

MINUTES OF MEETING
June 21 and 22, 2005
Regional Water Board Meeting
5550 Skylane Blvd., Ste. A
Santa Rosa, CA 95403

Tuesday, June 21, 2005

Chair Beverly Wasson convened the Regional Water Board meeting at 1:22 p.m., on June 21, 2005.

i. Pledge of Allegiance

Richard Grundy led the Pledge of Allegiance

ii. Roll Call and Introductions

Board Members present: Richard Grundy, Sari Sommarstrom, Bev Wasson, Heidi Harris, and Dennis Leonardi

Detained: Gerald Cochran arrived approximately at 3:00 p.m.
William Massey arrived approximately at 3:35 p.m.

Absent: Clifford Marshall and John Corbett

State Water Board Liaison present: Tam Doduc

Regional Water Board staff present: Executive Officer Catherine Kuhlman, Assistant Executive Officer Luis Rivera, Regional Water Board counsel Sheryl Schaffner and Erik Spiess, Administrative Support Terry Barnes, Secretary Jean Lockett, IT Support Drew Bayless, Senior Tom Dunbar, Senior Diana Henry, Staff Dean Prat, Supervisor Bob Tancreto, Senior John Short, Staff Charles Reed, Al Wellman, Lisa Bernard, and Nancy Negley

iii. Regional Water Board Chair Request: Presentation by Office of Chief Counsel of the State Water Resources Control Board on The Bagley-Keene Public Meeting Act.

This item was moved to the Wednesday, June 22, 2005, Board meeting agenda.

Consent Item

1. Order No. R1-2005-0036, California Department of Fish and Game, Mad River Fish Hatchery, Humboldt County, Renewal of Waste Discharge Requirements/NPDES

This item was removed from the consent calendar so that changes to the monitoring and reporting program could be submitted.

Tom Dunbar gave the presentation by indicating that the Regional Water Board staff received late comments from Department of Fish and Game regarding the monitoring order. There were changes made to the monitoring order as a result of the comments that were received. Mr. Dunbar submitted an errata sheet with the proposed changes.

MOTION: Richard Grundy moved to adopt Order No. R1-2005-0036, with the amended changes in the monitoring order as proposed. Sari Sommarstrom seconded the motion. The Motion passed unanimously.

Action Item

2. **PUBLIC HEARING to Consider Adoption of a Negative Declaration and Order No. R1-2005-0011, General Waste Discharge Requirements and Water Quality Certification for Discharges Related to Sand and Gravel Mining and Excavation Activities On Non-Federal Lands in the North Coast Region.**

Chair Wasson administered the oath to those who expected to provide testimony in the Sand and Gravel Mining and Excavation Activities hearing.

Dean Prat, Regional Water Board Geologist, presented this item and discussed the relevant water quality regulations for gravel mining:

- Clean Water Act section 404 Permit
- Clean Water Act section 401 Water Quality Certification
- California Water Code section 3830, and
- Individual Waste Discharge Requirements

Mr. Prat concluded his presentation by stating that comments were received from the gravel operators and their consultants. He indicated that the Regional Water Board staff addressed the comments and made changes in the proposed order by combining regulations of the extraction activities with regulations of the effluent facility. Mr. Prat stated that there was no opposition to the adoption of this Order. He also stated that each county requires use permits for sand and gravel mining is the lead agency under CEQA

The Regional Water Board asked some clarifying questions and requested assurance that the Russian River watershed was not covered under the proposed Order. Mr. Prat pointed out that on page 3 of the Initial Study, it stated that the Russian River is excluded from the order.

Bob Brown, with Streamline Planning Consultants, concurred with the Regional Water Board staff's presentation. He urged the Board to adopt the proposed Order.

Paul Kruse, with Eureka Ready Mix, thanked staff for considering its comments, and stated that the Order, if adopted, would streamline the regulatory process.

The Regional Water Board thanked staff and those who commented and worked on the proposed Order.

Mr. Rivera proposed the following changes for clarity on page 17, section J, under Water Quality Certification, as follows: "~~I hereby issue an order [23 CCR Subsection 3831(e)] certifying,~~" and change to, "These waste discharge requirements serve to certify [23 CCR Subsection 3831(e)]."

MOTION: Dennis Leonardi moved to adopt proposed Order No. R1-2005-0011, with the recommended changes. Sari Sommarstrom seconded the motion. The motion passed unanimously.

The Regional Water Board commended staff and the dischargers for their efforts in working together on the development of the Order.

Enforcement Items

3. PUBLIC HEARING Order No. R1-2005-0035, to Consider Modification of Cease and Desist Order No. R1-2000-0071 (NPDES No. CA0022756) in the matter of City of Crescent City WWTF, Del Norte County

This item was moved to the end of the agenda.

4. PUBLIC HEARING Order No. R1-2005-0034, to Consider Modification of Cease and Desist Order No. R1-2000-0015 (NPDES NO. CA0022748) in the Matter of City of Rio Dell WWTF, Humboldt County

Chair Wasson administered the oath to those who expected to provide testimony in the City of Rio Dell hearing.

Advisors to the Regional Water Board were Catherine Kuhlman, Executive Officer; and Erik Spiess, legal counsel.

Advisors to the Regional Water Board staff were Sheryl Schaffner, legal counsel; Luis Rivera, Assistant Executive Officer; and Tom Dunbar, Regional Water Board Senior Engineer.

Lisa Bernard, Regional Water Board staff, entered the administrative file and her presentation into the record. Ms. Bernard stated that the original Cease and Desist Order (CDO) was adopted in May 2003 to address chronic overland discharges from the summertime percolation disposal pond of the Rio Dell Wastewater Treatment Facility (WWTF). Ms. Bernard stated that the City of Rio Dell has invested considerable resources over the last two-years in an effort to develop solutions to its permit violations. Ms. Bernard provided an account of the historic summertime discharge problems of the Rio Dell Wastewater Treatment Facility. Several tasks in Order No. R1-2003-0046 have been completed, including implementation and detailed analysis of a pilot study conducted to evaluate the preferred long-term disposal alternative, subsurface effluent infiltration to the gravels on the point bar, south of the WWTF.

Ms. Bernard further indicated that the proposed revisions to Order No. R1-2003-0046 would require construction of the new effluent disposal method to be completed and online by May 15, 2009. The permittee stated that an average of 25 connections per year have been used to accommodate development since imposition of Order No. R1-2003-0046 in May 2003. The permittee requested 100 additional connections to sustain the present rate of development through the 2009 compliance date. The additional connections would allow for continued growth at a rate of 25 units per year in the community over the next four-years.

The Regional Water Board discussed this item with staff and asked clarifying questions.

Eli Naffah, with the City of Rio Dell, thanked staff for working with the City of Rio Dell. He stated that the City will be looking at other alternatives, and requested that the Regional Water Board adopt the Order, as proposed.

MOTION:	Sari Sommarstrom moved to adopt Order No. R1-2005-0034, Richard Grundy seconded the motion. Chair Wasson called for a roll call vote.
	Richard Grundy Aye
	Sari Sommarstrom Aye
	Heidi Harris Aye
	Dennis Leonardi Aye
	Beverly Wasson Aye

Information Items

5. Update on Sonoma County's Sanitation District's Facility (Occidental) Progress towards Meeting the June 2008 Deadline on Facility Upgrades Required by Cease and Desist Order No. R1-2004-0102 and Administrative Civil Liability Order No. R1-2003-0125

Cathleen Goodwin, Regional Water Board staff, gave a brief update to the Regional Water Board on Sonoma County Sanitation District Wastewater Treatment Facility's (Occidental) (WWTF) progress. Ms. Goodwin introduced Pam Jeanne who is with the Sonoma County Water Agency.

Ms. Jeanne stated that the Sonoma County Water Agency (SCWA) manages the WWTF. Ms. Jeanne indicated that the WWTF and the Camp Meeker Park and Recreation District are working together on a phased project to upgrade the WWTF by upgrading the disposal system. Ms. Jeanne also stated that the SCWA plans to construct or rehabilitate collection systems in both communities. Ms. Jeanne stated that due to recent cutbacks in the grant funding available to the communities, Camp Meeker cannot complete construction of its new collection system or significantly contribute toward the cost of the WWTF or disposal system upgrades at this time.

Ms. Jeanne concluded her presentation by stating that the SCWA and the WWTF continue to ask for the Regional Water Board's support and assistance in obtaining whatever grant funds may be available for WWTF upgrades. Ms. Jeanne further stated that both she and the counties appreciate the Regional Water Board's staff for its willingness to work with the SCWA and the community to find a wastewater solution for Occidental and said that the Board's support would be invaluable as they continue to work on the project.

Handouts:

1. *Occidental submitted a Preliminary Rate Analysis for Occidental CSD Pipeline Option to Russian River CSD*
2. *Preliminary Rate Analysis for Occidental CSD Treatment Plant and Disposal Upgrades*

Rick Coats, Chairman of Forest Unlimited, stated that Eco-Rain is an organization that does not have specific issues but observed that the two options suggested by Occidental are not good alternatives. He urged the Regional Water Board to encourage Occidental to provide additional alternatives.

Brenda Adelman, Russian River Watershed Association, stated that she submitted comments that would help give more background on the Russian River Administrative Civil Liability (ACL) action. Ms. Adelman noted that the ACL is scheduled to be heard before the Regional Water Board at the June 22, 2005, Regional Water Board meeting. Ms. Adelman further stated that she would be very concerned if the Regional Water Board allowed additional hookups and urged the Regional Water Board to require more studies.

Tam Doduc, new State Board Liaison, informed the Regional Water Board that the State Water Board is responsible for developing the septic regulations, and will hold a public hearing in Santa Rosa on July 18, 2005.

Senior staff engineer John Short stated that the Regional Water Board had problems with the Russian River Sanitation District and although the District have made some improvements, there are still more improvements that need to be made. Mr. Short stated that the Occidental CSD facility could take on additional connections with the upgrades.

William Massey entered the hearing room at 3:35 p.m.

Ms. Sommarstrom suggested that the Regional Water Board send a letter to the Sonoma County Board of Supervisors asking it to set the Occidental County Sanitation District as a priority item for the Sonoma County Water Agency.

Richard Grundy expressed his concerns for the lack of attention placed on the Russian River watershed. He concurred with his fellow Regional Water Board member's suggestion that the Regional Water Board consider this issue a priority and send a letter to the Sonoma County Board of Supervisors to request that it consider the Russian River watershed a priority.

Dennis Leonardi concurred with his Regional Water Board members and suggested that a proactive approach be taken in this matter.

The Regional Water Board observed a five-minute break.

6. (Item 3 on the agenda) **PUBLIC HEARING Order No. R1-2005-0035, to Consider Modification of Cease and Desist Order No. R1-2000-0071 (NPDES No. CA0022756) in the matter of City of Crescent City WWTF, Del Norte County**

Chair Wasson administered the oath to those who expected to give testimony in the City of Crescent City WWTF hearing.

The Regional Water Board advisors were Catherine Kuhlman, Executive Officer; and Erik Spiess, legal counsel. The staff advisors were Luis Rivera, Assistant Executive Officer, and Sheryl Schaffner, legal counsel.

Senior Engineer, Tom Dunbar presented this matter and entered the file and his presentation into the record.

Mr. Dunbar provided a brief background on the City of Crescent City WWTF and stated that the facility is approximately 25 years old and was built in the 1980's. The Regional Water Board adopted six cease and desists orders. Crescent City responded by implementing interim improvements, including effluent pumping upgrades and other improvements. In August 2000 Crescent City proposed a new Wastewater Treatment Facility. A reevaluation was prepared in April 2004, and at that time it was determined that the cost would be prohibitive.

Mr. Dunbar next stated that the City was awarded 220 new connections in July 1999. In February 2004 the City asked for and was granted an additional 160 connections. In March 2005 the City requested that 1,000 new connections be awarded.

Mr. Dunbar covered the definition of what the City defines "a connection." He stated that there were three factors that are averaged when the Regional Water Board staff considers a connection, such as:

- The average number of people in a dwelling unit
- The average wastewater flow from unit, and
- The average strength of wastewater per person.

Mr. Dunbar stated that the staff's conservative estimate is that the City has the capacity for an additional 375 connections, but not an additional 1,000 connections.

Jim Barnts, Director of Public Works for the City of Crescent City, stated that he was responsible for the treatment plant. He stated that the City needed the ability to get people to invest in the community, and that interest from outside companies is improving. Mr. Barnts indicated that after meeting with Brown and Caldwell consultants and his local engineers, he feels confident that they have sufficient treatment capacity for an additional 500 connections now and 500 connections at the completion of the outfall. He stated that Crescent City began working on the pretreatment ordinance, and is interested in having an enforcement person on staff so that it can establish and implement an effective ordinance.

Glenn Gary, Tribal administrator and CEO of the Elk Valley Rancheria Tribe, stated the Elk Valley Rancheria Tribe is planning on building a full resort complex (including a hotel, casino, and golf course). Mr. Gary indicated that Tribe intends to buy some of the sewer hook ups from Crescent City, but cannot purchase them until they are available. He stated that the Elk Valley Rancheria Tribe would need about 160 hookups within the next six months, and up to 500 more over a five-year period. Mr. Gary indicated that the Tribe's purchase of these sewer hookups would provide the City with the economic investment it seeks.

Catherine Kuhlman, Regional Water Board Executive Officer, read a statement from Nadine Bailey, Field Representative for Senator Aanestad, who was unable to stay for the hearing. Ms. Bailey's statement stated that Senator Aanestad supports the City of Crescent's efforts to expand its local economy. Del Norte County is one of the economically depressed counties in northern California, and the efforts of local citizens to rebuild the economy can only be accomplished if they are allowed to grow and expand in the industry and businesses. Senator Aanestad respectfully requested that the Regional Water Board approve Crescent City's request.

Mr. Brants indicated that the plant is continuing to maintain all of the necessary records pertaining to its BOD loading.

Submitted into the record:

1. *A 4'x 5' chart of Rumiano Cheese Daily Effluent Quality*

Legal counsel Sheryl Schaffner objected to the late submittal of the Rumiano Cheese Daily Effluent Quality chart that Mr. Brants used in his presentation.

Mr. Massey asked Mr. Dunbar if different assumptions could provide flexibility with number of connections available. Mr. Dunbar calculated that 500 units could be supported if 3.5 people per unit at 0.16 lb. Per person. Mr. Dunbar did the calculations and replied in the affirmative.

MOTION: **William Massey moved to adopt Order No. R1-2005-0035, with the following amendments: Page 3, Finding No. 10, Line 5: Change "375"**

to read “500,” and remove the “or more” language. Page 4, Item No. 1, Bullet No. 3: Change “375” to read “500”.

The Regional Water Board reminded the City of Crescent City that a completed report of waste discharge requirements is due to staff as soon as possible so that the Regional Water Board can assist the City in staying “on track.”

The Chairperson called for a roll call vote:

Richard Grundy	Abstained
Sari Sommarstrom	Aye
Clifford Marshall	Absent
William Massey	Aye
Heidi Harris	Aye
Dennis Leonardi	Aye
Beverly Wasson	Aye
Gerald Cochran	Recused
John Corbett	Absent

The Chair reiterated that the Regional Water Board is not obligated to accept information submitted after the deadline date.

7. (Item 6 on the agenda) Update on Hopland Public Utilities District, Mendocino County

Staff Engineer, Mona Dougherty presented this item and gave a brief update on the Hopland Public Utilities District (District). Ms. Dougherty stated that the Hopland Public Utilities District was before the Regional Water Board for its consideration of the adoption of an Administrative Civil Liability Complaint (ACLC) where the District was assessed \$45,000 for failing to submit a Report of Waste Discharge (ROWD) and for violations of a Cleanup and Abatement Order. The Report of Waste Discharge is still outstanding. Ms. Dougherty stated that the package submitted to the Regional Water Board members for this item contained:

- Regional Water Board letter to the discharger, dated May 17, 2005,
- Incomplete workplan submitted by the District,
- Staff letter to the district, dated June 17, 2005; and,
- Letter received by the Regional Water Board from the District, dated June 20, 2005.

Ms. Dougherty noted that the District submitted a ROWD on June 20, 2005. However, staff was unable to review for its completeness prior to the June 21, 2005, Regional Water Board meeting. Ms. Dougherty stated that a Cleanup and Abatement Order was issued about three-years ago, but further enforcement may be necessary before Hopland is in compliance with the Order.

Mr. Neary, attorney for the District, stated that he was present to answer any questions from the Regional Water Board.

Mr. Leonardi asked Mr. Neary why the ROWD had not been submitted. Mr. Neary indicated that the ROWD should be completed by August 2005. Ms. Kuhlman expressed her concerns that the ROWD that was recently submitted may not be complete, and that staff may need to take steps to ascertain the full picture of what needs to be done. Ms. Sommarstrom asked if the District contacted the Calpella district in an effort to receive information on how they maintained its treatment facility. Mr. Neary stated that Calpella was unable to provide the assistance that Hopland needed.

The Regional Water Board expressed concerns and stated that a completed ROWD needs to be received and that the project needs to be completed on time.

Ms. Kuhlman suggested putting the Hopland item on the October 2005 meeting agenda for the Regional Water Board to consider at that time.

Mr. Leonardi suggested that the Regional Water Board staff meet with Hopland to review its ROWD.

There was agreement amongst the District and the Regional Water Board staff that Hopland will have its ROWD completed by the October 2005 Regional Water Board meeting.

This was an information item and no action was taken.

8. (Item 22 on the agenda) Closed Session

Chair Wasson adjourned the meeting. Ms. Kuhlman announced that the Regional Water Board would be discussing the Hopland and Talmage Dam items in closed session. Sheryl Schaffner stated that the closed session items to be discussed are on the agenda under item 22-section e, subparagraphs 14 and 15.

At 6:20 p.m. the Chair opened the meeting to the public, and stated that there were no reports from closed session. The Regional Water Board meeting adjourned at 6:22 p.m., and was continued to Wednesday, June 22, 2005.

Wednesday, June 22, 2005

Chair Beverly Wasson convened the Regional Water Board meeting at 9:07 a.m., on June 22, 2005.

iv. Pledge of Allegiance

Dennis Leonardi led the Pledge of Allegiance

v. Roll Call and Introductions

Board Members present: Richard Grundy, Sari Sommarstrom, Bev Wasson, Heidi Harris, Dennis Leonardi, Gerald Cochran, William Massey, and Clifford Marshall.

Absent: John Corbett

State Water Board Liaison present: Tam Doduc

Regional Water Board staff present: Catherine Kuhlman, Luis Rivera, Robert Tancreto, Robert Klamt, Ranjit Gill, Erik Spiess, Sheryl Schaffner, Will Arcan, Charles Reed, Drew Bayless, Terry Barnes, Rebecca Fitzgerald, David Leland, Lauren Clyde,

vi. Board Member Ex Parte Communication Disclosure

Dennis Leonardi reported that a fellow dairyman contacted him with a question about a raw sewage overflow issue. Mr. Leonardi stated that he referred the dairyman to the Regional Water Board staff.

Sari Sommarstrom stated that she spoke with the Klamath National Forest to inquire if they had additional comments on the Salmon River TMDL. The Forest Service replied that they would submit its comments at the Regional Water Board meeting.

vii. State Board Liaison's Report, Regional Water Board Chair's Report, Regional Water Board Members' Report, and Executive Officer's Report:

Tam Doduc, State Water Board liaison, reported:

- The State Water Board took action on the irrigated agricultural waiver fee schedule and pilot program concept under which the Agricultural Commissioners of Butte and Glenn counties will work with the Central Valley Regional Water Board staff on waiver issues.
- That the TMDL policy and guidance required by SB 469 has been updated. A requirement was added to the certification of alternative regulatory and non-regulatory programs as TMDL implementation methodologies.
- The State Water Board reversed the North Coast Regional Water Board's decisions regarding Pacific Lumber Company's request to harvest timber in the Freshwater Creek and Elk River watersheds.

- The State Water Board is required by AB 885 to adopt statewide regulations for septic systems. The draft regulations have been posted as the "Proposed Project" on the State Water Board's website.
- On July 11, 2005, the State Water Board will hold a public workshop in Modesto in order to receive comments on practices for the management and disposal of food processing and winery waste through land application and other means. After the workshop, the State Water Board will determine if there is a need for regulations or policies regarding disposal of food processing and winery waste.
- The State Water Board is required (by AB 885 (Jackson, 2000)) to adopt statewide regulations for septic systems, as stated above. To begin the process of developing an Environmental Impact Report (EIR), five workshops will be held, with one of the meetings to be held in Santa Rosa at the North Coast Regional Water Board on July 18, 2005, beginning at 7:00 p.m. Following the meetings, a draft EIR will be prepared. Ms. Doduc stated that the State Water Board's consideration of the final regulations has a target date of mid-2006.

Catherine Kuhlman gave a brief update on the Forestville Wastewater Treatment Facility. She stated that a completed compliance project has been received. Forestville's goal to install micro-filters is targeted for some time in November 2005. Also, an emergency generator, to prevent violations related to power outages, will be installed.

Ms. Kuhlman stated that the Regional Water Board staff and the Department of Environmental Health continue to work together to address the Russian River bacteria issues by conducting beach sampling. Ms. Kuhlman next briefly discussed SB 49, proposed legislation that would amend the Health and Safety Code to require the Department of Health Services to make recommendations to the Legislature on standards pertaining to the high usage of freshwater beaches.

Ms. Kuhlman reported that the *Ludwigia* spraying project is an NPDES permit and is not subject to CEQA. The Regional Water Board received an application from the Department of Fish and Game and the Sonoma County Water Agency requesting that they be allowed to spray the invasive plant in the area. She indicated that a one-year permit was issued, rather than a five-year permit so that the project could be carefully monitored.

The North Coast and San Francisco Regional Water Boards received a wetland grant of \$159,000 from USEPA. These grant funds are for a study to develop a draft stream and wetland protection policy, a draft implementation chapter for the Basin Plan, and to define the term "state wetlands." Ms. Kuhlman stated that the Regional Water Board staff is looking forward to working on this project.

Ms. Kuhlman stated she spoke with CDF and CalTrans who informed her that the signs, stating entering the Eel River watershed, are slowly being put up. Ms. Kuhlman stated that the watershed wide WDRs for Elk and Freshwater would go out in draft form soon, with a comment period ending in August 2005. An evidentiary hearing is scheduled for September 14, 2005, and an adoption hearing is scheduled for September 27, 2005.

viii. Public Forum

Brenda Adelman, Russian River Watershed Committee, voiced her concern that the public was limited to three minutes to speak on the Occidental item at yesterday's hearing. Ms. Adelman stated that because of this time restriction, she was prevented from submitting a postcard of the 1986 flood in Guerneville, an article that discusses the pro and cons of the consequences of adding additional hookups, and a letter dated January 2000, written by Ted Walker from PRMD. She requested that these documents be given to the Regional Water Board members for its consideration.

Stephen Horner, with Pacific Lumber Company (PALCO), stated that PALCO would follow through with its commitments made at the March 16, 2005, Regional Water Board meeting. Mr. Horner itemized PALCO's commitments, as follows:

1. Feasibility studies on the streams in the Freshwater Creek and Elk River watersheds,
2. Some funding for infrastructure studies on Freshwater Creek and Elk River watersheds,
3. Provide drinking water to individuals in the areas discussed in the South Fork and Elk River watersheds, and
4. Hyper-mitigation efforts and sediment control on THPs.

Mr. Horner next stated that the Buckeye Conservancy is strongly considering helping PALCO with the stream feasibility study in the Elk River watershed and that PALCO has signed a contract with an engineering firm to study repairs to the county roads in the Freshwater Creek and Elk River watersheds.

Mr. Horner went on to say that PALCO'S attorney sent a letter to Catherine Kuhlman on June 15, 2005, regarding PALCO's ROWD and the WWWD. PALCO has taken a position on several fronts. He stated that PALCO should be able to go ahead and implement its ROWD in the Freshwater Creek and Elk River watersheds, and continue harvesting. PALCO has explained its position in its letter and is waiting for the Regional Water Board staff's response.

Mr. Horner also stated that PALCO is very disappointed that it was not on the Regional Water Board's June 2005 agenda to present its proposed ROWD, at the June meeting.

Johanna Rodoni, Executive Director of the Buckeye Conservancy, stated that it is Buckeye's position to seek proactive solutions to resource issues. Therefore, the Buckeye Conservancy has agreed to assist PALCO and the Regional Water Board in achieving the feasibility study in the Elk River and Freshwater Creek watersheds. Ms. Rodoni stated that the Conservancy has gained the commitment of the Natural Resource Conservation's Services and the Humboldt County Resource Conservation District. Ms. Rodoni stated that the Buckeye Conservancy is sensitive to the risk of negative public relations that could befall the organization because of its involvement with this project. However, they are supportive of the voluntary approach proposed by PALCO to address the political, social, and environmental problems, which a solution has thus far remained allusive, despite intentions. The Buckeye Conservancy, in collaboration with the Humboldt County RSCD, will provide its support.

The Buckeye Conservancy's task will include:

- Organize and facilitate community meetings to inform the community and the watershed stakeholders about the feasibility study and gather input regarding its implementation,
- Coordinate with relevant federal and state agencies to identify potential agency involvement,
- Prepare and circulate a request for a proposal to qualified engineering firms for preparation of the feasibility study, after which the Buckeye Conservancy will select the engineering firm to conduct the study,
- Provide oversight of the engineering firm, assuring production of the study to ensure that the project remains in the allotted budget,
- Monitor the performance of the engineering firm and PALCO's obligation under the agreement with the Regional Water Board,
- The Buckeye Conservancy will submit a written report to the Regional Water Board showing the progress of the feasibility study and PALCO's achievements of its obligations,
- The Buckeye Conservancy will serve as managers for funds received from PALCO and will disburse funds, as necessary, to any subcontractor or sub-contractors that it chooses to hire to accomplish the necessary tasks.

Ms. Rodoni concluded by saying that keeping the Buckeye Conservancy limited to accomplishing the specific identified elements should preserve the conservancy's independent objective third-party status. She stated that it was her hope that the Regional Water Board would support the Conservancy in its approach. She stated that the Conservancy is a 501(c)(3), non-profit organization.

Edward Voice expressed his concerns on the gravel operations in Garberville on the South Fork of the Eel River. He briefly discussed the drastic changes in the river regarding fish. He stated that salmon and Coho steelhead are endangered. He submitted a memo to the Regional Water Board with his full testimony in detail.

Richard Grundy asked staff to provide the Regional Water Board with a report showing the history on how the Sand and Gravel Order that was adopted at the June 21, 2005, Regional Water Board meeting would apply to the gravel operation that Mr. Voice is concerned about. Mr. Grundy specifically wants the report to address who would be covered under the general permit and who would be required to obtain an individual permit.

Dennis Leonardi applauded the Buckeye Conservancy for stepping up to try to alleviate the flooding and road passage issues in the Freshwater Creek and Elk River watersheds.

Sari Sommarstrom stated that she was glad to see that studies are continuing to be funded by PALCO, despite the setback that occurred to their expected harvest level at the, State Board meeting in April 2005. She expressed her support to the Conservancy for its work with the RCD and also thanked the NRCS because of its willingness to help with the technical work.

9. (Item 7 on the agenda) Approval of Meeting Minutes: April and May 2005

This item was moved to the end of the agenda.

Consent Items

10. **(Item 8 on the agenda) Order No. R1-2005-0032, Former LP Cloverdale Woodwaste Disposal Site (WWDS), Tyris Corporation Project – Clean Closure Waste Discharge Requirements, WDID No. 1B84064OSON, Cloverdale, Sonoma County**
11. **(Item 9. on the agenda) Order No. R1-2005-0033 Former Allan Maki Woodwaste Disposal Site (WWDS), Tanferani Development Project – Post Closure- Development Waste Discharge Requirements, WDID No. 1B04166RHUM, Fortuna, Humboldt County**
12. **(Item 10 on the agenda) Order No. R1-2005-0042 Wastewater Discharge Recisions Order No. R1-99-67, Barlow Company and City of Sebastopol, Barlow Apple Processing Plant, Sonoma County, WDID No. 1B81019OSON, and Order No. 90-216, Annapolis Milling Company, Sonoma County, WDR Recision, WDID No. 1B85027RSON**
13. **(Item 11 on the agenda) Order Nos. R1-2005-0043 and R1-2005-0044, Circuit Rider Productions' Russian River Arundo Removal Project, Sonoma and Mendocino Counties**

MOTION: **Gerald Cochran moved to adopt the Consent calendar as proposed. William Massey seconded the motion. The Motion passed unanimously.**

14. **(Item iii. on the agenda) Board Chair Request - Presentation by Office of Chief Counsel, State Water Resource Control Board, The Bagley–Keene Public Meeting Act.**

The Regional Water Board Chairman requested Craig Wilson, Chief Counsel of the State Water Resources Control Board, to address the North Coast Regional Water Board regarding the Bagley-Keene Public Meeting Act.

Mr. Wilson stated that California State agencies are not subject to the Brown Act. State Agencies are subject to the Bagley-Keene Public Meeting Act.

Mr. Wilson stated that there are three main reasons a Board would meet in closed session: personnel, litigation, and the exception that allows the Board to deliberate after an evidentiary hearing, if the Board chooses. Any actions decided in closed session must be announced in open session.

Richard Grundy asked what steps should a Board member take if that Board member is accused of violating of the Bagley-Keene Public Meeting Act. Mr. Wilson stated that there is lengthy information on the web that would help the Board's counsel address complaints of that nature. However, if needed, the Attorney General's Office has a unit that deals with government operations and open government laws and that unit will assist the Board's counsel with a person's issue of this nature.

Sari Sommarstrom asked what is a worst-case scenario for a Board member who violated the Bagley-Keene Public Meeting Act. Mr. Wilson stated that the worst-case scenario would be a criminal misdemeanor. However, he noted that the charge would have to be very serious and would require an extremely heavy burden of proof, but potentially a Board's decision could be vacated.

Dennis Leonardi asked about the law regarding the number of board members that could gather without providing notice of a public meeting. Mr. Wilson stated that there could be a meeting as long as a quorum did not exist. However, per the Bagley-Keene Act it is not considered a meeting when three or more board members attend a conference or a social gathering. He stated that a serial meeting is when there are a series of discussions among Board members, for example: If the Executive Officer speaks to each Board member or send emails to Board members asking them for their vote on an item(s) before the Board meeting. Mr. Wilson stated that staff briefing Board members is not considered a serial meeting.

Mr. Wilson explained ex-parte communications is when a private conversation takes place by a Board member, outside of the record, to discuss an issue that is before the Board. He explained that ex-parte communications could be a phone call, email, letter, or another means of communication that does not get into the administrative record. It is not an ex-parte communication when a Board member discusses items that are not before the Board

or is not a pending item. There is a distinction in the law in how the ex-parte rules apply to the different types of proceedings. Mr. Wilson explained the State Administrative Procedures Act prohibitions against ex-parte communications with Board members regarding adjudicatory quasi-judicial matters.

Mr. Wilson stated that a quasi-judicial matter is when a Board action is directed to affect an individual person or small group of people regarding how they conduct their business, such as when you are adopting permits or considering enforcement actions.

Mr. Wilson stated that Board members can go on site tours if they are interested without ex parte concerns so long as the tour facility is not on the agenda or pending before the Board. He also advised that Board members should have a Regional Water Board staff person accompany them on site visits. Mr. Wilson clarified that if Board members tour a site that is before the Board or a pending item, the tour must be noticed before the visit.

Mr. Wilson concluded his presentation by stating that if a Board member is charged with bias and is asked to recuse his/herself, there must be some type of evidence of the charge. He also noted that when a Board member leaves the Board, that member can not appear before the board for compensation for one full year on any item.

Action Item

15. (Item 12 on the agenda) **PUBLIC HEARING on Salmon River Total Maximum Daily Load (TMDL) and Implementation Plan for Temperature**

Bruce Gwynne represented information covered at the May 2005 Weaverville Workshop and summarized the errata and brief edits to the report for clarity. Michael Lee, Assistant Supervisor of Klamath National Forest testified that their suggested wording changes are incorporated in the Resolution before the Board. He stated that he is looking forward to working on the Implementation MOU with the Regional Water Board staff. Gary Lake, Vice-Chairman of the Shasta Nation Tribe of California opposes stewardship of the Salmon River by anyone but their tribe, the Regional Water Board took the following action:

MOTION: William Massey moved to adopt the TMDL and Implementation Plan Resolution No. R1-2005-0058, with the amendments. Gerald Cochran seconded the motion. The motion passed unanimously.

Sari Sommarstrom encouraged the National Forest to do coordinated monitoring on the Salmon River to get better data and to help obtain joint funding for Implementation. She also asked for the Forest to come back to the Board if they feel that satisfactory progress on the MOU is not being made.

16. (Item 17 on the agenda) **The Board's Role in Adjudicatory Proceedings**

Regional Water Board Counsel Sheryl Schaffner gave a presentation regarding the Regional Water Board's role in quasi-adjudicatory proceedings and discussed the legal parameters. This issue was discussed but because it was an informational item only, no action was taken.

17. (Item 16 on the Agenda) **Status Report on Mixing Zone Project**

Dr. Ranjit Gill, Regional Water Board Supervisor, gave the Regional Water Board a brief update on the Mixing Zone Project. Dr. Gill stated that staff of the Regional Water Board believes that it would not be prudent, nor in the best interest of water quality, to draft a policy separate from a Technical Support Document (TSD). He indicated that intent of the TSD is to 1) provide information and guidance necessary for staff to develop NPDES permit criteria for the use of mixing zones, 2) provide consistency with the SIP, and 3) provide guidance to those dischargers that may consider requesting Regional Water Board approval to use a mixing zone.

Dr. Gill informed the Board that the funding agencies decided to withdraw the funding to pay for the RGS staff because they felt that the process would take too long.

Ms. Kuhlman indicated that the Mixing Zone project is on the triennial priority list and that the staff will address it in the future.

Enforcement Items

- 18. (Item 13 on the agenda) PUBLIC HEARING on Order No. R1-2005-0031, to Consider Whether to Affirm, Reject, or Modify a Complaint for Administrative Civil Liability Issued on May 12, 2005, in the Matter of the Sonoma County Water Agency and the Russian River County Sanitation District, Wastewater Treatment Facility**

Chair Wasson recused herself from this item due to a potential conflict of interest.

Chair Wasson turned the meeting over to Board member William Massey and left the board meeting room.

Board member Massey administered the oath to those who expected to provide testimony on the Russian River County Sanitation District matter.

Charles Reed, Regional Water Board staff, gave a brief presentation. He explained that the proposed Administrative Civil Liability Order was drafted in response to violations of the dischargers' NPDES permit, which is subject to mandatory minimum penalties under state law. The violations that are the subject of this Administrative Civil Liability Complaint (ACL) occurred between January 2000 and August 2004, and required assessment of a mandatory minimum penalty of \$63,000. Mr. Reed noted that the dischargers were given the opportunity to waive the public hearing and settle the ACL by agreeing to spend a portion of the proposed penalty on a compliance project, but that option was declined.

Mr. Reed stated that the dischargers had proposed completing a compliance project that would correct the majority of the effluent violations cited in the proposed ACL. He explained that the dischargers' proposal described three project alternatives that would have upgraded and expanded the treatment facility's disinfection system. Identification of the final project would have been postponed until after it was determined if the discharges were eligible for a mixing zone credit. However, in no case would completion of the project have exceeded a period of five years, as required by the State Board Enforcement Policy.

Emily Dean, with the Sonoma County Water Agency stated that the district does not dispute the ACL. The district has made steps to address wet weather flows. Since the improvements have been made, there is no evidence of the ACL violations.

The compliance project is a disinfection upgrade, but before committing to a final compliance project, the district needs additional information from the Regional Water Board regarding its position on mixing zones for certain priority pollutants, namely dichlorobromomethane (DCBM), a byproduct of chlorine disinfection. Ms. Dean went on to explain that the existing treatment facility, using chlorine disinfection, will be unable to meet the final effluent limitations for DCBM in its NPDES permit without the benefit of a mixing zone credit. She stated that Regional Water Board staff indicated to her that if the Regional Water Board were to allow mixing zones for selected priority pollutants, disinfection byproducts, like DCBM, the Russian River County Sanitation District might be good candidates for a mixing zone credit.

Ms. Dean stated that she was aware of the Regional Water Board's reluctance to consider mixing zones for surface water discharges but that there was a bit of misunderstanding of what the term "mixing zone" means. She explained the concept of a mixing zone, noting that the area within the receiving water that did not meet water quality standards would be of limited extent, and that a mixing zone could not be used for conventional pollutants such as BOD and suspended solids. Ms. Dean requested that the Regional Water Board adopt the proposed Order as presented to them by staff.

The Regional Water Board discussed its concerns and the fact that there was no guarantee that the discharger would complete the project when the \$60,000 runs out.

MOTION: Dennis Leonardi moved to adopt the ACL Order No. R1-2005-0062. Sari Sommarstrom seconded the motion.

Legal counsel Sheryl Schaffner stated that there were findings that needed to be reviewed. Finding 17 on page 6, "delaying selection until the final mixing zone policy has been ruled upon." Ms. Schaffner suggested that this sentence be deleted because there is no certainty as to when the Mixing Zone Policy will be adopted. Page 8 of the Order, paragraph number 4, "suspend the amount if they demonstrate good faith towards compliance completion by the completion date," should be replaced with "compliance completion within five years after the adoption of this order."

MOTION: Dennis Leonardi accepted the suggested amendments, as ready by legal counsel, and reiterated his Motion for Adoption of the ACL Order No. R1-2005-0062, with the two amendments just read into the record. Sommarstrom accepted the revised Motion.

The Regional Water Board deliberated on the alternatives that the discharger submitted.

Brenda Adelman, advocate for the Russian River Watershed, stated that she and others did not want to see pollution in the Russian River, but noted that the public has no control over what the Sonoma County Water Agency may choose to do. She referenced an unnamed technical memo that the Regional Water Board may not have seen yet. Ms. Adelman voiced her concern that the Sonoma County Water Agency may have avoided the CEQA process on this issue.

Rich Coats, Executive Director of Forest Unlimited, indicated that he was pleased that the Regional Water Board deleted the sentence regarding the mixing zone. He stated that he observed that the proposed project is yet another beginning of a resolution to a problem. He stated that he was wondering when the real problem would be considered (i.e., which is I/I at the beginning of the pipe).

MOTION: The Motion passed with eight Aye votes and one recusal.

19. PUBLIC HEARING Order No. R1-2005-0041, to Consider Whether to Affirm, Reject, or Modify a Complaint for Administrative Civil Liability, Issued on May 13, 2005, in the Matter of A-Auto Parts

This item was removed from the agenda.

20. PUBLIC HEARING Order No. R1-2005-0048, to consider whether to Affirm, Reject, or Modify a Complaint for Administrative Civil Liability, Issued on May 23, 2005 in the Matter of American Aircraft Painting

This item was removed from the agenda.

Information Items

21. (Item 18 on the agenda) Executive Officer Administrative Civil Liabilities

Ms. Kuhlman stated that the enforcement unit has been created within the Regional Water Board. She reported that Mareen Gorenson, Deputy Counsel for Cal EPA would be visiting the Regional Water Board to address the Enforcement Unit and tour some of the sites in the region.

Ms. Kuhlman reported that the following dischargers have paid or are scheduled to pay fines:

- Georgia Pacific,
- City of Ukiah,
- Harwood Industries; and,
- Anchor Bay

22. (Item 7.on the agenda) Approval of Meeting Minutes: April and May 2005

The April 2005 Minutes were moved to the August 2005 Regional Water Board meeting for discussion.

The May 2005 Minutes were presented for approval.

Sari Sommarstrom submitted changes for the May 2005 minutes.

MOTION: Cochran moved to approve the May 2005 Minutes, with the amended changes. Massey seconded the motion. The Motion passed with eight Aye votes.

23. (Item on the agenda) **Board Member Requests for Future Agenda Items**

The Regional Water Board discussed the upcoming board meetings and PALCO's tour in July 2005

Ms. Kuhlman stated that the tour would be a public meeting. She requested that Board members send in their request for items that they want to see on the tour.

Sari Sommarstrom requested a Public Address system so that everyone could hear during the presentations. She also asked for an opportunity for the Regional Water Board to ask questions.

Gerald Cochran requested to see PALCO's "cut" in the areas of both regions prior to 1986 (what is referred to as "a legacy") and suggested maybe a couple of different ones be viewed also (suggesting 1987 to 1995), and then a view of its recent harvesting practice.

A question was asked whether Mr. Cochran was interested in viewing the landslide models or harvest related areas that are referred to when the models are discussed at Regional Water Board meetings.

In response, Mr. Cochran suggested an overview of the watersheds.

Mr. Cochran suggested viewing some of the "good stuff" and some of the "bad stuff" and "other stuff" regarding issues where PALCO and the Regional Water Board have had disagreement.

The Regional Water Board asked Acting Timber Chief, Robert Klamt if it staff had enough familiarity to pick the sites that the Regional Water Board would want to see on the tour. Mr. Klamt stated that staff did have the knowledge of the different areas within the watersheds.

Ms. Kuhlman suggested adding these items to the August agenda:

- *State Board non-point source item in the form of a workshop*
- *External award program*
- *Richard Grundy requested a presentation on Hopland*

24. **Monthly Report to the Board**

This item was written

25. **Other Items of Interest**

There being no further business to come before the Regional Water Board, the meeting adjourned at 4:05 p.m., until the next scheduled Regional Water Board Meeting on August 9 and 10, 2005.

Secretary Jean Lockett recorded the minutes of the June 20 and 21, 2005, Regional Water Board meeting of the North Coast Water Quality Control Board.

Chairperson _____