

AGENDA ITEM 2 – BOARD MEMBER COMMUNICATIONS

Chair Longley submitted the following communications:

- 20 August 2020, Participated in a CV-SALTS Executive Committee virtual meeting
- 28 August 2020, Participated in a Discussion of HAB Outbreak in Stockton Area Chaired by State Board Member Tam Doduc via Zoom
- 14 September 2020, Participated in a Salty 5 (CV-SALTS) conference call
- 17 September 2020, Participated in a CV-SALTS Executive Committee virtual meeting
- 23 September 2020, Participated in a discussion of E. Coli Contamination in the Lower American River via Zoom
- 24 September 2020, Participated in discussion of AMD issues at Bully Hill via MS Teams
- 5 October 2020, Participated in monthly Regional Boards Chairs' Meeting via MS Teams

Member Kadara submitted the following communications:

- 12 September 2020, Participated in the Community Voices on Local Regional and Statewide Water Management Panel Discussion for the 2020 Rule Community Leadership Institute virtual meeting

Member Bradford submitted the following communications:

- 23 September 2020, Participated in a discussion of E. Coli Contamination in the Lower American River via Zoom
- 24 September 2020, Participated in discussion of AMD issues at Bully Hill via MS Teams

Raji Brar submitted the following communications:

- 9 September 2020, Participated in Appointments Workshop virtual meeting

AGENDA ITEM 3 – State Water Board Liaison Update

State Board Member Tam Doduc gave an update to the Board as follows:

- Looks forward to seeing Board Members at the WQCC virtual meeting. The tentative agenda includes two main objectives:
 - (Day 1) How COVID-19 has changed the way we operate as an organization and how current practices may affect us in the future.

- (Day 2) Racial Equity effort underway by the State Water Board as well as the Regional Water Boards.
- (Item not on the Agenda) Tam is hoping opportunity arises to discuss Governor Gavin Newsom’s Executive Order on Biodiversity
- The Final Draft of the Proposed Toxicity Provisions will be released from State Water Board staff by 30 October 2020.

AGENDA ITEM 4 – PUBLIC FORUM

- Juan Figueroa, Jr. (Terra Bella Resident) praised Setton Pistachio Farms for all they have done for the community and said the past odor issue(s) have been resolved.
- Executive Officer, Pulupa wanted to acknowledge that the Board Members received a letter from a group from Terra Bella that continues to make allegations about odor conditions. The Board’s Prosecution Team responded by conducting several inspections, follow-up on the citizens’ complaints and the Board did issue a Notice of Violation.

AGENDA ITEM 5 – EXECUTIVE OFFICER’S REPORT

Executive Officer’s Report

Executive Officer Pulupa discussed the follow:

Current Positions and Cutbacks:

- 270 Total Authorized Positions (Sacramento, Redding, and Fresno)
 - 31 vacant positions
 - 10% time-base reduction for “Personal Leave Program”
 - 5% redirected to CA Department of Public Health’s Contact Tracing Program
 - Cutbacks to Oilfield and Cannabis Programs

Permit Fees:

Approximately 60% of the permit fees go to permitting staff and the remaining 40% goes to “foundational” programs like SWAMP and Planning (TMDLs, Delta program, etc.)

State Water Board Fee Decision:

State Board adopted a modest fee increase in September 2020 which helped fund several new positions, including a new harmful algal bloom (HAB) position. However, fee increase did not fully fund all authorized positions across the regions.

Cannabis Reductions:

Revenues from fees were far lower than anticipated, resulting in extreme cutbacks to the Cannabis Program. Program staff was reduced by half (loss of 35 PY) and there was a significant foundational cut across all the Regional Boards (loss of 20 PY).

Racial Equity:

The Regional Board has dedicated 4 staff to participate in the Racial Equity Working Group and authorized 10-25% of staff time to serve for one or two years.

Comments Received from Board Members

Executive Officer Pulupa asked the Board if they had any questions comments on the topics just covered.

Member Kadara thanked Executive Officer Pulupa for all the efforts on the topics discussed above and if any of our Performance Measures have been affected by the COVID-19 crisis. Executive Officer Pulupa responded by stating that overall, we have been able to maintain our Program integrity and our high level of customer service.

Chair Longley commented on the innovative tools staff have been using while working from home to maintain productivity and how staff now prefer working from home because they can be more efficient and effective on the job. Executive Officer Pulupa agrees that we are an environmental agency and our greenhouse gas footprint goes down with a reduction of commuter vehicles on the roads.

Member Ramírez appreciated the updates presented and thanked Executive Officer Pulupa and staff for continuing to perform well under the circumstances and reduction in staff.

Member Brar echoed Member Kadara's and Member Ramirez' comments and asked a question regarding the impacts of the decrease in oil field positions and what impacts may be. Executive Officer Pulupa responded by stating that the decrease resulted in a couple of permitting positions in the oil fields program. The justification came from the fact that there is less activity in the oil producing areas.

Employee Recognition Awards

Executive Officer Pulupa presented the (Individual) Superior Accomplishment Awards to the following staff:

- Colt Brockman, Environmental Scientist in the Redding Office
- Stacy Gotham, Water Resource Control Engineer in the Redding Office

AGENDA ITEM 6 – ADOPTION OF MINUTES FROM PRIOR BOARD MEETING

Motion to adopt previous Board meeting minutes from August 2020.

MOTION TO ADOPT: Agenda Item 6

Motion Made by: Vice-Chair Ramirez
Seconded by: Member Bradford

Roll Call Vote:

Member Bradford Yes
Member Brar Yes
Member Kadara Yes
Vice-Chair Ramirez Yes
Chair Longley Yes

Approved by Roll Call Vote of 5-0-0.

AGENDA ITEM 7 – ADOPTION OF BOARD MEETING CALENDAR FOR 2021

- February 18/19
- April 22/23
- June 17/18
- August 12/13
- October 14/15
- December 9/10

AGENDA ITEM 8 – ADOPTION OF BOARD RESOLUTION

Approving an Initial Study and Adopting a Negative Declaration for Aerojet Waste Consolidation Unit Project

Comments on Agenda Item 8: None

Late Revisions

Assistant Executive Officer Laputz informed the Board that there were no late revisions and that the matter was now uncontested.

Legal Issues

The Board Chair asked if there were any legal issues to consider. Attorney Lancaster stated that there were no outstanding legal issues on this agenda item.

MOTION TO ADOPT Agenda Item 8

Motion Made by: Vice-Chair Ramirez
Seconded by: Member Kadara

Roll Call Vote:

Member Bradford Yes
Member Brar Yes
Member Kadara Yes
Vice-Chair Ramirez Yes
Chair Longley Yes

Approved by Roll Call Vote of 5-0-0

AGENDA ITEM 12 – GERMANO AND JACINTA SOARES, GERMANO SOARES DAIRY #1, STANISLAUS COUNTY – CONSIDERATION OF A CEASE AND DESIST ORDER

(AGENDA ITEM 12 WAS HEARD AFTER AGENDA ITEM 8)

Late Revisions

The Board Chair asked if there were any late revisions to consider. Executive Officer Pulupa stated that there were no late revisions for this agenda item.

Legal Issues

The Board Chair asked if there were any legal issues to consider. Attorney Lancaster (serving as the Advisory Counsel) stated that there were no outstanding legal issues on this agenda item.

MOTION TO ADOPT: Agenda Item 12

Motion Made by: Vice-Chair Ramirez

Seconded by: Member Bradford

Roll Call Vote:

Member Bradford Yes

Member Brar Yes

Member Kadara Yes

Vice-Chair Ramirez Yes

Chair Longley Yes

Approved by Roll Call Vote of 5-0-0

Comments on Agenda Item 12: None

AGENDA ITEM 9 – IRRIGATED LANDS REGULATORY PROGRAM (ILRP) – INFORMATIONAL ITEM ONLY

Eric Warren (Water Resource Control Engineer in the Fresno office) gave a presentation to the Board on the Groundwater Protection (GWP) Formula.

The objective is to establish target loading rates necessary to achieve compliance with receiving water limitations for groundwater within the Time Schedule Order for compliance defined in Waste Discharge Requirements Order No. WQ-2018-0002.

The purpose of the GWP Formula is to define a method for estimating the current nitrogen load to groundwater from agricultural land. Once the GWP Values are determined, they will be made available for public review/comment and be further revised every five years as necessary.

Tess Dunham (Kahn, Soares and Conway, LLP) and Kenneth Miller (Formation Environmental, representing the Modeling Team for the Groundwater Protection Team) gave presentations on behalf of the Central Valley Water Quality Coalitions.

Tess Dunham's presentation introduced the GWP Formula Approach which included the General Order requirements and the GWP Workplan. The root zone GWP formula

components of the Workplan include aggregate data, development of a root-zone library and calculation of root-zone GWP values.

Kenneth Miller's presentation provided more, detailed information on the CV-SWAT model which has been calibrated and tailored to Central Valley conditions. The CV-SWAT model is detailed and physically based on climate, soil, crop, management and based on known physical relationships which are well understood.

Chair Longley asked Mr. Miller if there is a backup method to determine the validity of the data produced from the CV-SWAT model. Mr. Miller responded by stating that results are aggregated to the township level, but the actual model itself is simulating at the subfield level. The calibration approach is what provides confidence in the data.

Member Bradford asked Eric Warren what the process is moving forward. Eric stated the GWP Formula document is still under staff review. There are a couple of outstanding issues that staff will need to be discussed and worked out with Mr. Miller and the timeline for that should be soon.

Members Kadara, Brar and Ramírez were thankful for the presentation and said the model as explained, was easy to follow.

Michael Claiborne (representing the Leadership Counsel for Justice and Accountability) provided comment to thank the Regional Board staff, the Agricultural Coalitions and Kenneth Miller for providing a better understanding for the CV-SWAT model and how it can be used as part of the GWP Program. Leadership Counsel works with the residents of disadvantaged communities that are impacted by nitrate pollution. It is important to remember the purpose of the GWP Program and be able to understand and evaluate the proposed formula. We are engaged in the ILRP to protect and restore access to safe drinking water for the residents we work with, and this formula is important in working towards that goal. The Leadership Counsel is in favor of using the CV-SWAT model however, there are three areas of concern that were raised during the comment period. First is the need for continuously improved calibration of the model; second is the need for more explanation regarding the process for the use of the model in the development of the values and targets; third is how local impacts within a township will be identified and mitigated.

Debbie Ores (representing the Community Water Center) provided comment to thank the Regional Board staff and the Agricultural Coalitions and said the presentation was helpful.

Jennifer Clary (representing the Clean Water Action) commented on concerns of the GWP model carrying us to first encountered groundwater which is the point of compliance in the Order. The model looks promising, but the concern is about what will be between the root zone and first encountered groundwater. That seems to be an area of uncertainty.

Vice Chair Ramírez said the engagement of staff with the Environmental Justice group, Community Water Center and Clean Water Action is key to bringing this whole thing together and gives her confidence in moving this forward.

Chair Longley said he would have to be convinced that the point of compliance should not be the first encountered groundwater. In many instances we have significant volume between the root zone and first encountered groundwater.

David Corey (representing the Westside San Joaquin River Watershed Coalition) spoke to acknowledge the complexity of the task assigned in coming up with nitrogen leaching estimates. He thinks the model being used is as accurate as possible, especially given the difficulty of it. With regards to Jennifer Clary's comment on what happens below the root zone, we are certainly going to look beyond the root zone. There will be on-going discussions with the Regional Board and the Environmental Justice groups to figure out how we articulate, how we are going to deal with these issues. The CV-SWAT model looks at the root zone. We also must account for the area between the root zone and the aquifer and the aquifer itself. Chair Longley confirmed these are the areas of concern.

Member Kadara commended the Coalition and Environmental Justice groups and their efforts for coming together after receiving the concerns from the disadvantaged communities and coming up with these solutions to resolve the nitrate issues.

Sue McConnell (Supervising Water Resource Control Engineer) mentioned the development of the targets is important to the ILRP Unit. The timelines Eric Warren mentioned the Coalitions have six months after approval of the GWP Formula, to develop the GWP Values, then it's a year after that the targets will be developed and that's really what gets to the groundwater quality. Additional work will be needed to link up the nitrogen loading to the groundwater quality. Staff plans on bringing the GWP target development process back to the Board for discussion prior to approval.

LUNCH AND CLOSED SESSION

The Board recessed for lunch at 12:30 to discuss Personnel and the litigation below.

CLOSED SESSION

The Board may meet in closed session to consider personnel matters (Gov. Code, section 11126 subd. (a)); to deliberate on a decision to be reached based upon evidence introduced in a hearing (id., section 11126, subd. (c)(3)); or to discuss matters in litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation (id., section 11126, subd. (e)). Current litigation involving the Board is listed

LITIGATION FILED AGAINST THE CENTRAL VALLEY WATER BOARD AND/OR THE STATE WATER BOARD:

- g. WDRs Order R5-2019-0008 (Stone Ranch) – Sandridge Partners, L.P. v. Cal. Reg'l Water Quality Control Bd. – Central Valley Region (Fresno Superior Court Case No. 19CECG02306).

LITIGATION FILED BY THE CENTRAL VALLEY WATER BOARD AGAINST OTHER PARTIES:

- l. Orland Sand and Gravel Facility – People ex rel. Central Valley Water Bd., et al. v. Orland Sand and Gravel Corp., et al. (Glenn Superior Court Case No. 15CV01436).

The Board meeting resumed at 1:45 P.M.

REPORT OUT ON CLOSED SESSION ITEMS

Senior Attorney Jahr indicated there are not action items to report out on.

AGENDA ITEM 10 – BOARD STRATEGIC PLANNING COMMITTEE

Rebecca Asami and Chris Flower gave a staff presentation to the Board on the Strategic Planning Committee’s Program Outreach Summary.

Internal Program Assessments

Program Managers (16 total) were interviewed by members of the Strategic Planning Committee to obtain their input on the Programs (21 total) and the challenges faced by staff.

Summary of Program Challenges

Program	Challenges
Administrative Support	<ul style="list-style-type: none"> • Limited staff positions • State Board communication sometimes delayed • Frequent changes to processes • Procurement delays
Basin Planning	<ul style="list-style-type: none"> • Project length • Basin Plans influence on other programs
Cannabis	<ul style="list-style-type: none"> • Illegal grows • Limited staff • County level issues • Enforcement is labor intensive
Compliance and Enforcement	<ul style="list-style-type: none"> • Separation of functions • Interpreting and applying regulation • Priorities and direction difficult to identify • Sometimes lack documentation of past decisions • Program requires a clear approach to enforcing regulations • High staff turnover in some staff groups
Confined Animal Facilities	<ul style="list-style-type: none"> • High number of facilities • Complexities of nitrogen management
CV-SALTS	<ul style="list-style-type: none"> • Breadth and complexity of the problem • No one size fits all solutions • Long term success requires costly solutions and long term commitments • Reliance on continuing support and participation from local communities • Ensuring adequate internal resources
Delta Water Quality	<ul style="list-style-type: none"> • Non regulatory program • Stakeholder processes • Need to update 2014 Strategic Work Plan

Program	Challenges
	<ul style="list-style-type: none"> • Flow dominated solutions • Coordination with Division of Water Rights
Forest Activities	<ul style="list-style-type: none"> • Scale and scope of forest activities • Adequate technology is not always readily available • Data tracking • Complexities of pre/post fire regulation • Climate change
Irrigated Lands	<ul style="list-style-type: none"> • Groundwater nitrate contamination • Program coverage extensive • Various commodity types • Various geographic areas
Oil Fields	<ul style="list-style-type: none"> • A lot of work for minimal staff • Managing a newly regulated stakeholder group • New staff group
Land Disposal (Title 27)	<ul style="list-style-type: none"> • Rigidity in solutions • Clarification of roles and responsibilities • Consistency • Efficiency
Mining	<ul style="list-style-type: none"> • Mines are remote and can create region scale water quality impacts • Limited funds available for cleanup • Identifying RPs • RPs lack funding or regulatory requirements • Limited regulations
Nonpoint Source	<ul style="list-style-type: none"> • Administration of funds has become less flexible • Large portion of the program's funds goes to program administration • PY to staff ratio limits focus • Amount of reporting is high compared to volume of work
NPDES Permitting	<ul style="list-style-type: none"> • 5-year permit renewals • About 20 permits issued per year regionwide • Reduced USEPA funding • Permitting abandoned mines discharges • Salinity CV SALTS implementation • Chronic Toxicity Provisions
Site Cleanup Program (SCP)	<ul style="list-style-type: none"> • PY distribution across Region • Addressing Regional impacts • Managing new PFAS General Orders • Many RPs are resource limited
Storm Water	<ul style="list-style-type: none"> • Address trash discharges and increase watershed cleanup • Maintain strong field presence and prioritize enforcement • Need for staff training & development, especially for new staff
SWAMP	<ul style="list-style-type: none"> • Limited staff and funding resources • Contract execution & purchasing delays • Freshwater Harmful Algal Bloom program responsibilities

Program	Challenges
	<ul style="list-style-type: none"> • Need for more coordination of monitoring
TMDL	<ul style="list-style-type: none"> • Length of time to adopt TMDL • O&M of older TMDLs is time consuming when impairments are largely already addressed • Fast changing conditions • Staff time focused on O&M • Need to develop exit strategies
Underground Storage Tanks	<ul style="list-style-type: none"> • Overwhelming funding options for some RPs • Remaining cases are complex • Recalcitrant RPs • Cleanup Fund has a January 1, 2026 sunset date
WDR (Non-15)	<ul style="list-style-type: none"> • Lack of resources with 15.3 staff PY for 1400 dischargers. • Large backlog and associated delays • Waiver expirations every 5 years • Program is addressing backlog and waiver challenges by making regionwide general orders a priority
Water Quality Certifications	<ul style="list-style-type: none"> • Implementation of State Water Board's newly adopted Dredge and Fill Procedures • Maintaining strong field presence & prioritizing enforcement • Staff training & development

Next Steps:

- Begin preparing Program summaries
- Finalize contracting and distribute Stakeholder Outreach Survey
- Begin Priorities Discussion

CONTESTED CALENDAR

ENFORCEMENT

AGENDA ITEM 11 – HANOVER PROPERTIES, LLC, BUTTE COUNTY – PROPOSED ADMINISTRATIVE CIVIL LIABILITY, ACLC R5-2020-0505

The Board Chair asked if a representative from Hanover Properties is available. Clint Snyder responded that he can only say that David Waite is not present in the Redding office at this time. Chair Longley asked for a recommendation on a short or long procedure. Executive Officer Pulupa recommended going through the full procedure.

Pre-Hearing Discussion:

Attorney Toft-Dupuy (serving as Advisory Counsel) stated that the Advisory Team held a pre-hearing conference to discuss procedural matters. The Discharger and Prosecution Team were provided with notice of opportunity to participate however, the representative for the Discharger did not attend. Prior to the hearing, the Discharger's representative requested that the hearing be postponed due to time spent addressing the wildfires, as well as concerns with not being adequately able to attend with the virtual hearing format. The Advisory Team encouraged the Discharger to attend the pre-hearing conference so we could get more information on the wildfire

impacts however, they did not attend, or provide any additional information. With the virtual hearing issue, the Governor has suspended any statute that allows a person to object to an electronic hearing provided that each participant has been provided opportunity to participate. The Board has offered to host the Discharger's representative at the Redding office location so the Discharger could adequately participate in the hearing however, as Assistant Executive Officer Snyder indicated, they did not take them up on that offer. The Advisory Team in consultation with the Board Chair denied the Discharger's postponement requests, without further information on the wildfire issues specifically, but invited him to present the issue to the Board and re-raise that request.

The Board Chair asked the parties whether there were any further objections or issues regarding the revised hearing procedures:

- Hanover Properties, LLC – David Waite (not present) After a concerted effort was made to identify a representative of the Designated party, no one was identified.
- Prosecution Team – Heather Jidkov (Office of Enforcement (OE) Attorney) – (Yes) In advance of today's hearing, the Advisory Team provided a link to two PDF documents: 1) Hanover (Disk) and 2) Hanover (Binder), both PDF's have been Bates Numbered, but because the overall page count differs between the two documents, the Bates Number varies. Therefore, the Prosecution Team will indicate which PDF the Bates Numbering will be referencing, either from the Hanover (Binder) or Hanover (Disk).

Prosecution Team:

- Michael Parker (Engineering Geologist, Redding)
- Griffin Perea (Senior Engineering Geologist, Redding)
- Clint Snyder (Assistant Executive Officer, Redding)
- Heather Jidkov – (OE Attorney)

Michael Parker (Engineering Geologist, Redding) presented the Prosecution Team's case and answered questions from Board Members. In summary, Cleanup and Abatement Order (CAO) R5-2015-0741 was issued to address unauthorized discharge from the site. The Discharger failed to submit a Restoration Monitoring and Mitigation Plan (RMMP) or implement a RMMP by the required deadline. Recommendation to adopt ACL Order in the amount of \$193,098.

Member Bradford asked if the Prosecution Team evaluated the ability of the Discharger to pay. The Prosecution Team responded yes, it was determined that the Discharger has the ability to pay and continue in business.

Hanover Properties, LLC (Discharger): – No one present

Interested Persons: None

Closing Statements:

- Hanover Properties, LLC – No one present.
- Prosecution Team – Clint Snyder (Assistant Executive Officer, Redding) stated staff made various attempts, over several years, to communicate with the Discharger, their Consultants and Attorneys to bring this site into compliance. At one point we had retracted an ACLC because the Discharger appeared to be making good-faith efforts however, we had to reissue the ACLC at a later date. Those communications were met with commitments by the Discharger, only to follow with failure to comply, or carry forward as they committed, they would. This brings us where we are today.

Questions/Comments from Board Members:

Chair Longley stated that they have been discharging for many years and there has been a considerable amount of material washed off this site.

Clint Snyder (Assistant Executive Officer, Redding) responded that there are cumulative impact issues at hand here. Chair Longley asked if there have been impacts to fisheries. Mr. Snyder responded that sediment is known to cause impacts to fisheries and other aquatic organisms.

Vice Chair Ramírez commented that the multiples are higher than typically seen and when I see that there have been fly overs and that this has been ongoing since 2015, it doesn't look good. Chair Longley agreed and added that the lack of response from the Discharger doesn't help this matter either.

Member Brar asked staff if anyone had contact with the Discharger regarding the Board meeting and asked if they indicated they would be here, or any dialogue about that?

Attorney Toft-Dupuy (serving as Advisory Counsel) responded by stating that the Advisory Team did hear from a representative of the Discharger, just prior to the pre-hearing conference. At that time, the representative made the postponement request. He did not come to the pre-hearing conference, he stated he was not able to make it, despite over 2-weeks' notice. He followed up with a few emails after the fact, which appeared he may come to the meeting and may present evidence.

Clint Snyder (Assistant Executive Officer, Redding) responded and stated that from the Prosecution Teams' perspective, he would like to defer to Heather Jidkov (OE Attorney) to add additional details.

Heather Jidkov (OE Attorney) responded by stating that this was issued back in March 2020 and the original hearing was scheduled for June 2020. From March 2020 until now, staff have attempted to communicate with the Discharger to ascertain whether he was going to submit evidence, participate in the pre-hearing conference, or in today's hearing. For the most part, the Discharger has been uncooperative in our attempts to communicate with them and determine whether he is going to engage in this process or not.

Member Brar stated it sounds like they have had ample time to respond and at this point, recommends moving forward with the ACL.

Member Kadara stated that due to the amount of violations with high numbers, she is surprised by the low amount of the fine. Member Kadara expressed disappointment with the lack of progress at the Site and opined that it is time to move forward with the ACL. We cannot have these impacts on water quality.

Member Bradford stated he agrees with Member Kadara on every point. Member Bradford agrees the Discharger has been give ample opportunity to respond.

Questions/Comments from the Executive Officer and Advisory Team Counsel

Executive Officer Pulupa asked the following questions to the Prosecution Team:

QUESTION #1

What went into the prosecutorial decision to name only Hanover Properties, LLC?
Was there any discussion of naming individuals who were associated and may have participated in the activities which gave rise to the Discharges?

Heather Jidkov – (OE Attorney) responded by stating that the violations alleged in this complaint are based on non-compliance with the issued CAO, which was issued against Hanover Properties, LLC. That is the only Discharger named in that Order, so for the violations of that Order, the complaint was issued and limited to Hanover Properties, LLC. In terms of Hanover Properties, LLC's ability to pay and how the amount will impact their finances, because Mr. Waite has not engaged with us during this process, we haven't had the opportunity to obtain more details, such as financial documents for the company. We must rely on publicly available information and the property's assessed value. It is possible the company may have more properties and ability to pay. Executive Officer Pulupa responded to Attorney Jidkov by pointing out that the reverse could also be true, the company could also have more mortgages and other encumbrances that the property has which could affect the ability to pay.

QUESTION #2

Was there any thought of issuing a subpoena to get Mr. Waite to attend this hearing?

Heather Jidkov – (OE Attorney) responded by stating that was not an option we discussed, largely because the Discharger has the option to participate and present his case and evidence to his benefit. In our opinion, we have substantial evidence in this case, we have invested years of effort and time into communicating with the Discharger and in documenting what the current condition of the property is. We did not identify any gaps that we needed to subpoena the Discharger or Mr. Waite on behalf of the Discharger to provide additional testimony. Ultimately, the Discharger elected not to participate in this hearing.

Executive Officer Pulupa responded by stating he is aware of this and indicated the Board is well within its authority to adopt the ACL Order. From the Board's perspective, if we do adopt this Order and it's against an entity, that it is essentially judgment-proof. It may serve the Board's objectives better if we were to subpoena an entity and to obtain the full story, then we would be more aware of what the ramifications of adopting the ACL Order would be. However, that is a decision that we may make as well as the Advisory Team.

Executive Officer Pulupa prompted the Advisory Team to question the Prosecution Team regarding an ambiguity about when and if the discharger obtained a Grading Permit .

Attorney Toft-Dupuy (serving as the Advisory Counsel) asked the Prosecution Team for clarification on the Grading Permit in the complaint, specifically referencing Exhibit 23, which seemed to indicate that the Grading Permit was approved in July 2019. That potentially conflicted with Exhibit 28, which seemed to indicate that the Grading Permit was still outstanding as of March 2020.

Heather Jidkov – (OE Attorney) responded by explaining that on August 19, 2019, staff received an email from the County which stated the Grading Permit had gone through the appeal process without contest and was approved with an effective date of July 31, 2019. It was based on that communication that we issued the August 22, 2019 Mandatory Maximum Penalty (MMP) Approval Letter. This is the information reflected in the complaint which was issued on March 9, 2020. After issuing the complaint we received emails from the Discharger inquiring if we could provide those emails from the County which confirmed the Grading Permit was in effect, because the Discharger was unaware it had gone into effect. The documentation was provided to the Discharger and Discharger spoke with the County who indicated that the Grading Permit was not in effect, despite the email we received in August 2019. Then Regional Board staff had subsequent conversations with County staff to try and clarify whether that Grading Permit had gone into effect on the date they identified. It did not, in fact, go into effect on July 31, 2019. One stage of the review process was completed at that time and unfortunately, the email we received gave the impression that it had been approved which was what has caused the confusion. In terms of the violation alleged, although that Grading Permit did not go into effect July 31, 2019, our position is that given our approval letter to the Discharger, he should have followed-up and either reached out to Regional Board staff, County staff, or both to try to determine if that Grading Permit was in effect. Based on our knowledge, the Discharger did not

contact anyone after receiving our approval letter. It was not until we issued the complaint that he was motivated to contact Regional Board staff and County staff, so our position is that the delay from August 22, 2019 until the date of issuance (the days we are alleging days of violation) are solely attributable to the Discharger and should still be assessed a penalty even though that Grading Permit was not approved on the date we thought it had been.

Attorney Toft-Dupuy (serving as the Advisory Counsel) responded by asking the Prosecution Team if the Grading Permit is still outstanding.

Heather Jidkov (OE Attorney) responded by stating that to her knowledge, it is still outstanding. She has not received confirmation from the Discharger or the County that the Grading Permit is in effect.

Attorney Toft-Dupuy (serving as the Advisory Counsel) provided revision language for the Order.

MOTION TO ADOPT: Agenda Item 11

Motion Made by: Member Bradford
Seconded by: Member Kadara

Roll Call Vote:

Member Bradford	Yes
Member Brar	Yes
Member Kadara	Yes
Vice-Chair Ramirez	Yes
Chair Longley	Yes

Approved by Roll Call Vote of 5-0-0

Board meeting is adjourned until tomorrow.

FRIDAY 16 OCTOBER 2020

BOARD MEETING LOCATION: ZOOM TELECONFERENCE AND WEBCAST

BOARD MEMBERS PRESENT:

Longley, Dr. Karl	Ramirez, Carmen	Brar, Raji
Kadara, Denise	Bradford, Mark	

BOARD MEMBERS ABSENT:

None

STATE WATER BOARD MEMBERS PRESENT:

Doduc, Tam

**STATE WATER BOARD OFFICE OF CHIEF COUNSEL AND ENFORCEMENT
STAFF PARTICIPATING IN THE MEETING:**

Jahr, Jessica
Toft-Dupuy, Bayley

Lancaster, David

REGIONAL BOARD STAFF PARTICIPATING IN THE MEETING:

Pulupa, Patrick	Snyder, Clint	Hendricks, Greg
Laputz, Adam	Hold, Howard	Tadlock, Stephanie
Baum, John	Marshall, James	Wilson, Angela
Coughlin, Gene	Rogers, Clay	West, Yvonne
Muhl, Rich	Brown, Janelle	Schroder, Jason
Chow, Bob	Holmes, Kari	Luo, Xuan
Garver, Kelli	Walls, Russell	Parker, Michael
Harvey, Dale	Smith, Bryan	MacDonald, Alex

ADDITIONAL ATTENDEES PRESENT WHO WERE IDENTIFIED:

Berry, Larissa	McKinzie, Gregg	Beltran, Fred
Beale, Chris	Garabedian, Michael	Thompson, Mariah
Berkema, Cheryl	Green, Will, MD	
Twight, Cedric	Cipres, Lupe	

CALL TO ORDER:

Chair Longley called the 571s Board meeting to order and made introductions.

Executive Officer Pulupa introduced staff. Member Ramirez led the Pledge of Allegiance

AGENDA ITEM 15 – PUBLIC FORUM

- Mariah Thompson (representing Terra Bella Voice for Change) came before the Board today to again address the odor issue at Setton Pistachio who has continued to maintain a severe, ongoing odor nuisance in the community of Terra Bella, despite the fact that they are currently subjected to the Cease and Desist Order (CDO). They were just issued a notice of violation of the CDO. We are asking the Board to take immediate, progressive, disciplinarian action against Setton Pistachio because they have continually demonstrated that they are unwilling and unable to comply with their water permits. Terra Bella Voice for Change was recently forced to file litigation against Tulare County for illegal construction of the facility without any permits or authority, which the Tulare County retroactively approved. Unlawful actions continue and we are asking you to act today.

Member Kadara asked Executive Officer Pulupa about the expansion of the facility without permits and the continuing odors. Executive Officer Pulupa responded by stating he could not go into detail in case this matter goes before the Regional Board. We don't want to prejudice any potential future enforcement action. The Board's Prosecution Team in the Fresno office is currently looking into those issues. The permission to build is a County issue, but once they start using the build out to discharge waste, that's when they need a Permit from the Regional Board first.

- Fred Beltran (representing Terra Bella Voice for Change) spoke to inform the Board that living in Terra Bella, he sees the issues daily. Terra Bella is a disadvantaged community and we need your help to protect the residence by enforcing the CDO.

Member Ramírez thanked Mr. Beltran for reaching out to comment.

- Lupe Cipres (President of Terra Bella Voice for Change) speaking on behalf of self and family. I live down wind from the pond, so we receive the odor from 99% of waste discharge releases. It is still very strong. My family and I like to barbeque, and we cannot. The odor issue has not gotten better, on the contrary, when the odor is present you cannot enjoy any outdoor activities. We need the Regional Board's help in resolving this continued odor issue.

Member Bradford and Brar thanked Ms. Cipres for describing the odor in detail.

- Dr. William Green, M.D. (speaking on behalf of self and those that spoke at the August 2020 on the Sacramento City Combined Sewer System item) spoke to thank the Board for listening to their concerns and for taking them seriously.

AGENDA ITEM 16 – EXECUTIVE OFFICER'S REPORT

No further discussions.

AGENDA ITEM 17 – ADOPTION OF UNCONTESTED CALENDAR AGENDA ITEMS 22 THROUGH 25

UNCONTESTED CALENDAR

AGENDA ITEM 22 – NPDES PERMIT

- a. Aerojet Rocketdyne Inc., Groundwater Extraction and Treatment Systems, ARGET, GET EF, GET HA, GET J, GET KA, GET LA, GET LB, GET AB White Rock GET, Sailor Bar Park GET, Golden State Water Wells and Low Threat Discharges, Sacramento County – Consideration of Revisions to R5-2017-0095 (NPDES Permit CA0083861)

AGENDA ITEM 23 – WASTE DISCHARGE REQUIREMENTS

- a. County of Tulare, Terra Bella Solid Waste Disposal Facility, Tulare County – Consideration of Revision to Order 97-246
- b. Horizon Nut, LLC., Horizon Nut Pistachio Huller, Fresno County – New
- c. Industrial Avenue Self Storage, Pleasant Grove Self-Storage-Industrial Avenue, LLC, Placer County – New

AGENDA ITEM 24 – RESCISSIONS

- a. Aera Energy, LLC, Section 26 Lease, Coalinga Oil Field, Fresno County – Waste Discharge Requirements Order 58-469

- b. Baptist Sugar Pine Conference, Camp Sugar Pine Wastewater Treatment Facility, Madera County – Waste Discharge Requirements Order 87-031
- c. Biggs Wastewater Treatment Plant, City of Biggs, Butte County – Waste Discharge Requirements Order R5-2012-0083 (NPDES Permit CA0078930), Time Schedule Order R5-2017-0092, and Time Schedule Order R5-2017-0092-01
- d. Bioindustries, Inc., Tehama County – Waste Discharge Requirements Order R5-2012-0061
- e. Chester Sawmill, Collins Pine Company, Plumas County – Cease and Desist Orders R5-2015-0128, R5-2015-0128-01 and R5-2015-0128-02
- f. Daniel Vander Dussen, Greenwood Dairy, Glenn County – Waste Discharge Requirements Order R5-2008-0122
- g. Red Bluff RV Park, Tehama County – Waste Discharge Requirements Order 91-185
- h. Sierra Unified School District, Foothill Middle School Wastewater Treatment Facility, Fresno County – Waste Discharge Requirements Order 94-107
- i. Stallion Springs Community Services District, Wastewater Treatment Facility, Kern County – Waste Discharge Requirements Order R5-2014-0127 (NPDES Permit CA0080489)
- j. United States Department of the Interior, National Park Service, Sequoia and Kings Canyon National Parks, Clover Creek Wastewater Treatment Facility, Tulare County – Waste Discharge Requirements Order 88-031
- k. U.S. Department of Energy and Lawrence Livermore National Security, LLC, Lawrence Livermore National Laboratory Experimental Test Site (Site 300), San Joaquin County – Waste Discharge Requirements and Associated Monitoring and Reporting Program, Order 93-100

AGENDA ITEM 25 – CHANGE OF NAME AND/OR OWNERSHIP

- a. David Kubich and Kubich Lumber, Iowa Hill Gravel Operation, Placer County – Waste Discharge Requirements, Order R5-2013-0111
- b. Forest Springs LLC., Forest Springs WWTF, Nevada County – Waste Discharge Requirements Order 88-106
- c. Grizzly Creek Ranch WWTF, Plumas County – Waste Discharge Requirements Order 2014-0153-DWQ-R5246

LATE REVISIONS

Assistant Executive Officer Laputz informed the Board that there were no late revisions on any of the uncontested agenda items.

Motion to adopt uncontested Agenda Item 17 – Uncontested Calendar Agenda Items 22 Through 25.

MOTION TO ADOPT Agenda Item 17

Motion Made by: Vice-Chair Ramirez

Seconded by: Member Kadara

Roll Call Vote:

Member Bradford Yes

Member Brar Yes

Member Kadara Yes

Vice-Chair Ramirez Yes

Chair Longley Yes

Approved by Roll Call Vote of 5-0-0

Comments on Agenda Item 17

None

AGENDA ITEM 18 – CENTRAL VALLEY WATER BOARD CANNABIS PROGRAM UPDATE – INFORMATION ITEM ONLY

Yvonne West (Director, Office of Enforcement, State Water Board) gave a presentation on behalf of the Cannabis Executive Oversight Committee. Ms. West covered the program challenges including recent program reductions in staff, went over the Executive Committee Report and outlined the programs' next steps.

Jason Schroder (Senior Engineering Geologist and Cannabis Program Manager, Redding) gave a presentation to provide an overview of Cannabis activities and progress made in implementing the Board's Cannabis Program over the last 12 months. Mr. Schroder also covered the Executive Oversight Committee's recommendation and how they will impact the Cannabis program.

CONTESTED CALENDAR

WASTE DISCHARGE REQUIREMENTS

AGENDA ITEM 21 – UNITED STATES ARMY CORPS OF ENGINEERS, WESTERN PLACER COUNTY HABITAT CONSERVATION PLAN/NATURAL COMMUNITIES CONSERVATION PLAN, PLACER COUNTY – CONSIDERATION OF GENERAL ORDERS FOR WASTE DISCHARGE REQUIREMENTS AND CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATIONS (AGENDA ITEM 21 WAS HEARD AFTER AGENDA ITEM 18)

- a. Western Placer County Habitat Conservation Plan/Natural Communities Conservation Plan Programmatic General Permit
- b. Western Placer County Habitat Conservation Plan/Natural Community Conservation Plan Placer County Water Agency Regional General Permit
- c. Western Placer County Habitat Conservation Plan/Natural Community Conservation Plan Placer County Regional General Permit

Pre-Hearing Discussion:

Attorney Toft-Dupuy stated that two late comments were received: 1) Larissa Berry (President of Defend Granite Bay) and 2) Cheryl Berkema (Placer County Resident). The comment period ended mid-September and these comments were received this week. The recommendation is to allow these into the record because there is no prejudice. In addition, some of the interested persons have raised comments on a specific project in Placer County, the Vehicle Inspection Center (Carvana). This is a pending application before the Board and because it's pending, we cannot discuss it today, so Attorney Toft-Dupuy asked that the commenters refrain from discussing this project. There will be opportunity in the future to comment on that item.

Chair Longley admitted the two comment letters into the record.

Presentation from Board Permitting Staff:

Stephanie Tadlock (Senior Environmental Scientist, Sacramento) gave the staff presentation and answered questions from Board Members.

Comments from Board Members:

Member Bradford commented that several small projects could be approved under the General Permit and asked for clarification on whether the Permit addresses cumulative impacts from numerous small projects that might be enacted over the next 20 years. Ms. Tadlock responded by stating it does and these are looked at on an individual basis when a Notice of Intent is submitted. We ensure mitigation is appropriate and within the ratios established by US Army Corps of Engineers. Cumulatively, they would still have a mitigation or lower impact threshold than what would ordinarily happen outside the Placer County Conservation Plan.

Member Ramírez asked about a possible scenario with two identical projects. The first project being submitted early with certain requirements to comply. Down the road, someone submits the 100th project (after 99 have gone before them), same project, are the requirements going to be different based on the cumulative impacts? Ms. Tadlock responded that the requirements would be the same. We wouldn't treat later projects with less requirements than the original project. Member Ramírez asked would there be more requirements at that point? Ms. Tadlock responded that as the program moves along, the Permits that we are requesting today, only extend over a five-year period. After 5-years we review permits and requirements, including any mitigation ratio changes. It is a collaborative effort, with all the other agencies and Placer County where we determine what is best for each Permit renewal. What the requirements are now, could be much less stringent than they are in the future, when we may be looking at for example, a depletion of potential resources.

Assistant Executive Laputz spoke to clarify that these three Orders establish a way for the local entities to establish and allow for mitigation in the best possible way, that they have devised and collaborated with other resource agencies as well. This will help minimize cumulative effects of the growth/development that is going to occur, versus in other areas where we don't have something like this. For example, mitigation might be done further away from where the projects are. This here is an organized plan to protect the most sensitive species, etc.

Chair Longley commented on the limitations placed on project size to receive permits. Project over certain size will undergo an individual evaluation and receive its own permission. Ms. Tadlock stated that is correct.

Member Bradford stated the 5-year review process helps alleviate the concerns regarding the cumulative effects.

Member Kadara stated she thinks this plan is a good approach to help mitigate cumulative effects and it also includes a process for citizens to engage in the public process.

Member Brar stated the presentation was informative and said this lays out a wonderful plan.

Executive Officer Pulupa pointed out that there were no known objections to this plan. The concerns seem to be with the individual projects that will fall under this plan.

Presentation by the United States Army Corps of Engineers (Discharger):

No one was present.

Comments from Interested Persons:

Michael Garabedian (representing Placer County Tomorrow) spoke to express his concerns regarding the lack of public involvement in this process and urban runoff.

Chris Beale (Resources Law Group, Placer County) spoke to inform that with regards to public involvement, the County and Local partners have been developing this plan for nearly 20 years and there have been ample opportunities for public input. There have been public workshops and several meetings where public comments have been received. Regarding cumulative effects, one of the advantages of a Regional, long-term plan is that it can address cumulative effects in a way that's difficult to address in any other way. This plan has a 50-year strategy for protecting aquatic resources within the planning area. From a larger perspective, because the plan is married to planning efforts, there are long-term incentives for developing in areas where the impacts are likely to be the least impactable from an environmental perspective and directing resources to protect those most valuable resources.

Cheryl Berkema thanked the Board for accepting the late comment submitted and spoke to inform that she is a proponent of the Placer Conservation Program and feels there are a lot of good aspects to the plan.

Gregg McKinzie (Placer County Conservation Program Administrator) spoke to inform that this plan has been supported by various watershed groups including, Friends of Auburn Ravine, Dry Creek Conservancy, Placer Land Trust, Wildlife Heritage Foundation, Sierra Foothill Audubon Society. The County has a 20-year commitment and a multi-million-dollar investment, and it is time to start implementing this program. The longer we wait, the more projects proceed without a Regional, comprehensive, conservation strategy in place to provide effective, landscape-level mitigation.

Chair Longley asked Gregg McKinzie to address Mr. Garabedian's concerns regarding urban runoff and describe the public process the County plans to follow. Mr. McKinzie responded by explaining that there has already been 20 years of public participation. In 2018 there were 15 public meetings and workshops. In 2019, during the release of the draft EIS (Environmental Impact Statement) and an EIR (Environmental Impact Report), there were 5 additional meetings and public workshops. There were 5 more meetings and workshops after release of the final EIR and EIS, all which Mr. Garabedian has provided comment to. The public outreach does not end here; it has a new beginning. There is a 12-member citizens' advisory committee that is required to be formed as part of the Placer Conservation Authority's work. This program does not obviate the need for additional public meetings and outreach. Each project brought forward to the planning department, the City and the County requires public notice and outreach. Ultimately, new projects go through a public hearing process.

Closing Statements, Recommendation from the Executive Officer:

Executive Officer Pulupa asked Ms. Tadlock to describe the Notice of Intent (NOI) process. Ms. Tadlock responded that under the 401 Certification Program there is a process for applying for Notice of Intent (NOI) for all new projects. A comprehensive review is conducted on the project to ensure it will adhere to the guidelines under the Permit which it is applying under. Anything that would fall outside the guidelines would receive an individual permit with a full 30-day public comment period. After the NOI is reviewed, we issue a Notice of Applicability (NOA) to make sure each project adheres to the specific guidelines and conditions that are within the General Orders. Further, we always make sure we have a comprehensive public review process.

Chair Longley asked if groups have concerns, can they contact Ms. Tadlock? Ms. Tadlock responded that yes, that her, or any of her staff can be contacted with concerns.

Vice-Chair Rameriz indicated this looks like a good project with a good framework and after hearing and understanding some of the concerns, thinks all concerns are addressable and protected within the program, as proposed. Chair Longley and Member Bradford agreed.

Chair Longley asked Executive Officer Pulupa for a recommendation on this agenda item and Executive Officer Pulupa responded with a recommendation to adopt the General Permits as proposed.

Member Kadara stated this process has included public involvement throughout. The right thing to do (after 19 years) would be to move forward with this project in which there will continue to be public involvement. Member Brar agreed with Member Kadara's comments.

Motion to adopt uncontested Agenda Item 21

MOTION TO ADOPT Agenda Item 21

Motion Made by: Member Kadara

Seconded by: Member Brar

Roll Call Vote:

Member Bradford Yes

Member Brar Yes

Member Kadara Yes

Vice-Chair Ramirez Yes

Chair Longley Yes

Approved by Roll Call Vote of 5-0-0

LUNCH

The Board recessed for lunch at 12:00 P.M. and the Board Meeting resumed at 12:45 P.M.

AGENDA ITEM 19 – CENTRAL VALLEY WATER BOARD FOREST ACTIVITIES PROGRAM UPDATE – INFORMATION ITEM ONLY

Angela Wilson (Supervising Engineering Geologist, Forest Activities Program Manager, Redding office) gave a presentation for the Forest Activities Program update and answered questions from the Board. Ms. Wilson provided updates on the forest activities since 2019 which included Executive Orders and Legislation (Senate Bill 901 Assembly Bill 2551); Program Influences (Forest Management Task Force and State Board permit development); and plans for FY 2020/2021.

Assistant Executive Officer John (JJ) Baum gave a presentation and update on the Regional Wildlife Planning and Response Activities. The State Water Board has a new Emergency Management Program which is designed to facilitate a centralized response to other agencies including the California Governor’s Office of Emergency Services. The initial focus was on identifying and tracking impacted drinking water and wastewater facilities, but as the fires subside, the Regional Board will be shifting past post-fire response and support to providing support to impacted Dischargers under our Program with technical water quality assistance.

Comments from Interested Persons:

Cedric Twight (Sierra Pacific Industries) provided his thoughts and comments on the report (findings) that went to the Legislature (instigated by Senate Bill 901). Mr. Twight expressed his concerns with the lack of reforestation after fires.

AGENDA ITEM 20 – CENTRAL VALLEY WATER BOARD ENFORCEMENT PROGRAM UPDATE – INFORMATION ITEM ONLY

Kari Holmes (Supervising Engineer and Program Manager for the Enforcement and Compliance (C/E) Unit, Rancho Cordova office) gave a presentation and update for the Enforcement Program. Ms. Holmes informed the Board of the Enforcement Units' accomplishments and the goals and priorities for FY 2020/2021.

Accomplishments include:

- Improving internal communications between permitting staff and C/E staff during the permit renewal process.
- CV-Salts - >1000 Facilities will receive the Notices to Comply and we are working on established a strategy for CV-Salts enforcement.
- Water Quality with regards to homeless encampments (presentation given by Rich Muhl).

Rich Muhl (Senior Environmental Scientist, Rancho Cordova office) gave a presentation on Water Quality and Homelessness and three projects that have addressed this issue:

- Steelhead Creek Cleanup – Project has many partners, has been ongoing for the last 3-years and will continue.
- Stockton Area Task Force – provided a multi-agency forum to help address some of the homeless issues in Stockton. It is a collaborative partnership between State agencies and local agencies. We have been meeting every 4-6 months since June and the Smith Canal Cleanups are a direct result of these discussions, however the Task Force's work is now coming to a close.
- Smith Canal Cleanup – The area of concern is in the canal under the I-5 Bridge. There are over 160 campers on both sides of the canal. The water Quality issue that presents itself here is that human waste is being dumped into the canal. Collaborative efforts are being made to mitigate this.

FY 2020/2021 Priorities include:

- Assisting State Board with their Enforcement Priorities which include, Polyfluoroalkyl Substances (PFAS) 13267 Orders, EPAs Environmental Justice and Stormwater Non-Filer Initiatives.
- Wildfire Assessment and Stabilization – Includes post-fire training; working with Region 1 on a formal post-fire assessment and stabilization class; working with Cal Recycle to develop a statewide program to stabilize structures lost in wildfires; and working on additional support for local, state and federal agencies. The goal is to have several staff able to conduct post-fire inspections.

Meeting Adjourned

Board meeting adjourned at 3:22 P.M. to the 10/11 December 2020 Board Meeting.