



# California Regional Water Quality Control Board

## Central Coast Region



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

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**Arnold Schwarzenegger**  
Governor

MINUTES OF  
REGULAR MEETING  
Thursday, July 8, 2004 & Friday, July 9, 2004  
**Regional Water Quality Control Board**

**Thursday, July 8, 2004, 12:00 p.m.**

Chairman Jeffrey Young called the meeting of the Central Coast Regional Water Quality Control Board to order at 12:20 p.m. on July 8, 2004, in the Watsonville City Council Chambers, 250 Main Street, Watsonville, California.

**1. Roll Call**..... Diane Glanville

**Board Members Present:**

Chairman Jeffrey Young  
Vice Chair Russell Jeffries  
Gary Shallcross  
Bruce Daniels

**Absent:**

Leslie Bowker  
Daniel Press  
Donald Villeneuve

**2. Introductions**..... Executive Officer Roger Briggs

Executive Officer Briggs introduced staff and asked all interested parties who wished to

comment to fill out testimony cards and submit them.

**3. Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands**

[Alison Jones 805/542-4646 and Karen Worcestor 805/549-3333] ..... Board Approval

Because the Board did not have a quorum, the item was conducted as a workshop.

have three years in which to complete the education and farm plan requirements.

Alison Jones of Regional Board Staff presented proposed conditional waivers for discharges from irrigated lands. The proposed waivers were developed in response to revised Section 13269 of the Porter Cologne Water Act, which caused all existing waivers to expire on January 1, 2003. The new waiver program requires all irrigated operations to develop farm water quality management plans, complete 15 hours of water quality education, report management practice implementation and monitor water quality. The program creates a two-tiered waiver system, with Tier 1 (five-year) waivers available to those dischargers who have completed education and farm plan development and are already implementing practices to protect water quality. All others would receive Tier 2 (one-year) waivers that must be renewed annually. Dischargers will

Alison Jones also discussed the proposed approach to monitoring agricultural areas. Both individual and cooperative (group) monitoring are options under the proposed waiver. Under the cooperative program, in-stream monitoring of a network of sites by a single entity would allow the Regional Board to evaluate impacts to beneficial uses, focus staff resources on areas of identified problems, ensure data quality and simplify data management. She presented a revised timeline for implementing the cooperative monitoring program, based on a proposal received from agricultural industry. Under the revised proposal, the cooperative monitoring program would be started up nine months earlier than staff had originally proposed, in half of the sites. The full program would begin three months later than staff had originally proposed. The agricultural industry agreed to set

up committees to oversee monitoring and allocate costs.

#### Public Comment

Public Comment was received from several individuals and representatives of Central Coast agricultural and environmental organizations:

1. Kaitilin Gaffney, Agricultural Advisory Panel Member, from the Ocean Conservancy in Santa Cruz, stated that she supports the staff's proposal and urged the Board to adopt the waiver. Her concern was in the monitoring program and whether it would be the bare minimum that is legally acceptable.

2. Joy Fitzhugh, Agricultural Advisory Panel Member, from the San Luis Obispo County Farm Bureau, urged the Board to adopt the Ag Industry Monitoring Proposal, stating that it will work. However, the required checklist must show past efforts that were made.

3. Kevin Merrill, Agricultural Advisory Panel Member from the Central Coast Wine Growers and San Luis Obispo/Santa Barbara Watershed Coalition, supported staff's new proposal. His recommendation is to look at protocol in 6 months to a year to see what is working and what is not working. He stated that he is impressed that agriculture has stepped up in the last 6 years and wants to work with the staff.

4. Katie Siegler, Agricultural Advisory Panel Member, from the Monterey Bay National Marine Sanctuary supported the adoption of the waiver. She would also like to coordinate with the Agricultural Program and with the Plan for Agriculture as the model. However, she expressed concern about the lack of clear enforcement and sufficient staff to monitor the program. She stated that the Board has a legal responsibility for robust monitoring as well as the need for better-defined guidelines.

5. Benny Jefferson, Agricultural Advisory Panel Member from Jefferson Farms, supported the Agricultural Industry's Monitoring Proposal. The challenge will be to get industry groups together. His concern was the deadlines for each phase of the proposal. He stated that it may take a bit longer

to meet the terms as stated in the proposal, but the problem may not be as bad as first thought.

6. Eric Cardenas, Agricultural Advisory Panel member from the Environmental Defense Center, encouraged the board to adopt the program but expressed concerns with the modified proposal, stating that it had little input from the environmental community. He agreed with the proposed timelines, but stated that there needs to be stakeholder and public input on any alternate monitoring plan.

7. Miranda Leonard, Agricultural Advisory Panel member and Environmental Health Educator from ECOSLO, urged the board to adopt the program. However, she expressed dismay about what little time they had to review the revised proposal and still has concerns about water quality.

8. Laura Mills from LGM Consulting, speaking on behalf of the Salinas River Channel Coalition and 23 other Agriculture organizations, stated that the goal is improved water quality, not just monitoring alone. She would like to see the industry's proposal along with staff's responses incorporated into the order. The proposal includes establishing a monitoring subcommittee. The order should specify that the Agricultural Committee's composition is up to the agricultural industry and that they have a right to propose an alternative monitoring program.

9. Dawn Mathes, Agricultural Advisory Panel member from the Coalition of Central Coast County Farm Bureaus, was concerned that the industry did not know that they could propose an alternative plan.

10. Sig Christerson from the Western Growers Association was pleased to see that the Central Coast is developing a program. Monitoring began July 1 in the Central Valley. The industry proposal will be phased in, and led by industry. He believes the 6-month deadline is reasonable and that the Board should adopt the waiver. He also stated that the Board should consider an EIR.

11. Katie Nichols from the University of California Santa Cruz was concerned about the ecological impact that pesticides will have. She stated that it is urgent to implement a waiver and

cooperate with growers and to make it cost effective.

12. Bob Martin, Agricultural Advisory Panel member and president of the Monterey County Farm Bureau, stated he is ready to promote the program with the industry proposal incorporated. He suggested that research be done on nitrate availability to plants, because of the difficulty in reducing nitrates in groundwater.

13. John Hayashi stated that the agricultural industry proposal shows the willingness to develop a program to meet legal requirements by twenty-three organizations coming together. He supports the adoption of the industry monitoring proposal.

14. Kirk Schmidt from the Monterey Bay National Marine Sanctuary Advisory Council Advisory Council would like to see the focus be on improving the environment. He stated that there is a wide discrepancy between small and large operations and would like to see flexibility for growers. He supports the item as amended.

15. Richard Quant, Agricultural Advisory Panel member from Grower-Shipper Vegetable Association, wished to clarify that the waiver only applies to irrigated lands and questioned some of the definitions in the waiver order. He suggested that the requirement for the farm plans say "where applicable" rather than "at a minimum". He also suggested substituting "crop nutrient requirements" for "crop needs".

16. Jim Curland, Marine Program Associate with Defenders of Wildlife, stated that pesticides are a threat to sea otters. He said the Board should avoid delays, expressed appreciation of staff's work, but thought the industry proposed partial program does not meet legal requirements and will result in too long a delay in full monitoring.

17. Steve Shimek of the Otter Project, said the waiver is the wrong way to go and that permits were needed. He stated that the public interest includes health and safety, recreation and wildlife, not just economic burden on farmers. However, he recommended that the Board adopt the strikeout version and ensure that full regionwide monitoring begin by January 1, 2006. He expressed some confusion about the industry proposal and mandated committees, which should be

stakeholder groups, and said it was good to be open to alternative ideas, but there needs to be a base program in place.

18. Kaya Pederson, Central Coast Regional Manager for Surfrider Foundation, urged the adoption of the conditional waiver with staff's timeline as soon as possible, and stated she was happy to see agriculture doing their part.

19. Jane Delay, Executive Director of Save Our Shores, stated that runoff is impacting coastal ecosystems, and expressed support for the waiver with the amended timeline, which is a good beginning. She said the monitoring program should include all stakeholders to ensure participation.

20. D'Anne Albers, Executive Director of Friends of the Sea Otters, said that runoff and groundwater contamination can impact the health of sea otters and that all farmers must develop plans and use BMPs, obtain education and monitor for pesticides. There should also be a reasonable fee system to support the program. She urged full adoption of the waiver program.

21. Kathy Brunetti, of the Department of Pesticide Regulation (DPR), offered to make all DPR data available to staff, support RB staff with review of protocol, and help develop procedures to respond to detection of pesticides with legal use. She liked the flexible approach of the monitoring program and felt that her comments had been addressed in the staff report.

22. Timothy Morgan, attorney for Jensen Farms, was concerned that the agricultural proposal was not incorporated. He requested that the industry's July 6 letter with comments be incorporated into the waiver order.

23. Nancy Isaksen, consultant for Jensen Farms, said they did not support the proposal as recommended by staff, unless it was clearly identified that the phasing in would occur in two areas and the Board had a set date for a hearing on an alternative proposal. She recommended that the order include the July 6 industry letter along with staff's responses. (The Board requested that she submit specific language).

24. Amy Anderson of Santa Maria Citizens for Safe Drinking Water, urged the adoption of the conditional waiver as soon as possible.

25. Sarah Newkirk of the Ocean Conservancy, stated that the Agricultural Advisory Panel had worked hard to adopt the proposal and she was dismayed at last minute changes without consultation. She stated that the waiver should be adopted immediately, although she does not support delay of full monitoring. She felt that the waiver is not legally compliant without full monitoring.

26. Pamela Heatherington, Executive Director of Environmental, was concerned that the changes did not meet the 72-hour notice criteria. She realizes that many agriculturalists are doing a good job, but is concerned about pesticides. She urged the adoption of staff's recommendation and timelines. She suggested a future tax on pesticides and stated that the creation of an industry council locks out environmental interests and the public.

27. Andrew Christie, Sierra Club Chapter Coordinator, suggested that the industry ask chemical corporations to fund monitoring. He stated that the agricultural industry's monitoring proposal looks out for the industry's interests, not the public's. The committees should include environmentalists. He urged the Board to approve

the program as it is, without changes, without delay.

28. Kathy Thomasberg, from the Monterey County Water Resources Agency Water Quality Program Manager, spoke also on behalf of Michael Cahn (UCCE) and Giulio Ferruzzi (NRCS), to note that irrigation efficiency can protect water quality, and that regional assessments of irrigation efficiency can help with compliance assessments. Monitoring is costly and could be enhanced by assessing irrigation efficiency at the farm scale.

29. Gordon Hensley, San Luis Obispo Coastkeeper, said the Board had the cart before the horse and it was unclear why WDRs were not proposed. The past waiver was not effective, and the baseline should be 1983. The program will set up a situation where individuals can "hide", the public interest requirement is not met, and the CEQA fails to address environmental consequences. He stated that although he does not support the waiver, staff's version is preferable to the industry proposal.

30. Marisha Banister requested that growers be allowed to "test out" if they are already implementing management practices. She would recommend the adoption of the waiver with such a modification.

*Chairman Young adjourned the workshop at 4:50 p.m. and scheduled to re-convene the workshop or hearing (depending on if Dr. Bowker was able to review the audio testimony) on July 9, 2004 at 8:30 a.m.*

**Friday, July 9, 2004, 8:30 a.m.**

Chairman Jeffrey Young called the meeting of the Central Coast Regional Water Quality Control Board to order at 8:30 a.m. on July 9, 2004 in the

Watsonville City Council Chambers, 250 Main Street, Watsonville, California.

**5. Roll Call**.....Diane Glanville

**Board Members Present:**  
Chairman Jeffrey Young  
Gary Shallcross  
Vice Chair Russell Jeffries  
Daniel Press  
Bruce Daniels  
Leslie Bowker

**Absent:**  
Donald Villeneuve

6. **Introductions**..... Executive Officer Roger Briggs

Executive Officer Briggs introduced staff and asked all interested parties who wished to

comment to fill out testimony cards and submit them.

7. **Approval of May 13 & 14, 2004 Minutes**.....Board Motion

**MOTION: Mr. Jeffries moved to approve the May 13-14, 2004 minutes. SECONDED by Bowker. CARRIED - Unanimously (6-0)**

8. **Report by State Water Resources Control Board Liaison [Gary Carlton 916/341-5603]**.....Status Report

Mr. Carlton spoke about the impaired waterbody list and timber harvest issues.

3. **Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands**

[Alison Jones 805/542-4646 and Karen Worcestor 805/549-3333] ..... Board Approval

Chairman Young opened the hearing on the Item. Board member Les Bowker confirmed that he had reviewed the previous day's testimony and confirmed that he was prepared to deliberate on the issue. Representatives of the agricultural industry submitted proposed language for the order and monitoring and reporting program. Staff inserted the language using track changes mode and read the proposed changes aloud, along with recommendations for accepting or rejecting the proposed changes. Staff recommended accepting the proposed changes to the order but not to the monitoring and reporting program.

Bruce Daniels stated the need to think about impacts to fish and other interests, not just economics. Agriculture is the biggest remaining impact on water quality in the region, and he supported the approach proposed by staff.

Les Bowker said that monitoring is dynamic and it is easier to change a small program than a large one, so phasing makes sense. He called the program doable and expressed support.

Russ Jeffries stated that he appreciates the agricultural community coming together and the compromises by the environmental community.

**Additional Public Comment**

Monterey County Water Resources Agency

Kathleen Thomasberg noted that growers must ensure that well heads are protected from back flow of fertilizer and pesticides. She suggested that wellhead protection be added to the checklist.

Jeff Young called the program a maturation process and that by finding common ground a working platform had been created. He offered kudos to both the agricultural and environmental communities.

Jensen Farms

Nancy Isaksen speaking for Jensen Farms said the industry was satisfied with staff's recommendation.

The Board unanimously adopted Resolution R3-2004-0118 adopting the Negative Declaration, Order R3-2004-0117 as changed and Monitoring and Reporting Program R3-2004-0117 as changed.

**Board Member Comments**

Gary Shallcross spoke in support of the program and urged agriculture to work with other stakeholders.

**MOTION: Mr. Daniels moved to adopt the waiver. SECONDED by Mr. Shallcross. CARRIED - Unanimously (5-0). Dr. Press abstained from vote.**

9. Public Forum ..... Board Direction

Interested parties below made comments:

Al Barrow (Citizens for Affordable and Safe Environment) read a letter objecting to use of public funds for the community wastewater project. Mr. Barrow described components of an alternative project, which he supports (STEP/STEG collection, aerated pond treatment, agriculture irrigation/exchange for disposal of effluent). Mr. Barrow believes his alternative project would be less expensive and easier to operate than the proposed community project. Mr. Barrow requested the Regional Board to schedule consideration of his alternative project at its next meeting.

Linde Owen is disturbed by statements in letter from U. S. EPA to the Coastal Commission indicting that septic systems are discharging waste to ground water and causing contaminated seeps to Morro Bay. Ms. Owen stated that neither statement is true or documented. Ms. Owen stated that septic tank effluent is rendered to practically drinkable quality after passing through two to five feet of vadose zone. Ms. Owen referred to Resolution No. 83-12 (actually appeared to be referring to Resolution No. 83-13) the Basin Plan prohibition of discharges in Los Osos. Ms. Owen recommends a septic tank management plan be implemented in Los Osos in accordance with Resolution No. 83-12. Also, Ms. Owen requests a mediator be brought in to Los Osos. Ms. Owen stated that seepage pits should be shut down.

Chairman Young informed Ms. Owen that there is plenty of documentation regarding waste discharges to ground water and seeping to the Bay due to the use of septic systems and impacts to water quality resulting from seepage pits in direct contact with ground water.

Julie Tacker (Concerned Citizens of Los Osos) indicated that CCLO's first order of business is to move the treatment facility from the center of town. Ms. Tacker stated her organization agrees that a treatment facility is needed. Ms. Tacker indicated the original plan was to have a buried treatment plant, but the proposed sewage "factory" will not be buried and will impact views. Ms. Tacker stated, "this is not about wastewater, it is about the enormity of a factory in the middle of town."

Lisa Schicker (Los Osos Technical Task Force) is part of a group of scientists and engineers formed in 2003 because they were concerned about changes to the project. Ms. Schicker indicated her group understands the need for the wastewater project and the late timing of the group's participation in project opposition. Ms. Schicker stated LOTTF was not obstructionists and requested that the Regional Board honor and work with the public process. Ms. Schicker encourages the stakeholder process be developed in Los Osos.

Chairman Young clarified that treatment facility design and location are not issues for the Regional Board. This project has been through the public process and the appropriate forum for design issues is the Los Osos CSD. Executive Officer Briggs referred the audience to Frequently Asked Questions flyers available at the Regional Board website, which address many of the comments and questions presented this morning.

Jodi Frediani gave a brief presentation on follow-up to the June 28, 2004 Timber workshop. Staff has requested a copy of her presentation and will follow-up on her suggestions.

10. Uncontested Items Calendar ..... Board Motion

**MOTION:** Mr. Bowker moved to approve the proposed consent calendar, items 20 and 21. **SECONDED** by Mr. Daniels. **CARRIED** – Unanimously (5-0) Mr. Shallcross abstained.

**11. Low Threat and General Discharge Cases**.....Information/Discussion/Board Approval

Foxx and Bynre NTMPs Waiver were both proposed as "Low Threat" items because staff concluded they posed no significant threat to water quality. Staff explained why the proposed actions posed very low threat to water quality. The Board requested staff to re-inspect these two projects and report back.

Former Shell El Dorado Service Station, 1835 State St, Santa Barbara, CA.

Board Member Daniels expressed concern for the recommended case closure because 1,2-dichloroethane (EDC): 1) is above the maximum contaminant level (MCL), 2) is not clearly

declining, and 3) does not readily biodegrade. Staff Engineering Geologist, Burton Chadwick, acknowledged those observations; and offered that because EDC concentrations were low and near MCLs, the case merits low risk closure. In addition, other natural attenuation mechanisms, such as volatilization and dilution would cause concentrations to continue to decline.

Mr. Daniels recommended that the case remain open. Chairman Young agreed and suggested that additional information could be brought to the Regional Board in the next agenda.

**12. Perchlorate Cases** ..... Status Reports

The Whittaker Corporation and McCormick Selph updates were written only. Regional Board staff orally presented additional information regarding the Olin Corporation (Olin) project and introduced a new perchlorate case in San Benito County.

Regional Board staff, David Athey, discussed the Cleanup or Abatement Order issued to Olin and Standard Fusee on July 6, 2004. The Executive Officer issued Order R3-2004-0101 directing uninterrupted water supply to private domestic well owners with perchlorate-contaminated wells. Staff detailed the requirements set forth in the Order. Board Member Daniels questioned why 4 ppb was chosen as the concentration to supply uninterrupted replacement water. Regional Board staff responded that they decided to use a more conservative level based on the uncertainty regarding what level is safe. Regional Board staff pointed out that both the USEPA and Massachusetts have established a Public Health Goal, also known as Reference Dose, which are both lower than the state of California's.

Public comment was received from Tracy Hemmeter, Santa Clara Valley Water District, and Sylvia Hamilton, the Perchlorate Community Advisory Group chair. Ms. Hemmeter expressed support for the cleanup Order, a major milestone and a great step forward for the Morgan Hill site and impacted residents. Sylvia Hamilton voiced her admiration for all involved in the Olin case.

She mentioned that she appreciates the effort made by Olin for the onsite treatment and assistance with public repositories. She also pointed out the lack of action and inconsistencies by Olin regarding alternative water supply thus far. She congratulated staff for the excellent timing and issuance of the cleanup Order.

David Athey discussed the recently identified perchlorate contamination site, United Defense, in San Benito County. Mr. Athey outlined the recent meeting with United Defense and its consultant, held July 1, 2004. The Hollister Test Facility, located in eastern Hollister, primarily conducts vehicle armament testing. David Athey explained that testing was performed on vehicle armor, which contained perchlorate as a reactive barrier (explodes outward). Detections, as high as 2900 mg/kg in soil and 2600 ppb in groundwater, are believed to be from the armor testing. Regional Board staff is currently reviewing the Phase II Assessment, while United Defense has proposed to conduct additional site investigations. Because contamination seems to be present within the top few feet of the soil, Board member Daniels suggested immediate soil cleanup to prevent further perchlorate migration. In response to Board member Daniel's question regarding current site operations, Carl Hanes, Site Operations Manager for United Defense, described the site testing processes and mentioned other detected contaminants, including nitrate and explosives.

**13. Corrective Action Approval** ..... Status Reports

There was no public testimony on this item.

**14. Enforcement Report** ..... Status Report

See Item #29.

**15. City of Paso Robles WWTP, San Luis Obispo County** ..... Order No. R3-2004-0059  
 [Tom Kukol 805/549-3689]

Senior Engineer Harvey Packard of Regional Board staff noted that no representative of Paso Robles was present at the hearing, but that the city sent a letter to Chair Young, dated July 7, 2004, requesting that the hearing be continued to allow the city more time to propose a supplemental

environmental project. After a brief Board discussion, there was no support for the city's request for an extension. The Board voted unanimously to adopt the proposed order, requiring that the city pay a penalty of \$6,000.

**MOTION: Dr. Press moved to adopt Order No. R3-2004-0059. SECONDED by Mr. Shallcross. CARRIED – Unanimously (6-0)**

**16. Landmark Elementary School, Santa Cruz County** ..... Order No. R3-2004-0073  
 [Kimberly Gonzalez 805/549-3150]

Landmark Elementary School waived the hearing and the order was adopted.

**MOTION: Mr. Daniels moved to adopt Order No. R3-2004-0073. SECONDED by Dr. Press. CARRIED – Unanimously (6-0)**

**17. Coastal Boatworks, San Luis Obispo County** ..... Order No. R3-2004-0088  
 [Jennifer Bitting 805/542-4623]

Water Board Staff Engineer, Jennifer Bitting, presented the case that Dan Milligan, doing business as Coastal Boatworks, (hereafter, Discharger) violated the terms of the General Permit for Storm Water Discharges Associated with Industrial Activity (General Permit by failing to submit the 2002-2003 Annual Report in a timely manner. Staff recommended the Board adopt an Administrative Civil Liability Order in the amount of \$1000.

Claire Corcoran, of Sullivan & Corcoran, represented the Discharger and argued that the Board should not assess any civil liabilities. The Regional Board adopted Order No. R3-2004-0088 requiring the Discharger to pay a sum of One Thousand Dollars (\$1,000.00) to the Regional Water Quality Control Board by August 9, 2004.

**MOTION: Dr. Press moved to adopt the Order. SECONDED by Mr. Shallcross. CARRIED – Unanimously (6-0)**

**18. Sonoma Pacific Company, Monterey County** ..... Order No. R3-2004-0086  
 [Jennifer Bitting 805/549-3334]

Sonoma Pacific Company waived the hearing and the order was adopted.

**MOTION: Mr. Daniels moved to adopt Order No. R3-2004-0086. SECONDED by Mr. Shallcross. CARRIED – Unanimously (6-0)**



**19. Consideration of Enforcement Alternatives for Baywood Park/Los Osos** ..... Board Direction  
[Sorrel Marks 805/549-3695]

Regional Board staff, Sorrel Marks, summarized possible enforcement and non-enforcement alternatives, which the Regional Board might consider in order to improve the long-term water quality problems in Los Osos. Ms. Marks presented various options and pros and cons of each action presented in the written staff report. Ms. Marks summarized her presentation by recommending that the Regional Board consider development of General Waste Discharge Requirements (WDRs) requiring alternative treatment in Los Osos. These General WDRs would be considered sometime after the August Coastal Commission meeting, if the Coastal Commission does not approve the project at that time.

Board Member Daniels expressed concern regarding the discharge of polluted water from shallow drains to Morro Bay. Mr. Daniels also summarized Cleanup and Abatement authority provided in Porter-Cologne. Mr. Daniels recommended prioritizing our efforts focusing on seepage pits discharging directly to ground water, as such represents the most severe water quality impacts.

Chairman Young admonished Mr. Barrow for his obscene gesture toward Board Member Daniels.

Board Counsel Okun clarified that the Regional Board does not have statutory authority to build and operate wastewater systems, but does have authority to regulate waste in Los Osos under the Resolution No. 83-13, the Basin Plan and Porter Cologne.

Stan Gustafson (Los Osos CSD President) thanked the Regional Board staff its efforts in assisting the CSD in moving the community wastewater project forward. Despite the CSD's best efforts, the project is currently delayed due to reasons beyond the CSD's ability to control and monetary penalties would cripple the CSD's ability to proceed. Mr. Gustafson also indicated that the CSD would be extremely grateful for any additional help the Regional Board can provide in moving the project forward.

Bruce Buel (Los Osos CSD General Manager) reviewed the wastewater project history, highlighting compliance milestones specified in Time Schedule Order No. 00-131. Mr. Buel briefly summarized the Coastal Commission's requests for additional information and the CSD's response to those requests. Project roadblocks, which have created delays, include four separate lawsuits with associated appeals, appeal of the Planning Commission approval of Coastal Development Permit, and appeal of the Coastal Development Permit to the Coastal Commission. The CSD has prevailed in each of the legal actions, however due to these delays, project costs have increased \$3 million. Without those delays, Mr. Buel believes the wastewater project would have been on schedule if not ahead of schedule. Mr. Buel indicated that some lot-specific information regarding seepage pits and depth to ground water may be available from prior work contracted by the CSD.

Board member Daniels expressed his concern regarding the fairness issue for those vacant property owners who cannot develop their lots and are not contributing to water quality problems.

Gary Grimm (Counsel to Los Osos CSD) briefly reviewed responses that the CSD has provided to Coastal Commission requests, highlighting the division of authority between Coastal Commission and Regional Board for issues pertaining to water quality protection.

Lisa Schicker (Los Osos Technical Task Force) expressed her support for a wastewater project and submitted two letters regarding the Task Force's comments on the Staff Report for this item. Ms. Schicker requested that the Regional Board not penalize the CSD for current project delays. Regional Board staff, Gerhardt Hubner, questioned Ms. Schicker regarding her lack of participation in project development and environmental review (DEIR) until recently and whether her group had a viable project alternative. Ms. Schicker stated that the Task Force supported the community wastewater project until 2003, but did not indicate a reason for changing this viewpoint.

Gail Briggs McPherson (Los Osos Technical Task Force advisor) resides outside the discharge prohibition area and believes her septic system is not contributing to ground water impacts. Ms. McPherson does not agree that delays have been outside the CSD's ability to control, but supports revising the compliance schedule in Time Schedule Order No. 00-131. Also, she requested monitoring of the shallow ground water discharges and the development of interim limits for those discharges.

Julie Tacker (Concerned Citizens of Los Osos) submitted written comments. Ms. Tacker stated her support for the CSD, and requested revision of the Time Schedule Order. Ms. Tacker stated that the District has endured hours and hours of public criticism and professional critique of their project. Ms. Tacker indicated that the community wanted a "dream sewer" in the middle of town, but expressed disappointment that the project was not the same as that proposed in 1998-99. Ms. Tacker stated that the community has not had adequate time to mourn the loss of the pond system, since the Time Schedule Order has required project implementation in a timely manner.

Board Member Jeffries clarified that the compliance schedule included in Time Schedule Order No. 00-131 was that provided by the CSD at the time the Time Schedule Order was adopted.

Bruce Payne stated that project opponents are a large group and don't want a "factory sewer" centrally located in town. Mr. Payne questioned the depth and constituent concentrations of shallow ground water currently discharged to the Bay.

Chuck Cesena concerned that the Regional and State Board is attempting to unduly influence Coastal Commission approval of the treatment plant location. Mr. Cesena stated that we all want pollution from the septic tanks in Los Osos to stop as soon as possible, but have concerns about current project. Mr. Cesena requested revision of the Time Schedule Order. Mr. Cesena also stated his belief that the State Revolving Fund will be around for a while to fund the project, so loss of low-interest funding should not be a consideration in project development.

Al Barrow (Citizens for Affordable and Safe Environment) stated that he has spent about 10,000

hours studying and learning about the Los Osos project so he believes the Board can learn something about this project and other possibilities. The Regional Board could not have a better client anywhere, due to the sincerity of the CSD. Mr. Barrow does oppose this project. Much to Mr. Barrow's chagrin, the CSD has spent considerable funds on lawyers defending against legal challenges and have done everything feasible to build the project. Mr. Barrow believes there is no problem with the community's drinking water, and believes we all need to support the project, which will result in resolving water quality problems. Mr. Barrow requested revision of the Time Schedule Order.

James Tkach supports the CSD as they have worked very hard to comply with the Time Schedule Order. Mr. Tkach believes that the Cal Cities law suit failed due to procedural grounds rather than the merits of their argument. The Coastal Commission needs to exhaust its process; therefore he requests the Regional Board should grant additional time to revise the project to one that is acceptable to everyone.

Board Counsel Okun clarified that the Cal Cities lawsuit was fully considered and failed due to lack of technical merit, not procedural grounds.

Linde Owen (Concerned Citizens of Los Osos) provided her assurance that there is no sewage flowing in Los Osos unless it is due to a severe downpour and poor drainage. Ms. Owen disagrees with the characterization in the Staff Report that the CSD has responded to public concern. Ms. Owen again requested a mediator for the community and stated that the HCP will prohibit growth, even if the discharge prohibition is lifted. Ms. Owen expressed fear that the "Cadillac" wastewater project will turn the community into Carmel.

Chairman Young requested that shallow ground water currently being discharged to Morro Bay and Los Osos Creek through the CSD's subsurface drain systems be evaluated and summarized in the September Executive Officer's Report. Staff should include a Los Osos item for the September Regional Board meeting, including options discussed at this July meeting, if the Coastal Commission doesn't approve the Coastal Development Permit at its August meeting. The

summary should also include information regarding lot sizes, depth to ground water, and use

of seepage pits.

**23. Little Creek Timber Harvest Plan, THP No.1-04-046 SCR.....Resolution No. R3-2004-0074**  
[Bill Arkfeld 805/542-4627]

Staff presented background information and the reasoning for the monitoring & reporting program. Staff showed photos of a failed crossing. Staff summarized the comments received. Board members asked questions regarding the monitoring & reporting program and the Little Creek Study. Brian Deitterick made an overview presentation of the "Little Creek Study." Public Comment included the following:

- Bob Berlage – Big Creek Lumber - Only about 20 trees will be harvested in the watershed and lake protection zone for this THP.
- Steve Auten – Big Creek Lumber - Visual monitoring is appropriate. A substantial amount of sediment flows down Little Creek each wet season.

- Jodi Frediani – Citizens for Responsible Forestry - The results of the study should be made available to the Board promptly because the study is being performed by a public agency on public lands with public funding.
- Kevin Collins – Lompico Conservancy - Scott Creek is the last viable Coho salmon stream in Santa Cruz Co. Disturbances from logging in the watershed are a threat to the Coho.

Staff recommended adoption of this Waiver with reporting of one cubic yard of sediment from any source and annual reporting of available information from the Little Creek Study.

**MOTION:** Mr. Daniels moved to adopt the Order. **SECONDED** by Mr. Bowker. **CARRIED – Unanimously (6-0)**

**24. Jennings Timber Harvest Plan, THP No.1-04-046 SCR .....Resolution No. R3-2004-0075**  
[Bill Arkfeld 805/542-4627]

Staff presented background information and the reasoning for the monitoring & reporting program. No substantive public comments were made. Staff recommended adoption of this waiver with minor

wording changes to the Monitoring & Reporting Program.

**MOTION:** Mr. Jeffries moved to adopt the Order. **SECONDED** by Mr. Bowker. **CARRIED – Unanimously (6-0)**

**25. Estrada Non-Industrial Timber Harvest Plan, THP No.1-04-046 SCR.....Resolution No. R3-2004-0076**  
[Bill Arkfeld 805/542-4627]

Staff presented background information and the reasoning for the Monitoring & Reporting Program (MRP). Numerous wording changes were proposed for the MRP in response to a monitoring proposal by the forester (Bill Vaughan). Board members expressed concern that staff has not been to the proposed harvest area recently. Forester Bill Vaughan showed a brief presentation that included photos of the watershed downstream and on-site at the proposed timber harvest. Public comment included the following:

- Bob Berlage commented that the Estradas have a twenty-year history of being good land stewards.
- Jodi Frediani raised a concern that Regional Board staff share e-mails with the timber industry but nor with the environmentalist. Staff responded that this occurred once over a year ago and that a clear policy for communicating via e-mail should be developed. Ms. Frediani also raised the issue that changes proposed in the supplemental sheet were not sent out in advance. Ms

Frediani also commented that an NTMP is a long-term plan and that Region 1 (North Coast Regional Board) requires an erosion control plan for NTMPs. She also commented that photo points should be made before the first rains of the season and that sediment release reporting should be one cubic yard and not ten.

The Board requested staff re-inspect the site prior to the start of timber harvest operations to verify that the proposed photo points are adequate. Staff recommended adoption of the waiver with numerous proposed changes and with the understanding that staff would inspect the site prior to the start of timber harvest operations.

**MOTION: Mr. Jeffries moved to adopt the Order. SECONDED by Mr. Bowker. CARRIED – (3-2) Mr. Daniels abstained.**

**26. City of Hollister, San Benito County.....Status Report**  
[Matthew Keeling 805/549-3140]

There were no questions regarding this item. Board Member Jeffries commended the City of Hollister for keeping on schedule.

**27. Military Facilities Update .....Status Report**  
[Michael LeBrun 805/542-4645]

There were no comments or questions.

**28. Reports by Regional Board Members.....Status Report**

There were no reports.

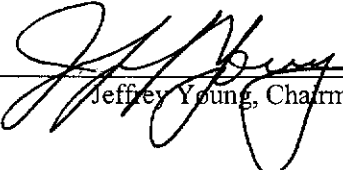
**29. Executive Officer's Report .....Information/Discussion**

Executive Officer, Roger Briggs, announced staff who had passed the Professional Engineer's Exam: Matt Thompson, Kimberly Gonzales, Martin Fletcher, Jennifer Bitting.

Board Member Jeffries inquired about the desal plant at Duke Energy. Mr. Briggs responded that there was no information at this time.

Chairman Young adjourned the meeting at 6:55 p.m.

The meeting was audio recorded and the minutes were reviewed by management, and approved by the Board at its September 10, 2004 meeting in San Luis Obispo, California.

  
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Jeffrey Young, Chairman