

California Regional Water Quality Control Board  
North Coast Region

MINUTES OF MEETING  
November 4 and 5, 2003  
Regional Board Meeting  
Regional Water Board Hearing Room  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

Chairman William Massey called the Regional Water Board Workshop to order at 12:05 noon.

**i. Pledge of Allegiance**

Gerald Cochran led the Pledge of Allegiance

**ii. Roll Call and Introductions**

Board Members present: William Massey, Richard Grundy, Dina Moore, Bev Wasson, Christopher Neary, Daniel Crowley, and Gerald Cochran

Absent: John Corbett and Shawn Harmon

Item 1. **Continuation of the Humboldt Watersheds Independent Scientific Review Panel Phase II Public Workshop.**

On November 4, 2003, the third and final workshop to discuss the Humboldt Watersheds Independent Scientific Review Panel Phase II Report was held by Regional Water Board. The November 4th workshop was held to allow timberland, agricultural and rural resident stakeholders an opportunity to address the Board on their comments and policy recommendations relative to the Phase II Report. Five stakeholders presented their agricultural based perspective to the Board. Five stakeholders and interested parties presented the non-industrial timberland owners view. With the resident community represented by seven speakers. In addition, to allow full participation by residents unable to travel to Santa Rosa, Regional Water Board staff commissioned the production of a videotape containing presentations by interested residents. Each set of speakers provided a unique perceptive for the Boards consideration. Following the workshop, the Board directed staff to prepare an item for their consideration at the December 2003 Regional Water Board meeting in Eureka.

## **Wednesday, November 5, 2003**

Chairman William Massey called the Regional Water Board meeting to order by at 9:05 a.m.

**iii. Pledge of allegiance**

Bev Wasson led the Pledge of Allegiance

**iv. Roll Call and Introductions**

Board Members present: John Corbett, Richard Grundy, Dina Moore, Bev Wasson, Gerald Cochran, Christopher Neary, Shawn Harmon and William Massey

Board member absents. Daniel Crowley

Regional Water Board Staff: Catherine Kuhlman, Frank Reichmuth, Sheryl Schaffner, Erik Spiess, Kathleen Daly, Terri Korell, Mark Neely, Charles Reed, Nathan Quarles, Robert Tancreto, and Jean Lockett

**v. Board Members Ex Parte Communication Disclosure**

This item was moved towards the end of the agenda so that all board members could participate.

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

State Board member, Gary Carlton reported that:

- ◆ Legislation past SB810 that gives the Regional Water Board authority of approval of THPs.
- ◆ Legislation authorized the State and Regional Board to levy fees for issuance of waivers.
- ◆ A release of the new septic tank regulations has been delayed and the guidelines are being re-worked.
- ◆ State Board adopted a resolution authorizing staff to proceed with the Tri-Annual Review of the State Implementation Policy for implementing the California Toxic Rule

**vii. Public Forum**

Jim Branham, with Pacific Lumber Company, informed the Board that PALCO will be operating under the option A document that was submitted to CDF.

Dina Moore requested clarification on option A and C. She asked Mr. Branham if the Regional Water Board staff could be involved in the discussions between CDF and Pacific Lumber on option A discussion. Mr. Branham stated that it might be possible.

Catherine Kuhlman stated that she would like to take the opportunity to work with Pacific Lumber Company to make sure that staff and Pacific Lumber Company are working on the same page.

**Item 2. Approval of Meeting Minutes**

There were no minutes present for approval.

**CONSENT CALENDAR**

**Item 3. Sonoma West Holdings, Incorporated, Order No. R1-2003-0059, NPDES No. CA0023655, Sonoma County, NPDES Permit Renewal, WDID No. 1B81202OSON**

MOTION: John Corbett moved to adopt R1-2003-0059 as amended by staff. Jerry Cochran seconded the motion. The motion passed unanimously.

**ACTION ITEMS**

Item 4. **PUBLIC HEARING Order No. R1-2003-0026, NPDES No. CA0024058, Russian River County Sanitation District, Sonoma County Water Agency, Wastewater Treatment and Disposal Facility, Sonoma County, NPDES Permit Renewal, WDID No. 1B820450SON**

Chairman William Massey recused himself from this item.

Vice-Chairwoman Dina Moore administered the oath to those who expected to participate in the hearing.

Charles Reed gave a presentation that covered the existing NPDES Permit adopted on May 28, 1992 with an expiration date of May 28, 1997.

Richard Grundy referenced Frank Bacik's comment letter that alleged that the recycled water discharge to the Burch property was creating conditions on his client's property that were conducive to mosquito breeding, which constituted a serious threat to public health. Mr. Reed stated that he inspected the irrigation area two weeks earlier and did not note any permit violation.

The significant new requirement in the draft permit are interim and final effluent limitations for dichlorobromomethane and interim requirements designed to bring the discharge into compliance with the final limitations as soon as practicable.

[Note: Daniel Crowley entered the Boardroom at 10:25 a.m.]

Emily Dean representing the Sonoma County Water Agency voiced some of the Agency's concerns with the language in the Permit. She requested that the Board consider replacing General Provisions 13 Byapss and General Provision 14 Upset with the Agency's suggested language;  
Remove the Sonoma County Water Agency as a co-permittee; remove the mass limits and daily limits for BOD and total suspended solids (TSS) from the permit.

David McFadin, attorney with the Sonoma County Council Office and a representative of the Sonoma County Water District, spoke in support of the Water Agency.

Frank Bacik, attorney for Roger Burch, stated that his client is burdened by the permitted activities of the Sonoma County Water Agency. He stated that the easement rights are being abused. He urged the Board to deny the permit, and continue the proceeding to restructure the permit to address the effluent on Mr. Burch's property because of Sonoma County Water Agency's activities.

Brenda Adelman voiced her concerns on the relaxation of the by pass provision.

Bob Rawson, previous operator of the wastewater treatment and disposal system, stated that he believed that the irrigation problem could be resolved with some sort of drip system.

Mr. Tancreto stated that this permit adequately addresses the public concerns and water quality. The Regional Water Board staff will be in the field to inspect all the issues that were stated as concerns. Any existing problems will be an enforcement issue.

MOTION: John Corbett moved to adopt the NPDES Permit as proposed with the suggested amendments and the errata sheet. Bev Wasson seconded the motion. Motion passed with five votes. One no vote by Richard Grundy. Christopher Neary and Daniel Crowley abstained.

Due to their recent appointment Daniel Crowley and Christopher Neary, abstained from voting on any of the items presented for adoption.

The Board observed a five-minute break at 11:35 a.m.

Chairman Massey returned to chair the remaining of the board meeting.

**v. Ex Parte Communication**

Gerald Cochran stated that on October 23, 2003, he toured Simpson Resource with the Executive Officer, Catherine Kuhlman; and Assistant Executive Officer, Frank Reichmuth.

Dina Moore stated that she and the Executive Officer meet with Andrea Tuttle and discussed general forestry issue. Ms. Moore, also, stated that she meet with two Humboldt County Supervisors, John Wooley and Jimmy Smith and discussed SB 810 and other general issues not on the day's agenda.

Richard Grundy stated that he wrote a letter to the Governor regarding one of the bills that were passed.

**Item 7. Executive Officer Administrative Civil Liabilities**

Catherine Kuhlman reported that:

- ◆ an ACLC was issued to Vintage Green,
- ◆ a payment was received from Fairhaven for \$17,666.00, and
- ◆ Ned and Catherine Brown made a payment of \$60,000.

**Item 8. Board Member Requests for Future Agenda Items**

Gerald Cochran requested the Crescent City item be placed on the agenda.

Richard Grundy requested information on the Van Duzen Watershed TMDL. Ms. Kuhlman stated that a report will be submitted in the EO's report.

Chairman Massey requested staff to come up with a policy addressing last minute comments for agenda items.

At 12:15 the Board observed a recess for lunch and conducted closed session during the lunch hour.

Chairman Massey opened the board meeting to the public at 1:23 p.m.

**Item 11. Closed Session**

There were no reports from closed session.

Item 5                    **PUBLIC HEARING Order No. R1-2003-0119 and Order NO. R1-2003-0118, The Pacific Lumber Company, Scotia Pacific Company LLC, and Salmon Creek Corporation, Waste Discharge Requirements for Freshwater Creek and Elk River, Humboldt County**

Chairman Massey administered the oath to all those who expected to participate in the hearing.

Mark Neely gave the presentation. He stated that the purpose of the hearing was to request that the Board consider the proposed Waste Discharge Requirements (WDRs), which are nearly identical to the previous Waste Discharge Requirements. Evidence in the administrative files supports the conclusion that timber operations in the Freshwater Creek and Elk River watersheds have resulted in significant discharges of earthen materials. These discharges have contributed to nuisance flooding conditions and have adversely affected downstream beneficial uses including drinking water supplies and fisheries. Proposed and continuing operations are expected to further contribute to these conditions.

Mr. Neely highlighted some changes to the proposed WDRs based on the approval status of a number of Timber Harvesting Plans (THPs). He explained that THPs that had not yet been approved by the California Department of Forestry and Fire Protection (CDF) could not be included in the WDRs because they had not yet achieved California Environmental Quality Act (CEQA) compliance. Mr. Neely read into the record specific changes to the proposed WDRs based on the updated THP approval status information: THPs 03-159 (McWhinney Bridge) and Plan 03-005 (Below 15 Thin) have changed from THP "Pending Approval" status to "Approved" status. THPs 02-284 (Falls Cloney), 02-292 (Little C), and 01-446 (X86) have likewise been approved.

Mr. Neely described some difficulties encountered by staff while implementing the previous versions of the WDRs. In particular, the fact that the permits were written specifically for winter operations raised questions regarding operations and discharges that occur outside the winter period. In response to these comments, the Board discussed the timeframe over which the proposed WDRs apply, in response to Mr. Neely's comments. John Corbett indicated his interpretation that the WDRs apply to all discharges associated with winter operations, regardless of whether those discharges occur outside the winter period. Sheryl Schaffner added that the WDRs could arguably be interpreted to apply to non-winter operations as well. Following some additional discussion, the Board emphasized the need to develop and adopting watershed-wide, year-round WDRs, and directed staff to make progress toward that end.

The Board expressed an interest to receive from staff a summary of the implementation status and priority of the Board's previous motions. Catherine Kuhlman indicated that staff would prepare something for the Board to review within the next two weeks. After reviewing staff's submittal, if members the Board want further information, they will indicate their interests to staff.

Steve Horner requested that the Board accept the Regional Water Board's staff recommendation and adopt the WDR for Freshwater and Elk River Watersheds.

Mr. Brecher stated that the WDRs need to encompass all logging and roading within each of the watersheds. He urged the Board to limit logging and roading.

Jan Krapeline concurred with Mr. Brecher and urged the Board to require year-round waste discharge requirements with zero discharge.

MOTION:                John Corbett moved to adopt the Order No. R1-2003-0118 and Order No. R1-2003-0119 with the errata. Gerald Cochran seconded the motion. Motion passed with 7 votes and Mr. Neary abstained.

The Board expressed their need to have a document in place that would move the region forward to a watershed approach.

**Item 6. PUBLIC HEARING to consider adoption of Order No. R1-2003-0116, Interim Categorical Waiver for Discharges Related to Timber Operations in the North Coast Region, waiving waste discharge requirements for timber harvesting activities**

Dina Moore recused herself from item 6.

Chairman Massey administered the oath to all those who expected to participate in this hearing.

Nathan Quarles admitted the administrative file into the record, and gave the presentation on the Tentative Order Waiving WDRs for Timber Harvest Activities in the North Coast Region.

On December 10, 2002, the North Coast Regional Water Quality Control Board adopted a Negative Declaration, an Initial Study and Order No. R1-2002-0109, Interim Categorical Waiver for Discharges Related to Timber Operations in the North Coast Region (Interim Waiver). Order No. R1-2002-0109 sunsets on December 31, 2003.

The Interim Waiver exempted timber operations conducted pursuant to the Z'berg-Nejedly Forest Practice Act (Public Resources Code section 4511 et seq.) from waste discharge requirements except as otherwise specifically provided within the waiver. The Interim Waiver also exempted silvicultural activities on National Forest System lands except as otherwise provided within the waiver.

Nathan Quarles addressed Senate Bill 923 that requires monitoring for all waivers by stating that staff created an errata sheet that added one finding and two provisions.

[Note: Daniel Crowley entered the Board room at 2:55 p.m. from the 12:15 break time.]

John Corbett submitted a handwritten document to assist in making the waiver document more consistent and clearer.

Comments were taken from:  
Joseph Brecher, EPIC and Humboldt Watershed Council  
Bernie Bush, represented Simpson Resource Company  
Mark Rentz, California Forestry Association

MOTION: John Corbett moved to adopt Order No. R1-2003-0116.  
Richard Grundy seconded the motion.

Mr. Corbett suggested changes on the errata sheet that would help provide a clearer document by changing, "this monitoring requirement may be waived for discharges that the Regional Water Board determines do not pose a significant threat to water quality." Discharges that pose a significant threat to water quality are not covered by this waiver.

Sheryl Schaffner clarified the new finding number 26 as "Effective January 1, 2004, water code section 13269 requires that waivers include the performance of individual groups or watershed based monitoring. This monitoring requirement may be waived for discharges that the Regional Water Board determines that do not propose a significant threat to water quality." Discharges that propose significant threat to water quality are not covered by this waiver.

MOTION: Motion passed with six yes votes and Neary and Crowley abstaining. Dina Moore recused herself (and took no part in the discussion).

Item 9. **Monthly Report to the Board**

Stands as written

Item 10. **Other Items of Interest**

Stands as written

There being no further business to come before the meeting body, the meeting adjourned at 3:35 p.m., until the next scheduled Board Meeting for December 2 and 3, 2003.

The Secretary, E. Jean Lockett recorded the minutes of the November 4 and 5, 2003, meeting of the North Coast Water Quality Control Board, to be approved by the Board at a subsequent Board Meeting.

Chairman \_\_\_\_\_

Date: \_\_\_\_\_