

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

583rd BOARD MEETING MINUTES

FRIDAY, 14 OCTOBER 2022, 9:00 A.M.

BOARD MEETING LOCATION

Zoom Teleconference and Webcast

BOARD MEMBERS PRESENT

Avdis, Nick (Virtual) Lee Reeder, Elena
Bradford, Mark Yang, Sean
Kadara, Denise

STATE WATER BOARD MEMBERS PRESENT

Morgan, Nichole (Virtual)

STATE WATER BOARD OFFICE OF CHIEF COUNSEL AND ENFORCEMENT STAFF PRESENT

Jahr, Jessica
Okun, Lori

REGIONAL BOARD STAFF PRESENT

Baum, JJ	Howard, Meredith	Rodgers, Clay
Busby, Rob	Kasich, Courtney	Schroeder, Jason
Chow, Bob	Laputz, Adam	Seyfried, Robert
Collins, Ciera	Maxwell, Mindy	Snyder, Clint
Coughlin, Gene	Mushegan, Alex	Wilson, Angela
Garver, Kelli	Palmer, Josh	
Goode, Danielle	Perea, Griffin	
Holmes, Kari	Pulupa, Patrick	

ADDITIONAL IDENTIFIED ATTENDEES

Chester, Michelle	Nelson, Marlee	West, Yvonne
Dunham, Tess	Ocnosak, Michael	
Fry, Vicki	Webster, Debbie	

AGENDA ITEM 1 – CALL TO ORDER

Chair Bradford called the 583rd Board Meeting to order and made introductions. Executive Officer (EO) Patrick Pulupa introduced staff. Chair Bradford led the Pledge of Allegiance.

AGENDA ITEM 2 – BOARD MEMBER COMMUNICATIONS

Chair Bradford submitted the following communications:

- 2 September 2022 – Participated in the Environmental Justice Consortium for Early Action Plan Implementation.
- 12 September 2022 – Participated in the monthly Water Board Chair’s Discussion.
- 4 October 2022 – Participated in the monthly Water Board Chair’s Discussion.
- 13 October 2022 – Participated in the Restoration, Drought, and Water Quality Nexus Tour in Redding.

Vice Chair Kadara submitted the following communications:

- 2 September 2022 – Participated in the Environmental Justice Consortium for Early Action Plan Implementation.
- 19 September 2022 – Participated in a regionalization meeting with a focus on addressing the needs of disadvantaged communities.
- 27 September 2022 – Met with members of the Santa Rosa Rancheria Tachi Yokut Tribe and Dr. Gadgill from UC Berkeley and provided a tour of Allensworth. The Tribe is interested in meeting with the team to address arsenic issues.
- 6 October 2022 – Attended a Community Water Center drinking water webinar to help address threats to drinking water.
- 7/8 October 2022 – Participated in the NGO Webinar on Groundwater Sustainability. This webinar helped to educate disadvantaged community members and leaders in the community about groundwater sustainability issues.
- 9 October 2022 – Attended the Latino Heritage Month celebration at Dos Rios in Modesto.
- 13 October 2022 – Participated in the Restoration, Drought, and Water Quality Nexus Tour in Redding.

Board Member Lee Reeder submitted the following communications:

- 2 September 2022 – Participated in the Environmental Justice Consortium for Early Action Plan Implementation.
- 13 September 2022 – Attended the CA Water 101 Seminar hosted by Dennis O’Connor. Topics covered included basic water development history, water rights, climate/hydrology, and other current topics.
- 13 October 2022 – Participated in the Restoration, Drought, and Water Quality Nexus Tour in Redding.

Board Member Yang submitted the following communication:

- 13 October 2022 – Participated in the Restoration, Drought, and Water Quality Nexus Tour in Redding.

AGENDA ITEM 3 – STATE WATER BOARD LIAISON UPDATE

State Water Board Member Nichole Morgan provided the following updates:

Notice of 2022 Water Quality Coordinating Committee (WQCC) Meeting

- This year’s hybrid WQCC meeting, “Accelerating Climate Change Action,” will be held on October 27 and 28, 2022. These meetings are an opportunity for all board members of the State and Regional Water Boards to gather.

10th Anniversary of the Human Right to Water

- During its October 2022 Board Meeting, the State Water Board celebrated the 10th anniversary of the first Human Right to Water policy in the nation, alongside CalEPA Secretary Yana Garcia and community representatives.

2022 Clean Water State Revolving Fund (CWSRF) Intended Use Plan (IUP) and Drinking Water State Revolving Fund (DWSRF) IUP

- During its October 2022 Board Meeting, the State Water Board adopted the CWSRF IUP and DWSRF IUP.
- Anticipated grants awarded through CA’s CWSRF program may be \$468 million over 5 years, and \$355 million over 5 years for CA’s DWSRF program. On 9 August 2022, State Water Board staff held a public workshop to provide an overview of the proposed permit, including proposed revisions in response to public comments received during the 30 March 2022 through 2 May 2022 limited-scope public comment period.

Drinking Water Updates

- During the October 2022 Board Meeting, the State Water Board adopted the Draft Fiscal Year 2022-23 Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund. Staff will hold the third SAFER Affordability Workshop on November 1, 2022.

Onsite Wastewater Treatment Systems Renewal

- On September 16, 2022, staff released the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy) for public comment. The deadline for written comments will be November 1, 2022. The State Water Board will hold a hearing on October 18 to receive oral public comments.

Hydrology and Urban Conservation Update

Statewide water use dropped in August by 10.5% relative to August 2020, with 4.0% cumulative savings from July 2021 to August 2022, relative to 2020. Monthly (August 2022) and cumulative savings by hydrologic region were as follows:

South Lahontan: -18.0%
North Lahontan: -16.5%
San Francisco Bay: -15.3%
Sacramento River: -12.4%
North Coast: -12.0%
South Coast: -9.7%
Tulare Lake: -7.3%
Central Coast: -7.2%
San Joaquin River: -7.1%
Colorado River: -3.9%

The next water conservation update will be released at the October 18, 2022, State Water Board meeting.

Water Loss Performance Standards

- On 19 October 2022, State Water Board will consider adoption of a proposed resolution to establish Water Loss Performance Standards for Urban Retail Water Suppliers.

Racial Equity Action Plan

- On 19 October 2022, State Water Board will hold a public workshop to receive public comments on the draft Racial Equity Action Plan, a compilation of actions intended to advance the State Water Board's efforts to create a future where we equitably preserve, enhance, and restore California's water resources and drinking water for all Californians, regardless of race, and where race is not a predictor of professional outcomes for Water Boards employees. The deadline for submitting comments is 5:00pm on 24 October 2022.

Comments from Board Members

Chair Bradford, Vice Chair Kadara, and EO Pulupa thanked Ms. Morgan for the liaison report.

AGENDA ITEM 4 – PUBLIC FORUM

Cedrick Twight, Regulatory Affairs Manager, Sierra Pacific Industries (SPI), stated he wished to welcome Central Valley Water Board and staff to Redding. Redding is the home of SPI, which owns approximately 1.7 million acres under the Board's jurisdiction. SPI has been very

busy with extensive forestry fire restoration work under their Waste Discharge Requirements (WDR) Order since 2018. Mr. Twight indicated the WDR permit process and SPI's interaction with the Central Valley Water Board staff was going well and he appreciated the hard work of staff.

Comments from Board Members

Chair Bradford thanked Mr. Twight for his comments and SPI's efforts in restoring burned lands and habitats.

AGENDA ITEM 5 – EXECUTIVE OFFICER'S REPORT

Chair Bradford noted prior to each Board Meeting, the EO works with the Executive Assistant and the Board's Program Managers to compile a report on the status of the Board's programs and initiatives.

EO Pulupa stated he would be meeting with Chair Bradford and Vice Chair Kadara after the Board Meeting to ensure the EO report contents were relevant and met the informational needs and expectations of the Board.

Superior Accomplishment Awards

EO Pulupa presented a Superior Accomplishment Award to Chad Neptune, Engineering Geologist in the Fresno office.

Questions and Comments from Board Members

Chair Bradford thanked Chad Neptune for his efforts and congratulated him on the Award.

Vice Chair Kadara felt the information contained in the EO report was succinct, informative, and allowed the Board and public to have a better understanding of the work performed by staff.

EO Pulupa mentioned the Central Valley Water Board's Racial Equity Resolution was released for public comment (comments due by 7 November 2022). The Resolution represents a significant amount of work by the Program Managers and the Racial Equity Team. The Resolution contains measurable, attainable goals in each of the 19 water quality programs. The final Resolution will be adopted at the December 2022 Board Meeting, alongside the water quality program priorities for 2023/24.

Vice Chair Kadara commented she appreciated that Central Valley Water Board staff did not hesitate to tackle controversial issues and provide transparency to the Board.

Member Yang commented he also appreciated the work on the regional resolution because each Program had intentional, transparent, and measurable goals to move the resolution forward. Member Avdis and Member Lee Reeder concurred.

Chair Bradford commented during his review of the resolution he was simultaneously reading a report by PBS that brought to light the historical inequities that had taken place throughout California. Chair Bradford stated he appreciated the hard work of staff and looked forward to the final resolution for adoption in December 2022.

AGENDA ITEM 6 – ADOPTION OF MINUTES FROM PRIOR BOARD MEETING

MOTION TO ADOPT 11 AUGUST 2022 BOARD MEETING MINUTES

Motioned: Member Lee Reeder
Seconded: Vice Chair Kadara

Roll Call Vote:

Member Avdis	Yes
Member Yang	Yes
Member Lee Reeder	Yes
Vice Chair Kadara	Yes
Chair Bradford	Yes

Approved by Roll Call Vote of 5-0-0

AGENDA ITEM 7 – ADOPTION OF UNCONTESTED CALENDAR AGENDA ITEMS 11 – 14

UNCONTESTED CALENDAR

(Cal. Code Regs., tit. 23, section 647.2, subd. (f).) Uncontested items are those items that are not being contested at the Board Meeting and will be acted on without discussion. If any person or Board Member requests discussion, the item may be removed from the Uncontested Calendar.

WASTE DISCHARGE REQUIREMENTS (AGENDA ITEM 11)

- a. City of Rio Vista, Rio Vista Landfill, Solano County – Consideration of Revised Waste Discharge Requirements Order No. R5-2005-0117
- b. Gonzales Development Company, Meriam Park Phase H Grading Project, Butte County – Consideration of New Waste Discharge Requirements for Discharges of Dredged or Fill Material to Waters of the State
- c. Lamont Public Utility District and Recology Blossom Valley Organics South, Lamont Wastewater Treatment Facility, Kern County – Consideration of Revised Waste Discharge Requirements Order No. R5-2012-0043

- d. Sierra Pacific Industries, Sierra Pacific Industries-Martell Division Facility, Amador County – Consideration of Revised Waste Discharge Requirements Order No. R5-2014-0025
- e. Western Aggregates, LLC., Western Aggregates, Yuba County – Consideration of Revised Waste Discharge Requirements Order No. 5-00-104

NPDES PERMITS (AGENDA ITEM 12)

- a. City of Jackson, Wastewater Treatment Plant, Amador County – Consideration of NPDES Permit Amendment (NPDES Permit CA0079391)
- b. Department of Parks and Recreation, Malakoff Diggins State Historic Park, Nevada County – Consideration of Time Schedule Order Amendment
- c. Sacramento Regional County Sanitation District, Sacramento Regional Wastewater Treatment Plant, Sacramento County – Consideration of NPDES Permit Amendment (NPDES Permit No. CA0077682)

RESCISSIONS (AGENDA ITEM 13)

- a. Bob Ferguson Independent, Asphalt Oil Field, Kern County – Waste Discharge Requirements Order No. R5-2004-0056
- b. Shasta Marina at Packers Bay, Shasta County – Waste Discharge Requirements Order No. R5-2007-0105

CHANGE OF NAME (AGENDA ITEM 14)

- a. Carson Hill Gold Mining Corporation, Carson Hill Gold Mine, Calaveras County – Waste Discharge Requirements Order 5-01-150
- b. Synagro West LLC, Liberty Compost, Kern County – Waste Discharge Requirements Order R5-2009-0018

MOTION TO ADOPT AGENDA ITEM 7 (Uncontested Calendar Items 11 through 14)

Motioned: Vice Chair Kadara
Seconded: Member Avdis

Roll Call Vote:

Member Avdis	Yes
Member Yang	Yes
Member Lee Reeder	Yes
Vice Chair Kadara	Yes
Chair Bradford	Yes

Approved by Roll Call Vote of 5-0-0

AGENDA ITEM 8 – APPROVAL OF 2023 BOARD MEETING DATES

EO Pulupa reviewed the proposed 2023 Board Meeting dates as follows:

- 23/24 February 2023
- 27/28 April 2023 – Bakersfield
- 22/23 June 2023
- 10/11 August 2023
- 12/13 October 2023 – Redding
- 14/15 December 2023

With no requested changes, the Board approved the 2023 schedule of Board Meeting dates.

AGENDA ITEM 9 – COMPLIANCE AND ENFORCEMENT PROGRAM UPDATE – INFORMATION ITEM ONLY

Presentation by Yvonne West, Director, State Water Board (SWB) Office of Enforcement (OE)

The State Water Board’s (SWB) Office of Enforcement (OE) was formed in 2006 with a goal of professionalizing enforcement findings and providing a separation of functions between enforcement counsel and staff and the Office of Chief Counsel (OCC). OE works closely with the regions under SWB to establish strong enforcement programs to ensure the protection of water quality and supply. Most of the regulatory programs rely on voluntary compliance and reporting. The mission of OE is to promote enforcement of water rights and water quality laws to ensure violations are properly investigated, documented, and enforced against in accordance with the Water Board’s policies to promote compliance, deter future violations, and protect water quality, water supply, and water availability for the benefit of present and future generations.

The SWB Legal Unit provides legal support for enforcement of water rights, cannabis water quality and water rights, drinking water (Environmental Laboratory Accreditation Program and Operator Certification), fraud, waste, and abuse prevention, and underground storage tanks. The Regional Board Legal Unit at SWB provides legal support for regional board’s water quality programs (NPDES, Storm Water, Cleanups, Irrigated Agriculture, and CWA 410/404 dredge and fill violations). The legal units have dedicated attorney liaisons assigned to each regional board. The liaisons are available for general support such as enforcement case prioritization discussions, enforcement trainings, and investigation consultation. Liaisons meet with regional board staff on a periodic basis to triage cases and discuss regional priorities.

Additionally, OE legal staff provide support for formal enforcement prosecutions (Administrative Civil Liability (ACL) Orders, Clean-up and Abatement Orders, Cease and Desist Orders, Time Schedule Orders, or investigative orders such as 13267 requests and subpoenas).

OE also provides support from the Special Investigations Unit, the Fraud, Waste, and Abuse Prevention Unit, and the Underground Storage Tank Unit. The newly formed Special Investigations Unit has technical staff, Environmental Scientists, Engineering Geologists, and Water Resource Control Engineers available to help with investigations. This unit performs work with the Environmental Justice Task Force and interfaces with Cal EPA and US EPA. The Fraud, Waste, and Abuse Prevention Unit audits and investigates the spending of state monies and are particularly focused on the underground storage tank cleanup fund.

The Cannabis Enforcement Section has program-wide obligations to assist with cannabis enforcement. Cannabis enforcement efforts across the state are coordinated internally between the various regions, offices, and divisions, as well as external partners (California Department of Fish and Wildlife and Department of Cannabis Control). Cannabis enforcement plays an important role in addressing threats to water quality and water supply from both illegal and regulated cannabis industries.

The SWB Water Quality Enforcement Policy protects and enhances the quality of waters of the state by defining an enforcement process that addresses water quality problems in the most efficient, effective, and consistent manner. The Policy was last adopted in 2017 and is due for a five-year review. A proposed update will be released for public and regional board comment, and it is expected to be presented to the SWB in August 2023. The updated Policy will include the addition of template hearing procedures for ACL's and civil liability hearings.

When formal enforcement comes before the Board, it is a regulation identifying how those enforcement cases get prioritized and discusses how staff implements discretion to impose penalties. One of the most important parts of the enforcement process is the penalty methodology. Regional boards must follow statutory obligations on the factors to consider when determining the amount of the imposed penalty. Ms. West reviewed the 10-step methodology process and noted each step was detailed in the Water Quality Enforcement Policy. Some considerations considered in the methodology process includes the harm or the potential harm of the discharge and toxicity of the discharged material. Other statutory factors include the culpability and conduct of the discharger. If the discharger responded appropriately and took all necessary actions to comply, a multiplier can be given to reduce the potential penalty.

One enforcement goal is to inspire public confidence and ensure dischargers participating actively and diligently in the regulated programs are not at an economic disadvantage to non-complying dischargers. Staff works diligently to inspire public confidence that policy and permit goals are long term and meaningful and focused on the most vulnerable communities.

Questions and Comments from Board Members

Vice Chair Kadara commented enforcement processes were important to bring violations into compliance to protect water quality.

Vice Chair Kadara asked if Cannabis Program compliance had improved. Ms. West replied the program is the same size now as it was after the 2019 reduction. There are approximately 80 staff statewide dealing with unique challenges in the Cannabis Program. However, staff was much more coordinated and developed a framework with the Executive Oversight Committee. Two priorities had been identified for enforcement against illegal cultivation and enrollments into the regulated program. Despite a staff reduction in 2019-2020, inspection numbers were back up to pre-reduction levels. The Governor's Office has called for the forming of a Unified Cannabis Enforcement Task Force, which has been structured with over 20 state agencies. The SWB and the regional boards play an important role in those efforts.

Vice Chair Kadara also asked about enrollment numbers in the program. Ms. West replied numbers were slightly increasing each year. Currently, there are approximately 7,000 cultivators enrolled in the program. More cultivators in California are outside the regulated market, which is the reason staff focused enforcement efforts on illegal cultivators.

Member Yang commented cannabis cultivators use harmful chemicals that contaminate and pollute surface and ground waters and asked if the communication pieces were translated into different languages. Ms. West replied staff worked diligently to translate communication items into different languages because there is a significant portion of the population that does not primarily speak English. Generally, regulated cultivators do not use harmful chemicals because they would not be able to license and test their product and get it into the legal market.

Member Yang asked if there was data showing the number of enforcement cases and if so, did it show cases rising or reducing. Ms. West replied cases were rising. With limited resources, staff uses aerial imagery and other technologies to ensure efforts are focused where there is a threat to water quality or potential water rights violations. EO Pulupa commented as noted in the Cannabis Program portion of the Racial Equity Resolution, many Central Valley counties prohibit cannabis cultivation and there are water quality harms occurring due to the illegal cannabis cultivation in those counties. Region 5's Cannabis Unit is proposing to translate some of the current modules that are used to train cannabis growers in hopes of reducing those water quality harms. The focus of enforcement is on those growers that are eligible for program enrollment but refuse to be enrolled. The illegal market vastly outpaces the legal market, causing a downward price pressure on the legal growers who are trying to maintain compliance.

Member Yang asked if we knew the number of enforcement activities on legal versus illegal cultivators. Ms. West replied less than 1% of formal enforcement is against legal cultivators. If staff sees an egregious violation with a licensed cultivator, enforcement will proceed. However, staff offers compliance assistance and education to cultivators enrolled in the program. Because of the significant number of counties that prohibit cultivation, there is no path to legality. Member Yang thanked Ms. West for her responses.

Chair Bradford commented enforcement is a critical part of keeping the public assured that activities are monitored and enforced and asked if there was any data showing the number of enforcement actions brought against illegal cultivators in counties that allow growing. Ms. West replied she did not have that specific data. However, when staff prioritizes watersheds, they are looking at the ones most impacted by cultivation. Region 1 has a lot of permissive counties. Therefore, the majority (if not all) of those enforcement actions are against illegal grows. Region 5 has a lot of banned counties. Therefore, those inspections are spread across both banned and permissive counties depending on the threat to water quality.

Presentation by Kari Holmes, Program Manager, Compliance and Enforcement, Central Valley Regional Water Quality Control Board

Ms. Holmes thanked Ms. West for her presentation and welcomed the Board. Ms. Holmes stated the presentation would include a review of resources and organization across regional offices, enforcement processes and tools, progressive enforcement, three case studies, mandatory minimum penalties, sanitary sewer system overflows, industrial and construction stormwater, and compliance and enforcement data.

The Central Valley Region is the largest region in the State of California with three offices, one in Fresno, one in Redding, and one in Sacramento. Resources in Sacramento include the Compliance and Enforcement Program Manager (Kari Holmes) and 24 enforcement staff. Across the three offices, there are a total of 138 staff whose efforts are focused on compliance and enforcement. The Sacramento office is the only office that has a dedicated compliance and enforcement section with staff focused on NPDES, Land Disposal, and WDRs. Other programs where enforcement takes place are Stormwater, Confused Animals, Irrigated Lands, Cannabis, Forest Activities, Non-Point Source, Oil Fields, Mining, Water Quality Certifications, USTs, and Site Cleanup. Enforcement staff consists of senior managers, Engineering Geologists, Engineers, Environmental Scientists, and Scientific Aids.

There are staff within their programs without compliance and enforcement section assistance. However, staff will coordinate and collaborate with complicated enforcement cases. Ms. Holmes gathers data across all programs from multiple databases bimonthly to prepare the compliance and enforcement section of the EO Report.

Violations are usually identified by dischargers self-reporting in their monitoring reports required by the permits. Other common ways enforcement cases are identified is through complaints and staff inspections. Recommended enforcement cases are determined and prioritized with the prosecution team, the Office of Enforcement, and the Central Valley Water Board's strategic plan.

Compliance and enforcement program priorities are approved on an annual basis. Significant violations with impacts to water quality and overwhelming evidence are also taken into consideration as prioritization occurs. Additionally, a new tracking tool for managers was recently developed to assist with coordination and communication. CalEnviroScreen is another tool used for prioritization. This tool was developed and is maintained by the California Office of Hazardous Health Assessment. It supports staff in understanding the role race and ethnicity play in the context of pollution burdens and vulnerabilities in communities where staff is

considering taking enforcement action for water quality violations. This tool helps staff understand the intersection between the pollution burden impacting a community, along with the characteristics of people living in those communities. Multiple pollution sources are disproportionately concentrated in low-income communities with high minority populations. Communities with certain socioeconomic factors have increased sensitivity to pollution. A combination of multiple pollutants and increased sensitivity in these communities can result in higher cumulative pollution impact scores.

The Regional Board will begin prioritizing enforcement in communities with pollution percentiles exceeding 75%. There are multiple tools used in the progressive enforcement process. Informal tools consist of staff enforcement letters, Notices of Violation, 13260 Orders (report of waste discharge), and 13267 Orders (technical reports). Formal enforcement tools include 13308 Orders (Time Schedule Order), Cleanup and Abatement Order, Cease and Desist Order, and an Administrative Civil Liability Order. Coordination and referral to the District Attorney's Office is also used.

Ms. Holmes then reviewed settlement components and mandatory minimum penalties, as well as recent enforcement cases with the City of Tracy Wastewater Treatment Plant, a sanitary sewer system overflow, and construction stormwater discharge.

Ms. Holmes reviewed the most recent compliance and enforcement goals and data. Targets are established for compliance and enforcement for each of the programs. Overall inspections were favorable. While some of the inspections at major facilities (NPDES) were not fully met. However, minor facilities were exceeded due to some concerns at the minor facilities.

Questions and Comments from Board Members

Vice Chair Kadara commented staff was to be commended for (in most cases) exceeding the targets. Chair Bradford and Member Yang concurred with Vice Chair Kadara's comment.

EO Pulupa thanked Ms. West and Ms. Holmes for their informative presentatopms.

AGENDA ITEM 10 – LAMONT PUBLIC UTILITY DISTRICT AND RECOLOGY BLOSSOM VALLEY ORGANICS SOUTH, LAMONT WASTEWATER TREATMENT FACILITY, KERN COUNTY – CONSIDERATION OF RESCISSION OF CEASE-AND-DESIST ORDER R5-2012-0044

MOTION TO ADOPT RESCISSION OF CEASE-AND-DESIST ORDER

Motioned: Member Avdis
Seconded: Member Lee Reeder

Roll Call Vote:

Member Avdis	Yes
Member Yang	Yes
Member Lee Reeder	Yes

Vice Chair Kadara Yes
Chair Bradford Yes

Approved by Roll Call Vote of 5-0-0

MEETING ADJOURNED

The Board meeting adjourned at 11:32 a.m. to the 8/9 December 2022 Board Meeting.