

Tuesday, April 19, 2005

Chairperson Wasson opened the Regional Water Board workshop at 1:05 p.m., on Tuesday, April 19, 2005.

i. Pledge of Allegiance

Sari Sommarstrom led the Pledge of Allegiance.

ii. Roll Call and Introductions:

Board Members present: Sari Sommarstrom, Beverly Wasson, William Massey, John Corbett, Richard Grundy, Dennis Leonardi, and Heidi Harris

Not Present: Gerald Cochran and Clifford Marshall

Regional Water Board staff: Catherine Kuhlman, Luis Rivera, Sheryl Schaffner, Robert Klamt, Mark Neely, David Kuszmar, Charles Reed, Terri Korell, Drew Bayless, and Jean Lockett

Chairperson Wasson welcomed the North Coast Region's new State Water Board Liaison, Tam Doduc.

Ms. Doduc greeted the Board members and staff by stating that she was looking forward to getting to know the Board members and its staff. She stated that the State Water Resource Control Board and the Regional Water Boards have a tremendous responsibility to protect California's water quality. It is a significant mandate that is important to all Californians, and the environment. Ms. Doduc thanked the Board members and staff for taking on such a challenging and complex job.

iii. Review of Standard Code of Parliamentary Procedure

Chairperson Wasson noted that the issue of "seconds to motions" came up at the past meeting. Sturgis, the Board's adopted manual allows for motions to proceed without seconds to motions, as noted by counsel Schaffner. However, it has been the practice of this Regional Water Board to use seconds to motions. So, exercising the prerogative of the Chair, Ms. Wasson stated she would require seconds to all motions.

Item 1. Workshop on Priority and Budgets

Catherine Kuhlman, Executive Officer, presented a PowerPoint presentation to the Regional Water Board on the priorities and major water quality issues of the North Coast Region. Ms. Kuhlman stated that the region's priorities are consistent with the Governor's Act Plan, Statewide Strategic Plan, State Water Resources Control Board, and EPA's Memorandum of Agreement.

For surface water, she displayed an area map of the North Coast Region and stated that 79-percent of the region is listed as impaired for temperature, 59-percent sediment, and 33-percent nutrients. Ms Kuhlman indicated that there were other pollutants that were of significant concern in some of the region's waterbodies.

Ms. Kuhlman stated that the North Coast Region lacks a comprehensive approach to groundwater problems; therefore, the region focuses on permitting projects to avoid problems in clean-up.

Other topics covered were goals for:

- The TMDL program
- Water quality monitoring/assessment
- Protecting surface water beneficial uses
- Permitting and enforcement
- Groundwater protection and clean-up, and
- Effective management

Ms. Kuhlman concluded her presentation by saying that the North Coast Regional Water Board has been hit hard by the budget reductions, and that tough choices will need to be made. However, staff is getting better at making these choices. Ms. Kuhlman voiced her appreciation to the North Coast Regional Board's staff, and thanked staff for their resilience, humor, patience, and great technical ability. She stated she and staff believes that they are making a difference in water quality.

Luis Rivera, Assistant Executive Officer, discussed the budget for the North Coast Regional Water Board. He stated that the budget cycles are a two-year planning process. The 05-06 Budget for the State of California is presently being heard in the Assembly and Senate.

Mr. Rivera discussed the expenditures for the North Coast Regional Board, such as:

- Personnel Services
- Operation and Equipment Expense, and
- Indirect costs

Mr. Rivera stated that the North Coast Region has 87.1 employees, but is only authorized for 82.9, and therefore has 6.2 positions on loan from the State Water Board.

The Board briefly discussed the budget with Ms. Kuhlman and Mr. Rivera by asking clarifying questions.

Item 2. Workshop to Examine and Discuss the Proposed Watershed-Wide Discharge Requirements for Pacific Lumber Company in the Freshwater and Elk Watersheds.

Chairperson Wasson stated that Item 2 was placed on the agenda with the idea of conducting a workshop to allow public discussion between the Regional Water Board members and its staff on the options available to the Regional Water Board in addressing the water quality issues and nuisance in the Freshwater and Elk River watersheds. Ms. Wasson confirmed that Item 2 is not an action item, but simply an item to give the Regional Water Board an opportunity to discuss the information that it receives, get a better feel for the tools available to them, and to express the concerns of the individual Regional Water Board members. Ms. Wasson further stated that this exchange of information will help bring the new Regional Water Board members up to speed and allow the Regional Water Board staff to prepare a concise and comprehensive permit to present to the Regional Water Board.

The following individuals gave comments:

Bill Bertain, representing the residents of the Elk and Freshwater watersheds, who asked that the Regional Water Board require PALCO to pay for the damage in the watersheds.

Kristi Wrigley, a resident of North Fork Elk River, encouraged the Regional Water Board to listen to their technical staff.

Ralph Krause, a resident of Elk River, referenced the Staff's Executive Officer's Summary Report (EOSR) that the Executive Officer, Catherine Kuhlman, presented to the Regional Water Board. He stated that Option 3 in the EOSR is the only alternative that will allow for recovery in the watersheds.

Joyce King, representing EPIC, stated that the Independent Science Review Panel indicated that the watersheds could be close to a threshold of irreversible damage. She stated that the empirical method is the only current and available method that is free of operator bias.

Jessie Noel, a resident of Elk River, stated that despite the measures that the Regional Water Board has taken thus far, the watershed residents are still suffering.

Michael Lozeau, with EPIC, stated that he appreciated that the Regional Water Board has set a goal to implement the permits as soon as possible. Mr. Lozeau further stated that he believes that watershed permits is the better approach.

Steve Horner, representing PALCO, stated that he believes that the Regional Water Board staff and PALCO are getting to a point where the agreements and problems between all parties are being defined. The next step is to come up with a workable solution that will be fair for everyone.

Ken Miller read a letter written by Mark Lovelace addressing PALCO's efforts to get a non-profit sponsor for projects to help repair the roads in the watersheds.

Mark Neely, Regional Water Board senior staff, presented Item 2. Mr. Neely reiterated that the purpose of the workshop is to provide the Regional Water Board and the public with a general understanding of staff's approach for developing watershed-wide waste discharge requirements (WWDRs) for PALCO'S timber harvesting plans in the Elk River and Freshwater Creek watersheds.

Mr. Neely explained the outline of the workshop and introduced staff person David Kuszmar to the Regional Water Board.

David Kuszmar introduced the staff who took part in the preparation of the workshop: Robert Klamt, Mark Neely, Matthew Buffleben, Adona White, Joelle Geppert, Holly Lundborg, Tim Walcott, David Engel, and Dave Parson.

Mr. Kuszmar gave a powerpoint presentation of the staff's summary report on this item, which included these topics:

- Part 1. Existing Conditions and Trends; Watershed Recovery Strategy
- Part 2. WDRs Option 1: Existing Regulatory Framework;
WDRs Option 2: THP "Mitigation"
- Part 3. WDRs Option 3: Effluent Limits based on Cumulative Impacts
 - o Permitting Peak Flow Increases
 - o Permitting Harvest-related Landslide Inputs
- Proposed Timeline for Permit Adoption
 - o June – Draft WDRs and Technical Reports out to CEQA Clearinghouse
 - o August – Response to Comments, Changes to WDRs, Staff Report out to Public
 - o September – Board Hearing for Permit Adoption
 - o Staff recommended Option 3 for the WWWDR.

The Regional Water Board members interacted with staff by asking clarifying questions and discussing the processing of data and the interpretation or definition of the data.

Mr. Corbett stated that once an item is going to be scheduled for a regulatory hearing our role is as judges. It is not proper for the Board to be making conclusions about witnesses, conclusions as to which party in the action the Board supports, conclusions about key pieces of evidence, and conclusions about which key pieces of evidence will be relied on before there is a staff report, and the hearing begun. This Board needs to base its decisions on science. The problem is we are not given the science. He voiced his concern that in March the Board did not receive a presentation on the models.

Mr. Kuszmar stated that the information Mr. Corbett was requesting will be included in the technical reports supporting the Permits.

There were no actions taken at the workshop.

Item 3 PUBLIC HEARING to Consider Giving Direction to the Executive Officer to Collaborate with Humboldt County and others in the Elk River and Freshwater Creek Watersheds to Address Impairment of these Watersheds.

The Regional Water Board briefly discussed this item.

MOTION: Dennis Leonardi moved that the Regional Water Board direct and encourage the Executive Officer to collaborate with Humboldt County and others to address impairment of the Elk River and Freshwater Creek watersheds. William Massey seconded the motion. The Motion passed unanimously.

The following individuals made comments:

Kristy Wrigley, Freshwater Resident
Bill Bertain, attorney for watershed residents
Chris Manson, Pacific Lumber Company
Steve Horner, Pacific Lumber Company

The workshop adjourned at 6:33 p.m and was scheduled to reconvene at 9:00 a.m. on April 20, 2005

Wednesday, April 20, 2005

Chairperson Wasson opened the Regional Water Board Workshop at 9:07 a.m., on Wednesday, April 20, 2005.

iv. Pledge of Allegiance

Heidi Harris led the Pledge of Allegiance

v. Roll Call and Introductions

Board Members present: Sari Sommarstrom, Beverly Wasson, William Massey, John Corbett, and Richard Grundy, Dennis Leonardi, Heidi Harris, and Clifford Marshall

Absent: Gerald Cochran

Regional Water Board staff: Catherine Kuhlman, Luis Rivera, Sheryl Schaffner, Charles Reed, Terri Korell, Drew Bayless, and Jean Lockett

vi. Ex Parte Communication

Richard Grundy disclosed that while he was in Sacramento he had conversations with several land representatives from Humboldt County.

Clifford Marshall disclosed that he had a visit from Frank Prat, Mill Manager of Sierra Pacific, and Tom Walsh, District Manager for Sierra Pacific. He noted that Mr. Walsh invited him to visit Sierra Pacific's forestland and mill. Further, Mr. Prat and Mr. Walsh suggested that the Sierra Pacific staff and the Regional Water Board staff work toward developing a more positive working relationship. Mr. Marshall stated that Mr. Prat and Mr. Walsh also extended an invitation to the Regional Water Board members to visit the Sierra Pacific facility.

Sari Sommarstrom disclosed that she spoke with Humboldt County of Public Works deputy director, Chris Wentworth. She stated that their discussion was about the County's concerns and/or suggestions on the Freshwater and Elk River road situations.

Dennis Leonardi disclosed that John Bevota, a dairyman in Ferndale, called him to complain about treated sewage from the Ferndale treatment plant pouring onto his field and requested that Mr. Leonardi visit the facility. Mr. Leonardi suggested that Mr. Bevota call the Regional Water Board staff and ask someone to come and take a look at the problem.

Mr. Leonardi stated that he received a call from Ed Tanfrani and Dave Morris who had concerns that their Fortuna project was lagging behind because of some hold up at the Regional Water Board. Mr. Leonardi stated that he requested an update via email from Catherine Kuhlman regarding the Fortuna project. Mr. Leonardi noted that he received the requested update and contacted Mr. Tanfrani and Mr. Morris and provided them with the information that was contained in the update. Mr. Leonardi stated that he hoped that there would be some communication between Mr. Tanfani, Mr. Morris, and the Regional Water Board staff.

John Corbett disclosed that he had a conversation with the Mayor of Ferndale, who was concerned about a potential requirement for a wastewater treatment facility licensed operator. Mr. Corbett disclosed that he referred the Mayor to the Regional Water Board staff for clarification regarding this requirement.

vii. State Board Liaison's Report

Chairperson Wasson introduced Tam Doduc, the newly appointed State Water Board member, and Region 1's liaison.

Tam Doduc introduced herself to the Board and expressed her gratitude for the Regional Water Board members and staff for working together to address and help resolve the significant and complicated issues in water quality within the State of California.

viii. Public Forum

Ms. Magick discussed the recently pending petition regarding the Ludwigia project. She stated that she believed that the whole Laguna needed to have work done. Ms. Magick stated that the vineyard industry has lessened their use of pesticide in the vineyards; and stated that the pesticide that is planned to be used in the Laguna is banned in Sweden.

Steve Horner, with PALCO, thanked the Regional Water Board for presenting an informative workshop at the Tuesday April 19, 2005, meeting. He asked that the WWDR be placed on the June agenda for discussion.

Brenda Adleman, Russian River Watershed advocate, complimented staff on the EOSR regarding the Freshwater and Elk Watersheds issue. She stated that she supports an approach that informs the public. However, she indicated that there was a statement in the Executive Officer's Report that misquoted her in a statement that she made regarding the City of Santa Rosa.

Item 4. Approval of Meeting Minutes:

The January 2005 Minutes of the Meeting were presented for approval. John Corbett suggested changes for the January minutes.

MOTION: William Massey moved to approve the January 2005 Minutes of the Meeting with the Motion passed with five yes votes and four abstentions (S. Sommarstrom, D. Leonardi, H. Harris, and C. Marshall abstained)

The March 2005 Minutes of the Meeting were tabled until the next Regional Water Board meeting. Chairperson Wasson requested that all changes to the March 2005 Minutes from the Regional Water Board members be submitted to the Executive Officer within the next five days.

MOTION: William Massey moved to table the March 2005 Minutes until the next Regional Water Board meeting. John Corbett seconded the motion. The Motion passed.

The Regional Water Board noted that the draft minutes were received in a timely manner.

(Items 8, 9, and 10 on the agenda)

Ms. Wasson requested that the Executive Officer give a brief explanation on the reasons that some of the items were removed from the agenda. She stated it would help some of the Regional Water Board members to be aware of the process.

8. PUBLIC HEARING Order No. R1-2005-0014, to consider whether to affirm reject, or modify a Complaint for Administrative Civil Liability issued on February 15, 2005, **Crescent City Harbor District**, Seafood-Processing Wastewater Treatment Facility, Del Norte County
9. PUBLIC HEARING Order No. R1-2005-0013, to consider whether to affirm reject, or modify a Complaint for Administrative Civil Liability issued on February 15, 2005, in the Matter of **Pacific Lumber Company, Scotia Sawmill**, Humboldt County
10. PUBLIC HEARING Order No. R1-2005-0015, to consider whether to affirm reject, or modify a Complaint for Administrative Civil Liability issued on February 15, 2005, in the Matter of **Harwood Products, Branscomb Sawmill**, Mendocino County

Catherine Kuhlman, Executive Officer, stated that the Regional Water Board received payment from:

- Crescent City Harbor District, Seafood-Processing Wastewater Treatment Facility (Item 8 on the agenda) for a Mandatory Minimum Penalty (MMP) for a late report,
- Pacific Lumber Company, Scotia Sawmill, (Item 9 on the agenda) - for a late report, and
- Harwood Products, Branscomb Sawmill (Item 10 on the agenda) indicated an interest in paying the MMP late report fee, with the understanding that part of the fee would be used for an environmental project.

(Item 14 on the agenda) **Update on Establishing Freshwater Bacteria and Standards**

Lauren Clyde and John Short, Regional Water Board staff and senior staff, respectively, provided an update to the Regional Water Board regarding the freshwater bacteria standards. Ms. Clyde stated that there is statewide and local coordination taking place to revise the standards, and the current monitoring efforts for bacteria in the Russian River Watershed.

Ms. Clyde stated that the Water Quality Control Plan for the North Coast Region (Basin Plan) contains a freshwater water quality objective for fecal coliform bacteria for the protection of water designated with the contact recreation (REC-1) beneficial use. In 1986 – USEPA recommended that States use E.Coli or enterococci as the basis of their water quality criteria to protect fresh recreational waters. In 2002, EPA released draft implementation guidance encouraging the States to adopt the 1986 criteria for E. Coli and enterococci.

The State Water Board, EPA, and the Regional Water Boards agreed that a statewide contract to adopt revised bacteria objectives for both fresh and estuarine waters made the most sense. A scope of work for the bacteria contract was drafted with input from the State Water Board and the nine Regional Water Boards. That scope of work was submitted to EPA in December 2004. Ms. Clyde stated that the amendment is scheduled to be completed in July 2006 and will then be taken before the State Water Board for adoption. The amendment will then be brought to the nine Regional Water Boards for adoption into each of their individual Basin Plans.

John Short stated that freshwater bacteria sampling occurs between Memorial Day though Labor Day at six public beaches between Healdsburg and Monte Rio. The bacteria data is posted to Region 1's website soon after the data is received so that it is available to the public.

When data shows occasional exceedance of Basin Plan objectives, Regional Water Board staff responds by notifying the Sonoma County Environmental Health Department.

Mr. Short stated that the Regional Water Board and local agencies need a meaningful standard to evaluate the data against as well as a clear implementation plan so that when the data shows levels that exceed the standard, the problem areas can be addressed. Updating the Basin Plan with more current bacteria standards is a very high priority. In addition, by updating the bacterial standards, it will provide a meaningful standard to evaluate the monitoring data.

Walt Kruse, the new director of the Sonoma County Environmental Health Department, stated that since he began his new position, he has spoken with the Regional Water Board's Executive Officer, Ms. Kuhlman as well as her staff and is looking forward to working with the Regional Water Board. He further stated that the Board of Supervisors of Sonoma County has given directives to the Sonoma County Environmental Health Department to work cooperatively with the Regional Water Board staff on setting bacterial standards. Mr. Kruse thanked the Regional Water Board for the work that it has done and for its support.

The Regional Water Board directed questions to the Regional Water Board staff on staff's efforts in other areas that have bacteria concerns. The Regional Water Board also expressed its concern for those areas that provide for public uses, including camping, but have no public restrooms available. Mr. Short stated that other than the freshwater beach monitoring programs in Sonoma County, there were no similar freshwater beaches monitoring programs in other watersheds.

Brenda Adleman stated that the Regional Water Board might think about speaking with the administration personnel in each county to find out if they have public restrooms in camping areas. An inquiry from the Regional Water Board may alert the counties to this problem and the counties may then begin looking into the issue of providing public restrooms at some or all of the freshwater beaches.

(Item 11 on the agenda) **PUBLIC HEARING on Order No. R1-2005-0025 to consider whether to affirm, reject, or modify a Complaint for Administrative Civil Liability issued on March 2, 2005, and/or take other enforcement action in the Matter of Hopland Public Utilities District, Mendocino County**

Chairperson Wasson administered the Oath to those who expected to testify in the hearing. Advisors to the Regional Water Board staff were: Erik Spiess, counsel; Catherine Kuhlman, Executive Officer; John Short, Russian River Unit Senior, Mona Dougherty, technical staff.

Advisors to the Regional Water Board: Sheryl Schaffner, counsel; and Tom Dunbar, Regional Water Board Senior staff.

Mona Dougherty, Regional Water Board staff, presented this item. A photograph was displayed which showed the location of the Hopland site, which site is located in the southern part of Mendocino County. This item was brought to the Regional Water Board to in order to promote discussion of the Administrative Civil Liability Order that was issued because of the Hopland Public Utilities (Hopland) failed to submit a complete Report of Waste Discharge Report, a violation of a Cleanup and Abatement Order and California Water Code section 13267. The Hopland Public Utilities District provides secondary treatment for up to 90,000 gallons per day. The requirement to submit the report resulted from maintenance and operation failures observed during staff inspections that were conducted from 2000 to 2002 when staff learned that the facility accepted septage from private septage haulers by allowing them to dump directly into the influent pond by passing the headworks treatment process. This type of

dumping activity constitutes a violation, even if no District personnel were present at the time that this activity occurred. The facility does not provide pretreatment or monitoring of the waste and septage haulers are allowed to "dump" unsupervised. The Regional Water Board staff has concerns of the potential impacts to groundwater with this current procedure.

Ms. Dougherty discussed the following:

- The timeline involved with the CAO, ROWD, and Hopland's PUD request for an extension
- Ability to pay and ability to continue business
- Prior history of violations
- Degree of culpability and economic savings
- Difficulty in contacting Hopland PUD

Ms. Dougherty concluded her presentation by proposing that the Regional Water Board adopt Order No. R1-2005-0025 and impose a \$45,000 fine.

Christopher Neary, attorney for Hopland, crossed-examined Ms Dougherty on her emails, telephone conversations, and written communications with the Hopland District Management.

Mr. Neary made an opening statement on behalf of the Hopland District. He stated that Hopland is present today to impress upon the Regional Water Board that it could not accept the \$45,000 penalty that the Regional Water Board staff is suggesting. Mr. Neary further stated that the blame should be shared because he believes that there was some miscommunication between Hopland and the Regional Water Board staff and, therefore, the blame should not be solely placed on Hopland's failure. Mr. Neary further stated that Hopland believes that it is in compliance and he briefly covered Ms. Dougherty's interactions with Hopland in 2002. He stated that Hopland disputes Ms. Dougherty's statement that Hopland submitted late reports. Hopland asserts that there was a mutual miscommunication and should not be penalized. Mr. Neary asked the Regional Water Board to reject the representation that Hopland turned in insufficient ROWD reports. He further requested that the Regional Water Board defer making a decision in order to give Hopland an opportunity to confer with the Regional Water Board staff about the \$45,000 fine and hopefully be able to discuss with staff alternative remedies.

Catherine Kuhlman, Executive Officer, addressed the Regional Water Board and stated that the Regional Water Board staff proposed that the Regional Water Board adopt the proposed ACL Order, because the draft Cal EPA Water Board Enforcement Plan states that the State's Water Quality program is dependent upon prompt and accurate reporting of water quality information from dischargers. The Enforcement Plan states that withholding critical information is a threat to water quality and tends to amount to fraud. The water boards will initiate enforcement actions for failure to file reports against dischargers with a long-standing history of violations.

Ms. Kuhlman stated that this is a high priority. She also indicated that the discharger has not submitted any information to the Regional Water Board staff regarding their inability to pay the penalty.

John Corbett left the Regional Water Board meeting at 2:30 p.m.

The Regional Water Board discussed the information that was presented to them and asked questions regarding the capacity and condition of the Hopland District's plant. The Regional Water Board stated that there needed to be cooperation from the discharger. The Regional

Water Board also stated that the Hopland District had previously been fined in order to prevent further activity of this kind, and yet the activity continues.

MOTION: William Massey moved to approve the Administrative Civil Liability Order No. R1-2005-0025. Richard Grundy seconded the motion. The Motion passed unanimously.

(Item 5 on the agenda) **PUBLIC HEARING Order No. R1-2005-0009, Mendocino County Water Works District No. 2, Anchor Bay Wastewater Treatment and Disposal Facility, Renewal of Waste Discharge Requirements/National Pollutant Discharge Elimination System Permit**

Chairperson Wasson administered the oath to those who expected to testify in the hearing.

Charles Reed, Regional Water Board staff, made the presentation to the Regional Water Board. Mr. Reed entered the file and the presentation into the record. Mr. Reed stated that the Mendocino County Water Works District No. 2 (the Permittee) submitted information on September 15, 2004, to complete a Report of Waste Discharge for a renewal of its Waste Discharge Requirements (WDRs) for its Anchor Bay Wastewater Treatment Facility (WWTF). These WDRs have been drafted in accordance with applicable federal and state law, and include standards for secondary treated wastewater for discharges to the Pacific Ocean, as well as other prohibitions, limitations, and provisions. The WWTF has been operating under WDRs that were last adopted by the Regional Water Board on March 27, 1997. The existing Permit has an expiration date of March 26, 2002.

MOTION: William Massey moved to adopt the order as proposed including the revised changes. John Corbett seconded the motion. The Motion passed.

(Item 6 on the agenda) **PUBLIC HEARING Order No. R1-2005-0005 to consider whether to affirm, reject, or modify a Complaint for Administrative Civil Liability issued on January 20, 2005 and/or take other enforcement action in the Matter of Forestville Water District**

William Massey recused himself from the item and left the boardroom.

Chairperson Wasson stated that a request had been received to continue this item to the June agenda.

MOTION: Dennis Leonardi moved to continue the matter to the June 2005 agenda. Sari Sommarstrom seconded the motion. The Motion passed with eight votes and one recusal.

(Item 7 on the agenda) **Resolution No. R1-2005-0017, Establishing a Priority List for State Revolving Fund (SRF) Loans for Fiscal Year 2005-06**

William Winchester introduced the draft Resolution to establish a Region 1 recommended priority list for the State Revolving Fund (SRF) loans. He stated that the State Water Board was in the process of developing the FY 2005-2006 Statewide Priority List for the State Revolving

Fund. The SRF is a low interest loan program designed to fund the construction of publicly owned wastewater treatment plants, water reclamation facilities, and projects to address non-point sources of pollution.

William Winchester stated that this priority list is a voluntary list, and being placed on the list is something that the individual project proponents have requested. Being placed on the list is the first step towards becoming eligible for a SRF loan. Once the project is on the list the project proponents must be proactive in seeking the loan with the State Board.

Once a loan is approved, and the contract is entered into, no loan payments are paid to the project until construction has started. This requirement can be a problem for small communities that don't have the funds to start a project. Mr. Massey gave a brief summation of his efforts to try and bridge this gap for disadvantaged small communities.

There were six additions proposed for the FY 2005-2006 SRF List from Region 1. These included five wastewater treatment facilities, and one non-point source project proposed by the Conservation Fund. Chris Kelly, with the Conservation Fund, described to the Board the purpose of their proposed program, which was to purchase and provide easements in North Coastal watersheds to improve water quality and implement the TMDL program, while retaining the industrial use of the timberland.

The Board discussed the specifics of the SRF program. There was discussion on the repayment of loans and project qualifications. A number of Board members expressed concern over the \$60 million dollar proposal by the Conservation Fund, and whether a loan this size might take available funds away from small, disadvantaged community wastewater treatment projects. William Winchester stated that the State Board has stated that its priority was going to be funding small, disadvantaged communities first, should there be competition for available funding.

MOTION: William Massey moved to adopt the resolution.
Grundy seconded the motion.

The Regional Water Board further discussed how the funds would be allocated, and expressed concerns that there were no specifics on the individual projects. A number of Regional Water Board members stated that small, disadvantaged community wastewater treatment facilities should be funded first.

MOTION: The second motion to add the non-point source project proposed by the Conservation Fund passed seven to one (Leonardi voted no).

The Regional Water Board discussed the specifics of the SRF program. It expressed the concern for the small communities that are in need of funds. There was also some discussion on the repayment of these loans, the district qualifications, and the non-point source projects.

MOTION: William Massey amended his first motion and approved the five-wastewater treatment projects that are municipalities to be included and forward to the State; his amended motion chose that no action be taken regarding the Conservation Fund. Richard Grundy seconded the motion. The Motion passed unanimously.

MOTION: William Massey moved to add the non-point source list of projects that is proposed by the Conservation Fund. Clifford Marshall seconded the motion. The Motion passed with seven votes.

(Item 13 on the agenda) Update on proposal to amend the Basin Plan Amendment to revise the existing objectives for temperature and dissolved oxygen concentrations in the North Coast Region

Ben Zabinsky, Regional Water Board staff, gave a status report for an amendment to the Basin Plan that will revise the in-stream Water Quality Objectives for Water Temperature and Dissolved Oxygen Concentrations in the North Coast Region

The Regional Water Board is proposing an amendment to the water quality objectives for water temperature and dissolved oxygen contained in the Water Quality Control Plan for the North Coast Region (Basin Plan). The current objectives are not protective of the beneficial uses related to anadromous salmonids because they are not directly linked to the biological requirements of salmonid life stages. The proposed water temperature objectives are the same for all salmonid species, except those that apply to the Coho salmon incubation/emergence life stage.

Mr. Zabinsky concluded by saying that the actions necessary to achieve the new objectives are discussed in the Implementation Plan. The Implementation Plan accompanies the proposed objectives and is required by the Porter-Cologne Water Quality Control Act. In the Porter-Cologne Act, the basic elements of an implementation plan are described as: (1) actions that will achieve the objectives, (2) a time schedule for achieving them, and (3) a description of monitoring for progress towards that end.

Mr. Zabinsky stated that the implementation plan includes both regulatory function and land management policies that address the impacts of development. Because of the diversity of impacts in the North Coast Region, many impacts will need to be addressed on a site-specific basis using the Implementation Plan as a guide.

Chairperson Wasson requested that any questions pertaining to this item be submitted in writing to Dr. Ranjit Gill, at the Regional Water Board.

(Item 15 on the agenda) **Enforcement Report**

Luis Rivera, Assistant Executive Officer, briefly covered the enforcement status of Region 1. He stated that Region 1 does not have an enforcement unit dedicated to enforcement. Mr. Rivera reported that in December of 2004, the Regional Water Board staff had an enforcement retreat to discuss the backlog of old orders. The group agreed that there needed to be an aggressive approach to cleanup the MMP backlog. It was further agreed that a streamlined process is needed and that there needed to be consideration of a reorganization of the process. Enforcement needed to be fair and just, progressive, and should provide a deterrent.

Mr. Rivera referred to a memorandum that Dr. Alan C. Lloyd, EPA Agency Secretary, wrote to Art Baggett, Chairman of the State Water Resources Control Board that addressed the efforts of the State and Regional Water Resources Control Board's efforts to clean up the state's waters. Mr. Rivera stated that the subject is on the agenda for the Chair's meeting the week of April 24, 2005, in San Diego.

Comments were taken from:

Brenda Adleman

(Item 12 on the agenda) Resolution R1-2005-0026 PUBLIC HEARING Resolution No. R1-2005-0026, to consider designating a hearing panel to conduct enforcement hearings and workshops

Chairperson Wasson stated that this was an item that the Regional Water Board discussed in November when it adopted a resolution authorizing the Chair to create a panel to handle enforcement issues. The Chairperson stated that she has asked staff to write a resolution for the Regional Water Board to adopt in that day's meeting. She asked Mr. Rivera to walk the Regional Water Board through the resolution.

Mr. Rivera stated that section 13228.14 of the California Water Code authorizes the establishment of a panel of three or more members of the Regional Water Board for conducting hearings or investigations. These are activities related to prescribing waste discharge requirements, issuing cease and desist orders, requiring the cleanup or abatement of waste, or imposing administrative civil liabilities.

Hearings conducted by a panel would be subject to the same public notice requirements applicable to the Regional Water Board. After a panel hearing, the panel would report its proposed decision and order to the Regional Water Board. The Regional Water Board, after making an independent review of the record and taking additional evidence as may be necessary, may adopt, with or without revision, or reject, the proposed decision and order of the panel.

MOTION: William Massey moved to adopt the Resolution No. R1-2005-0026 with the addition of the word "direct." Richard Grundy seconded the motion. The Motion passed.

Those who volunteered to sit on the ad-hoc panel were:

- William Massey
- Richard Grundy
- Lyle Marshall

Beverly Wasson and/or John Corbett volunteered as backups to the panel.

Item 16. **Board Member Requests for Future Agenda Items**

Richard Grundy requested an update or a report on the Ludwgia project.

Steve Horner and Chris Manson stated that they had submitted a written request for PALCO to have an opportunity (two-hours maximum) to explain their approach to the WWWD on the Freshwater and Elk River watersheds.

The Regional Water Board requested that they receive any material from PALCO at a time before a scheduled Regional Water Board meeting - and not the day before. By receiving any information or comments before the Regional Water Board meetings, the Regional Water Board has an opportunity to address any questions it may have.

After deliberation, the Regional Water Board decided not to grant PALCO's request. However, the Regional Water Board requested that staff and PALCO get together and decide what each side agrees to and what they do not agree with.

Also discussed was how to allow the Board to hear the issues related to the draft WWDR and make a considered judgment on the draft. Ms. Kuhlman suggested that the Regional Water Board use the same approach as the SWRCB, that is, a hearing two weeks prior to a final adoption date. In this way the Board can direct staff to make changes to the draft permit and those changes can be done in an orderly manner.

Monthly Report to the Board

This item was submitted as written.

Other Items of Interest

There were no requests made.

There being no further business to come before the Regional Water Board, the meeting adjourned at 5:41 p.m., until the next scheduled Regional Water Board Meeting on May 3 and 4, 2005.

The Secretary, Jean Lockett recorded the Minutes of the April 19 and 20, 2005, Regional Water Board meeting of the North Coast Regional Water Quality Control Board held at the Regional Water Board offices in Santa Rosa, California.

Beverly Wasson, Chairperson