Kuhlman reminded the Board of the upcoming WQCC meeting in Sacramento the latter part of October 2006.

11. **Strategic Planning**

Ms. Kuhlman briefly discussed several ways that the Board may want to hold a discussion on strategic planning. The discussion concluded with Ms. Kuhlman committing to bring more information back to the Board at the September 2006 Board meeting.

12. **Monthly Report to the Board**

This item is written.

13. **Other Items of Interest**

The Board did not express any items of interest.

Reports from closed session are as follows:

- Ms. Schaffner reported that in closed session the Board gave direction to counsel regarding a proposed settlement in the *John Green; Green Right O'Way Constructors v. North Coast Regional Water Quality Control Board*, matter.
- Ms. Schaffner stated that the Board also discussed a personnel issue, but there was no action taken.

There being no further business to come before the Regional Water Board, the meeting adjourned at 5:56 p.m. The next Regional Water Board Meeting is scheduled for September 19 and 20, 2006, in Santa Rosa.

Chairperson _____

Date: _____