

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

Minutes
16/17October 2003
458th Regular Meeting
Central Valley Regional Water
Quality Control Board
3443 Routier Rd., Suite A
Sacramento, CA 95827

THURSDAY, 16 OCTOBER 2003

BOARD MEMBERS PRESENT

Robert Schneider, Chair, Karl Longley, Vice Chair, Mark Salvaggio, Alson Brizard, Robert Fong, Cher Kablanow, Lucille Palmer-Byrd and Beverly Alves, Members

BOARD MEMBERS ABSENT

Christopher Cabaldon

STAFF PRESENT

Tom Pinkos, Ken Landau, Loren Harlow, Jerry Bruns, Bert VanVoriss, Bill Croyle, Wendy Wyels, Tim O'Brien, Molly White, Kelly Briggs, Shakoora Azimi-Gaylon, Karen Larsen, Janice Tanaka, Frances McChesney, and Catherine George, Staff Counsels

OTHERS PRESENT

Paul Helliker, Dept of Pesticide Regulation
Marshall Lee, Dept of Pesticide Regulation
Jonathan Dickinson, Senator Roy Ashburn
Julie Sauls, Assemblyman Kevin McCarthy
Buffy Zohn, Assemblyman Greg Agharzarian
Bob Giragosian, Kern Ridge Growers
Tom Anton, Kern Ridge Growers
Larry Russell, Reed International
C. Warner Brooks, Edmundson Acres
Fred Vietti, Edmundson Acres
John Hewitt, CA Farm Bureau
Bill Jennings, DeltaKeeper
Parry Klassen, SJ Water Quality Coalition
James Damell, SJ Water Quality Coalition
Steve Chedester, SJ River Exchange Contractors
David Cory, SJ Valley Drainage Authority
Jim Staker, San Luis Canal Company
Walt Bentley, University of California
Robert Ehn, Makhteshim Agan

David Weinberg, Makhteshim Agan
Dave Tamayo, County of Sacramento
Chris Scheuring, City of Roseville
Debra Denton, US EPA
Jon Cooper, Triton Environmental Group
Mike Webb, Western Growers
John Schroleter, EBMUD
Diane Hinson, EBMUD
Ryan Broddrick, Ducks Unlimited
Jeanette Thomas, Stockton East Water District
Rich Stowell, San Andreas Sanitary District
Ken Payne, City of Folsom
Jeanne Wallberg, Archibald & Wallberg
Tracy Bishop, El Dorado Irrigation District
David Powell, El Dorado Irrigation District
Derril Whittar, City of Bakersfield
Alan Wade, Save the American River Assn.
Laurette Laurent, Folsom Citizen

PUBLIC FORUM

David Corey, San Joaquin Drainage Authority

The Coalition intends to submit the Ag Waiver NOI by 1 November, including a framework for a monitoring program. A Joint Powers Authority will fund the next year's monitoring program. They will not have a full membership document by 1 November, but are committed to compliance. Getting monitoring in place is their highest priority. It will not be possible to obtain all "knowing elections" by 1 November.

Steve Chester, San Joaquin River Exchange Contractors

They appreciate the Board Member and staff attendance at Ag Waiver workshops. His group intends to move forward. They have had excellent turnout at local meetings.

Jim Staker, San Luis Canal Company

They have committed \$250,000 for monitoring. The membership document is a major stumbling block. The Board may not be able to represent all landowners in the District under the "knowingly elect" requirement. More time is needed to educate and obtain agreements from the large number of geographically dispersed landowners. Only one of 280 owner/operators has expressed interest in formally signing up.

James Damell, Southern San Joaquin Water Quality Coalition

A status letter was read into the record. The Coalition is working hard to comply.

Parry Klassen, East San Joaquin Water Quality Coalition.

The original organizing organizations have dropped out. Mr. Klassen is now facilitating organization. An NOI will be submitted by 1 November, but it will not have landowners identified.

Bill Jennings, DeltaKeeper, et al.

- "Knowingly elect" is being sabotaged. One Ag Coalition recently said it would just include everyone whether or not they signed up.
- Discussion of the Region 3 Ag Waiver at the WQCC showed that the Region 3 draft Ag waiver was being developed with proactive Ag support. It contains many features of importance, including owner/operator registration, third-party monitoring, farm management plans, and fees.

John Hewitt, California Farm Bureau Federation

He has been working on the Region 3 Ag waiver program. The presence of the marine sanctuary in Monterey Bay has pushed development of the program and provided substantial federal funding.

Laurette Laurent, Folsom Citizen

Requesting firm enforcement of Folsom C&D Order. City is claiming lack of funds, but large amounts of money are being spent on public relations. City Council is not responsive to water quality concerns. The Board is urged to recover staff costs from Folsom to minimize their wasting of the Board's time.

OTHER BUSINESS

The Board met in Closed Session to discuss ongoing litigation.

Executive Officer Delegation Resolution – Consideration of Adoption

R5-2003-0147

MOTION:

By Mr. Salvaggio, seconded by Mr. Longley to adopt the proposed resolution. Unanimously approved.

Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Orchard Pesticide Runoff and Diazinon Runoff into the Sacramento and Feather Rivers – Consideration of a Resolution to Adopt Proposed Basin Plan Amendment

A public hearing was held. Joe Karkoski presented the staff report. Additional testimony was given by Paul Helliker, Debra Denton, Chris Scheuring, David Weinberg, Bill Jennings and Dave Tamayo.

R5-2003-0148 MOTION: By Mr. Longley, seconded by Mr. Salvaggio to adopt the proposed resolution. Unanimously approved.

Kern Ridge Growers, LLC, Arvin Carrot Processing Facility, Kern County – Consideration of Administrative Civil Liability Order

A public hearing was held. Dale Harvey presented the staff report. Additional testimony was given by Tom Anton, Dr. Larry Russell, C. Warner Brooks, Fred Vietti, and Jonathan Dickinson

R5-2003-0149 MOTION: By Mr. Longley, seconded by Mr. Fong to adopt the administrative civil liability order with late revisions, with 50 percent of the liability or \$225,000 suspended if the discharger complies with the WDRs and CDO no later than 31 March 2004 with the date subject to modification with the Executive Officer's reasonable discretion. Approved by role call vote with a vote of 5 to 3.

FRIDAY, 17 OCTOBER 2003

BOARD MEMBERS PRESENT

Robert Schneider, Chair, Karl Longley, Vice Chair, Mark Salvaggio, Alson Brizard, Cher Kablanow, Lucille Palmer-Byrd and Beverly Alves, Members

BOARD MEMBERS ABSENT

Christopher Cabaldon and Robert Fong

STAFF PRESENT

Tom Pinkos, Ken Landau, Jerry Bruns, Dave Carlson, Greg Vaughn, Bill Croyle, Wendy Wyels, Polly Lowry, Jon Ericson, Jon Marshack, Janice Tanaka, Frances McChesney, and Catherine George, Staff Counsels

PUBLIC FORUM

Alan Wade, Save the American River Association

A letter regarding Folsom had previously been submitted to the Board. He is disappointed that Folsom could not be discussed on the Agenda today. Pat Leary's letter showed continuing C&D Order violations. He is concerned about potential overflows with upcoming wet weather. The new Governor is promising full enforcement of environmental laws. The Regional Board has the public trust responsibility to enforce laws and protect water quality.

Ken Payne, Folsom Director of Utilities

Folsom takes compliance seriously. The size of sewer overflows has been reduced significantly. The County project has been completed, so that bottleneck is removed. Where final projects are not in place, interim measures are being taken for the winter.

Bill Jennings, DeltaKeeper, Et Al.

- A Federal Judge has just ruled that logging operations require NPDES Permits.
- Region 3 proposed ag waiver group monitoring is to be conducted by a single entity with support from a scientific review panel. Region 5 should consider use of a group such as SFEI.

BOARD MEMBER COMMUNICATIONS

Karl Longley attended the following meetings:

- 17 September – San Joaquin Exchange Contractor meeting in Gustine. Observed angst and interest of ag community regarding the ag waiver.
- 24 September – Desalinization Task Force Meeting, Sacramento. Primarily concerned with coastal desal plant issues. Inland desalination not currently feasible due to brine disposal problems.
- 25 September – Fresno County Farm Bureau Meeting on the CSU Fresno campus. Discussed water issues.
- 1 October – Solar Pond demonstration site tour, University of Texas, El Paso
- 2 October – Imperial Valley Research Center, El Centro. Elephant grass.
- 8 October – Regional Board staff monitoring workshop, Regional Board office, Sacramento
- 9-10 October – Water Quality Coordinating Committee Meeting, Sacramento.

Al Brizard

- Met with the Sacramento Valley Water Quality Coalition and received an update on their progress in compliance with the Ag Waiver.
- Attended the Los Banos and Gustine West Side Ag Coalition meetings.

Mark Salvaggio participated in a joint meeting of the Bakersfield City Council and the Kern County Board of Supervisors at which the Glenville project was discussed. He will provide a copy of documents regarding Glenville that were exchanged at the meeting.

Cher Kablanow

- Attended a meeting of the Sacramento Valley Water Quality Coalition and received an update on their progress in compliance with the Ag Waiver.
- Went on a tour of the Block Environmental laboratory and observed the various biotoxicity testing procedures which are commonly used for compliance and ambient monitoring.
- Requested clarification in the record of her reason for voting against the motion to adopt the ACL Order for Kern Ridge. She felt that discussion on the motion was incomplete and that it was not yet the proper time to vote on the motion. Her “no” vote was an objection to cessation of the discussion, not an objection to the ACL. She had, in fact, been the first to propose a partially-suspended ACL as was adopted.

Chairman Schneider

- Attended an Ag Coalition meeting in Woodland
- Discussed with Bill Jennings after Thursday’s meeting the issues that Mr. Jennings presented in the Friday morning Public Forum.
- At the WQCC Region 9 presented a Strategic Plan that Region 9 had developed to help set their priorities. Chairman Schneider felt such a document would be useful for Region 5. Board members and staff should be polled for their ideas on priorities, and then the matter should be discussed at the December Board meeting.

EXECUTIVE OFFICER'S REPORT

#1 Deep Water Ship Channel Dredging. Tom Pinkos explained that a Notice of Intent (NOI) is the equivalent of a Report of Waste Discharge with which someone proposes to discharge under a particular General WDR/Permit. A Notice of Applicability (NOA) is the approval by the Executive Officer that the project meets the applicability criteria adopted in the General Order, and that the project is covered under the General Order.

#3 City of Folsom Collection System. Are the reported delays reasonable and have we approved the delays. Patricia Leary explained that much work is done but more is needed. Staff cannot approve delays and has not had time to adequately follow the project to know if the delays are justified. Tom Pinkos explained that staff time is severely limited and will get worse with the NPDES cuts.

#4 Sierra Nevada Framework. Chairman Schneider expressed his thanks to staff for their work on the Framework.

#5 Healthy Forests Initiative. Chairman Schneider requested careful consideration on whether WDRs are needed for Timber Harvest Plans that don't receive adequate opportunity for public review. Jim Pedri should review this issue. Waivers are ok for clearing of understory in residential areas as long as it is a legitimate project, not just an excuse for logging.

#7 Strategic Plan for Mercury. Chairman Schneider requested that staff try to direct attention of interested parties and agencies to Turkey Run Mine as a possible pilot cleanup project.

#8 Renewable Fuels. Karl Longley expressed concern over the potential for water quality impacts of ethanol leaking from underground tanks.

#9 CAFO Inspections. Al Brizard asked if the Sacramento office was conducting intensive inspection of dairies similar to the inspections conducted from the Fresno Office. Dennis Westcot explained that most dairies in the southern valley are relatively new and large, while dairies in the Sacramento office jurisdiction are older and smaller. The Sacramento office effort has been directed at enforcement through the environmental task forces against surface water spills from dairies. This effort has been productive since there were relatively few spills during the last, wet winter.

Karl Longley stated that the Tulare Lake Basin is a closed basin and that there is need for a major planning effort to maintain a reasonable salinity concentration in the groundwater.

Mr. Brizard asked how many Sacramento area counties are "by-right". Mr. Westcot explained that most of the counties are "by-right", but Stanislaus, Yolo and Glenn Counties are developing local ordinances to regulate dairies.

#10 Petitions on 10/11 July 2003 Board Meeting Actions. Cher Kablanow asked for the date of the SWRCB hearings on the ag waiver petition. Frances McChesney replied that the State Board will hold a hearing on 27 October regarding the identification issue within the Stay request. The hearing on the merits of the petitions are planned for January 2004.

Chairman Schneider reported that he has heard of intransigence by some ag coalition groups regarding the identification issue. Stonewalling on the issue by ag is unacceptable. Bill Croyle reported that there has been a mixed response among the groups on identification of members. Some groups have been trying to obtain "knowing election" from members, while other groups are actively discouraging formal signups. Staff has been recommending that groups unable to provide complete "knowing election" by 1 November report on what has been done and the time line for completion. Basically, show that they are trying to comply. Tom Pinkos explained that he and staff do not have "zero tolerance" on this issue. We want compliance with the waiver and expect a showing of a good faith effort.

Chairman Schneider stated that funding of the agricultural coalition work is the Board's highest priority. Regardless of long term funding issues, it is in the public interest to financially jump start this process.

Chairman Schneider requested the results of Phase 1 ag monitoring. Tom Pinkos said the information will be provided to all Board members.

#13 Oakdale Subdivision. Al Brizard asked if staff is in agreement with the mitigated Negative Declaration for the subdivision. Tom Pinkos replied that, yes, we were in agreement, but we would have to see how well it works.

#33 Joseph Gallo Farms. Cher Kablanow asked why the Fresno office does not allow commingling of the cheese processing and dairy waste streams. Tom Pinkos explained that commingling would be acceptable if there were no water quality problems, but that technical requirements for the waste streams makes it difficult to regulate the wastes if they are combined.

#35 Musco Olive. Cher Kablanow asked for an explanation of "baseline" groundwater quality as used at Musco Olive. Tom Pinkos explained that the groundwater hydrogeology at the site is very complex, with several separate groundwater aquifers combining together beneath the site. A traditional upgradient/downgradient assessment of water quality impacts may not be feasible. Staff is working with Musco to determine if unimpacted groundwater can be identified down- or cross-gradient from the site. This groundwater can then be used to establish a "baseline" quality which can be compared to groundwaters which are potentially impacted by the site.

#48 Port of Stockton Fertilizer Spill. Cher Kablanow asked if samples collected from the storm drains indicated an impact from the fertilizer spill. Bill Marshall stated that the results showed fertilizer impact, but all polluted water in the storm drain was captured and recovered.

2004 Board Meeting Dates. The January 2004 meeting dates were accepted. The proposed September 2004 dates were changed to 9/10 September to avoid a holiday weekend. Members will review scheduled dates and reply to Janice Tanaka.

2003/2004 Budget Update. Richard Loncarovich provided handouts to the Board summarizing the current budget situation, particularly the budget cuts and augmentations received since the September Board meeting. Various Board members expressed concern about the impact of the cuts on the Board's programs. Chairman Schneider suggested sending a letter to the new Governor regarding the impacts of the budget cuts. Karl Longley moved, Cher Kablanow seconded, and the Board passed a directive to the Board Chairman to send such a letter to the new Governor. Chairman Schneider requested a detailed update on the budget and priorities for the December Board meeting.

UNCONTESTED CALENDAR

ENFORCEMENT

Sierra Pacific Industries, Shasta Lake Division, Shasta County - *Consideration of NPDES Permit Renewal and Cease and Desist Order*

A public hearing was held. No one appeared to contest the proposed orders.

R5-2003-0154 MOTION: By Mr. Longley, seconded by Mr. Salvaggio to adopt the proposed NPDES Order. Unanimously approved.

R5-2003-0155 MOTION: By Mr. Longley, seconded by Mr. Brizard to adopt the proposed Cease and Desist Order. Unanimously approved by role call vote.

Uncontested NPDES Permit

- a. Special Order for City of Reedley, Wastewater Treatment Facility, Fresno County (revision)

A public hearing was held. No one appeared to contest the proposed order.

R5-2003-0154 MOTION: By Mr. Brizard, seconded by Mr. Salvaggio to adopt the proposed order. Unanimously approved.

Uncontested Rescissions

- a. Mobil Oil Corporation, Sill Lease, Kern Front Oil Field, Kern County
- b. Herrera Oil & Mineral, Clinton Land Co., Edison Oil Field, Kern County
- c. Herrera Oil & Mineral International, Teget et al Lease, Edison Oil Field, Kern County
- d. Herrera Oil & Mineral International, Biggar Lease, Edison Oil Field, Kern County
- e. Emperor Gold, Idaho-Maryland Mine, Nevada County
- f. Jackson Valley Energy Partners, Energy Production Plant, Amador County
- g. Seven Crown Resorts, Inc., Paradise Point Marina, San Joaquin County

A public hearing was held. No one appeared to contest the proposed order.

R5-2003-0157 MOTION: By Mr. Longley, seconded by Mr. Salvaggio to adopt the proposed order. Unanimously approved.

Uncontested Change of Name and/or Ownership

- a. The Wine Group LLC, Franzia/McFarland, Kern County
- b. Barrel Ten Quarter Circle Land Inc., Barrel Ten Quarter Circle Inc., Barrel Ten, San Joaquin County
- c. Steve Franson, Fruit Concentrate Plant, Fresno County
- d. Turtle Rock Motel and Boat Storage, Napa County
- f. Fitch Sand and Gravel, Inc., Modoc County

A public hearing was held. No one appeared to contest the proposed order.

R5-2003-0157 MOTION: By Mr. Salvaggio, seconded by Mr. Brizard to adopt the proposed order. Unanimously approved.

Uncontested Waste Discharge Requirements

- R5-2003-0159** Salad Cosmo USA Corporation, Dixon Sprout Facility, Solano Co.
- R5-2003-0160** Liquid Waste Management, Inc., McKittrick Waste Treatment Site, Class II Disposal Facility, McKittrick, Kern Co.
- R5-2003-0161** Special Order For City of Bakersfield, Wastewater Treatment Plant No. 3, Kern Co.
- R5-2003-0162** Sierra County Service Area No. 5, Zone 5a (Sierra Brooks Subdivision), Sierra Co., Resolution Allowing an Exemption for an Engineered Residential Wastewater Disposal System for 121 Smithneck Road
- R5-2003-0163** Resolution Approving Industrial Pretreatment Program, City of Porterville, Tulare County
- R5-2003-0164** Atlantic Richfield Company, Stockton Terminal #40T, Enhanced Bioremediation Pilot Study, San Joaquin County
- R5-2003-0165** Shore Terminal Services, Terminal #29, Enhanced Bioremediation Pilot Study, San Joaquin County
- R5-2003-0166** ContiCroup Companies, French Camp Grain Elevator, Enhanced Bioremediation Pilot Study, San Joaquin County

A public hearing was held. No one appeared to contest the proposed orders.

R5-2003-0157 MOTION: By Mr. Longley, seconded by Mr. Brizard to adopt the proposed orders. Unanimously approved.

ENFORCEMENT

El Dorado Irrigation District, Deer Creek Wastewater Treatment Plant, El Dorado County – *Consideration of Amended Cease and Desist Order*

Jerry Bruns presented the staff report. No other testimony was given

R5-2002-0211 MOTION: By Mr. Longley, seconded by Mr. Salvaggio to adopt the proposed resolution. Unanimously approved.

San Andreas Sanitary District, Wastewater Treatment Plant, Calaveras County – *Consideration of NPDES Permit Renewal and Cease and Desist Order*

A public hearing was held. Jon Ericson presented the staff report. Additional testimony was given by Rich Stowell and Jeanette Thomas.

R5-2003-0151 MOTION: By Mr. Longley, seconded by Mrs. Kablanow to adopt the proposed NPDES Permit. Unanimously approved.

R5-2002-0152 MOTION: By Mr. Brizard, seconded by Mr. Salvaggio to adopt the proposed Cease and Desist Order. Unanimously approved by role call vote.

NPDES PERMITS

East Bay Municipal Utility District, Camanche Dam Power House, San Joaquin County – *Consideration of an NPDES Permit Renewal*

A public hearing was held. Jon Ericson presented the staff report. Additional testimony was given by John Schroleter.

R5-2003-0151 MOTION: By Mr. Longley, seconded by Mr. Salvaggio to adopt the proposed NPDES Permit. Unanimously approved.

OTHER BUSINESS

California Dairy Quality Assurance Program – *Information Item*

Polly Lowry presented the staff report. Additional information was given by Mike Payne and Bill Jennings. This was for the Board's information. No action was taken.

Interpretation of Water Quality Standards: How Regional Board Staff Select Numerical Receiving Water Limits for Surface Water and Groundwater – *Information Item*

Jon Marshack presented the staff report. This was for the Board's information. No action was taken.

The Board met in Closed Session to discuss ongoing litigation.

The Meeting adjourned to the 4/5 December 2003 regular Board Meeting.