

California Regional Water Quality Control Board
North Coast Region

Minutes December 6, 2001
Regional Water Board
Workshop
Eureka City Council Chambers
531 K Street
Eureka, CA

On December 6, 2001, at 9:03 a.m., the Regional Water Board Workshop was called to order by Chair William Massey. This meeting was noticed as a workshop due to lack of a quorum.

i. Pledge of Allegiance

Bev Wasson lead the Pledge of Allegiance

ii. Roll Call and Introductions

Board Members present: Bev Wasson, Dina J. Moore, and William Massey. Board Member William Hoy was not present due to weather conditions in his area. Chair Massey introduced and welcomed the newly appointed Board Members: Richard Grundy, John Selvage, John Corbett, and Shawn Harmon

Richard Grundy stated that being a new Board appointee marks an exciting time and new chapter in his career and life. He expressed his desire to make informed decisions on the important economic and environmental issues that will come before the Board.

Regional Water Board staff Present: Executive Officer Susan Warner; legal counsel Sheryl Freeman and Erik Speiss; Supervisors Dr. Ranjit Gill, Luis Rivera, and Robert Tancreto; Seniors, Tom Dunbar and David Leland; technical staff, Matt St. John; Secretary, Jean Lockett; Office Assistant, Julie Sayre.

iii. Board Member Ex Parte Communication Disclosure

The were no ex parte communications disclosed

iv. Public Forum

Alan Cook, a resident of Freshwater Creek, said that because of the timber harvesting of PALCO, floods are very turbid and out of line with the objectives of the basin plan. There has been an increase of about 2000 per cent in flooding. He urged the Board to reschedule the hearings for Freshwater.

Kristie Wrigley, a resident of the Elk River area, stated that the Elk River residents have always been dependent on the above ground water in Elk River. But by 1997, because of the logging activity, the water is too muddy and unfit to use. She also said that the increased flooding is damaging the property of the residents. She requested wastewater discharge requirements be issued for the Elk River and for the sake of the residents in that area.

Denver Nelson, a resident of Eureka, said that after reading a statement related to the Potter Valley Project, he believed that the Regional Water Board has an obligation under the Public Trust Act and the Clean Water Act to protect and restore the Eel River fishery. He stated that the Regional Water Board should reopen its Clean Water Act and 401 Certification for the Potter Valley Project.

Jim Branham, representing Pacific Lumber Company, briefly addressed the Board by passing out a turbidity-monitoring plan that they are proposing for the Elk River basin in conjunction with timber harvesting. He stated that Pacific Lumber Company is contesting the monitoring order issued through the State Board, and he assured the Board that Pacific Lumber is implementing the Order as required until such time as the item is reheard.

Daryl Story, resident of the Freshwater valley, stated that Freshwater residents are concerned about their water quality. The degradation of the quality of life as a result of the Pacific Lumber logging activities in the recent years is of great concern. The residents' wells are inundated with sand and debris. Mr. Story said that the Freshwater-working group feels that they have done everything in their power, including appeal to the California Forestry Department, to try and preserve the quality of life in their area.

Ellen Taylor, resident of the Mattole area, encouraged the Board to direct the Regional Water Board staff to monitor the Mattole area as carefully as possible. She also requested that the Regional Water Board and staff do their utmost to protect the Mattole area by taking the necessary action.

William Bertain, an attorney representing the North Fork and South Fork Elk River residents, requested the Board to require pre-harvest monitoring as well as waste discharge orders on all THPs in the Elk River watershed. He said, although the State Water Board did a good thing by issuing a monitoring order to Pacific Lumber, the flooding continues. He entered into the record pictures of

flooding and letters from the residents in the North and South Fork Elk River. He also read a letter addressed to the Board from Mr. Ralph Krause.

Larry Ward, a 12-year resident of the Elk River area, said that he has complained to Pacific Lumber Company and the Regional Water Board for five years regarding the siltation on his property. He suggested that Pacific Lumber monitor the stream above the THP 520 and the streams coming directly out of THP 520 before it enters the main stream that is not being logged. He also requested that Pacific Lumber be required to do pre-harvest monitoring.

Michael Evansen, a resident of the Mattole River area, requested the Board to instruct the Regional Water Board staff to continue reviewing the THP plans for the Mattole, and look into the landslides and find out why they are occurring. He said that the beneficial use of water is at risk and so are the residents' lives.

Ken Miller, a resident of McKinleyville, submitted a summary of Pacific Lumber's reports that showed the cause of flooding. He stated that Pacific Lumber reports deny that flooding is occurring. He said that he would like to see TMDL advanced so that a real watershed analysis could be done.

Joyce King displayed a map of timber harvest activity in 1988-1998 of Freshwater Creek watershed. She suggested that the Board meet with the Freshwater and Elk River residents to hear their concerns. Salmon Forever and Freshwater Working Group are assembling information on the cost that the residents have incurred from the increases of flooding and siltation.

Jan Kraepelien, a resident of Freshwater, thanked the Regional Water Board staff for being present and listening to the residents concerns. He said that last year Pacific Lumber Company received approval for 6800 acres for logging and 10,000 acres was approved in 2001. He invited the Board to hear the Kneeland and Freshwater residents' concerns in a meeting to be held later that day.

Richard Gienger welcomed the new Board members. He commented that logging is continuing and harvest plans are coming in at a faster rate in Bearwood Creek. He urged the Board to come to terms with cumulative impacts on a broader scale.

Ken Miller read a letter from Mark Lovelace, director of the Sunnybrae Arcata Neighborhood Alliance. The letter read that Sunnybrae Alliance had been working to have their concerns heard regarding Sierra Pacific's THP 1-00-234Humboldt. The site has been the source of chronic sliding and erosion, which has caused the city of Arcata over \$300,000 of damages in the recent years. Adjacent landowners also incurred cost. He requested the Board to issue a 13267 Order to ensure Sierra Pacific is complying with the Basin Plan.

Amelia Barol commented by saying that there are a number of timber companies active in the northern California area. She requested the Board to consider how timber companies are affecting the water quality. People are losing their livelihood because of the devastation they are experiencing due to the timber harvesting by lumber companies.

Cynthia Elkins, with the Environmental Protection Information Center, stated that there are many challenges facing the north coast rivers due to excessive sediment and other pollution problems caused by logging. The problems are not specific to Elk and Freshwater watersheds; there are many other area that are being affected. She requested the Board to take action and hold the Pacific Lumber Companies meetings.

Peter Brucker, coordinator of the Salmon River Restoration Council, stated that the Salmon River should not be listed for nutrient and temperature, but should be listed for sediment and temperature. He requested the Board to separate the Salmon River from the Klamath and list it as its own sub-basin, because it is very similar to the Scott and the Shasta River in regards to size and uniqueness.

Sterling McWhoter asked the Board to remember the small ranchers relying on grazing practices and logging to supplement their income. When regulations are put on a blanket to possibly control one or two fractions of an industry, it effects others.

Nadanada, Executive Director of Friends of the Eel River, stated that she and others have worked with different organizations in the north coast to gain reports from the residents regarding the condition of the rivers. She submitted a copy of the Eel River magazine that included the reports and other information.

Attila Gyenis, a resident of the Freshwater area, stated that this is not an issue of a large corporation against small landowners, but an issue about doing the right thing verses the doing the wrong thing. There have been timber operations going on for a long time that are not based on any scientific study or evidence. Pacific Lumber Company wants to cut trees at a 4 percent rate, when scientific study says that the trees grow at a 2 percent rate. He requested the Board to follow the reports of the staff and decisions based on science and not any other information.

Bernie Bush, representing the Redwood Creek Landowners Association, said that back in October of 1998, the association submitted a proposed implementation plan that included modifications to existing Waste Discharge Prohibitions to be incorporated in the Basin Plan and an action oriented kind of find-and-fix approach to deal with or address issues identified in the technical TMDL that is in place for Redwood Creek. He then introduced Steve Self to give a report on the salmon production in the Redwood Creek area.

Steve Self, a wildlife biologist and a member of the Redwood Creek Landowners Association, updated the board on the monitoring of Salmon production in the upper part of Redwood Creek. The monitoring is a cooperative effort with the Department of Fish and Game who are supervising the contractors hired by the landowners in their efforts to monitor. He stated that the landowners would request time in a future Board meeting to present their findings.

Jennifer Kalt briefly discussed the problems associated with the herbicide use on Humboldt timberland. She said the adjacent landowners drinking water is at risk for contamination from use of the herbicide. The Shively area is of particular concern. She displayed a map showing the area where herbicide is used. She stated that permits that are issued need to address the issue of protecting the drinking water for the community and landowners.

Item 1 Update from the Northern Province (Klamath, Shasta/Trinity, Six Rivers and Mendocino national Forest) of the United States Forest Service (USFS)

This item was re-calendared

Item 2 Update on use and application of KRIS (Klamath River Information System) in North Coast Watersheds

Dr. Ranjit Gill introduced a guest speaker Mr. Gary Reedy to lead the discussion on Klamath Resource Information System (KRIS)

Mr. Reedy described the various aspects of the KRIS information system, such as: Map lying, charting tools and tables used and their usage. He said that there are new KRIS items on the Web site with complete basin versions of KRIS and the site provides online data download of all source and chart tables. He stated the KRIS program integrates many types of information to access watersheds or give understanding of the habitat and water quality conditions. KRIS contains a biography, maps, pictures and other assembled data to assist in the assessment of a watershed. KRIS can be applied to any geographical area. Mr. Reedy's slide presentation demonstrated how the KRIS information system worked for any geographical area. It demonstrated the data links, sources of information, archived area of KRIS.

Item 3 Stormwater Program Overview, including upcoming Phase II requirements for municipalities less than 100,000 in population

Bob Tancreto's presentation was an overview on Stormwater Phase II. He covered the stormwater control as a National Pollutant Discharge Elimination System (NPDES); its origin is the Clean Water Act. Mr. Tancreto discussed the Phase II MS4 coverage, construction coverage, industrial coverage, and role of State Board and role of Regional Water Boards. Small MS4's to be permitted in

2003 are: Arcata, Eureka, Fortuna, Healdsburg, McKinleyville, Rohnert Park, Ukiah, Windsor, and Cotati. Mr. Tancreto discussed the general permit.

Item 4 Update on California Toxic Rule Monitoring Plans

Tom Dunbar updated the Board on the California Toxic Rule monitoring plans. He reviewed basic information, informing the Board and the newly appointed Board members. He stated that the Clean Water Act requires that NPDES dischargers analyze for toxic substance, and that NPDES permits contain water quality based effluent limits for toxic substances in the discharge to be protective of the water quality. Mr. Dunbar stated that the next objective of the Regional Water Board staff is to incorporate the water quality based effluent limitations into all of the NPDES permits.

The communities have looked at the steps needed to be taken to comply with the monitoring to analyze for the 126 priority pollutants. There is concern from communities on the cost of the monitoring. There have been four NPDES permits adopted with the new monitoring plan. The plan requires monitoring in the wet and dry weather. The remainder of the dischargers have been sent a 13267 Order in April 2001, giving due dates for submittal of a monitoring plan and the monitoring results.

There are 9 major dischargers (a major discharger has flows of greater than 1 million gallons per day) and 32 minor dischargers (a minor discharger has flows less than 1 million gallons per day). Most of the 41 dischargers that will be affected by the new monitoring requirements are municipalities, but some are industrial. The monitoring plans are reviewed carefully. All of the nine major dischargers submitted monitoring plans and 13 of the 32 minor dischargers submitted plans. There were four major and three minor plans approved. Workshops were held in June and August to explain and address the concerns and specifics of the monitoring plan.

Board member John Corbett stated his concerns that there were only 13 minor dischargers submitting monitoring plans. Susan Warner responded by saying that the Water Board staff will make an attempt to meet with those dischargers that have not responded to the 13267 letter or the reminder letter and if additional attempts on behalf of the Regional Water Board staff fail to bring the dischargers into compliance, then the discharger will be brought before the Board.

Dina Moore asked what the approximate cost would be for the discharger to comply with the monitoring requirements. Tom Dunbar stated that the monitoring plan requires four samples per year at roughly about \$7500 to \$10,000 per sample. Bill Massey asked if there were programs that would help with funding. Tom Dunbar said that there were no programs to assist the dischargers at this time.

Item 5. Implementation of California Water Code Section 13267 on Waivers of Waste Discharge Requirements and the Implication of 1999 Senate Bill 390 on Expiration of Waivers on January 1, 2003

Susan Warner said that new legislation under Senate Bill 390 went in to effect approximately 2 years ago, and will cause most of our waste discharge requirement waivers to expire. Senate Bill 390 affect waivers in certain classes that the Board adopted in the 1980's. Once these waivers expire in 2003, the Board would be obligated to issue Waste Discharge Requirements instead of the waiver of discharge requirements being issued by staff. Another possibly is that waiver in the Basin Plan that affects septic systems is also be affected. This Bill mandates the Regional Water Boards to do certain activities for which there are not resources to fund those activities. Because of a lack of funds and in an effort to complete and comply with the update of the waiver policy, the Regional Water Boards are faced with directing funds from standard permitting and inspecting activities. In an effort to meet the requirements and same on time, regional water boards may join together in those waivers that are similar and work together on those waiver that can have the ability to be applied to all regions. Ben Kor, Region 1 staff member, is working on those waivers that are specific to Region 1. Ben Kor will update the Board sometime in early 2002 on all the waivers and where we stand.

Sheryl Freeman gave an outline of the legislation. She stated that all waivers could not last more then five years. The workload challenge to these waivers is due to the CEQA implications, which take time. Time is important since the waivers will sunset on January 1, 2003. This legislation require that waivers be considered in a public hearing at which time the Board will consider if a Waste Discharge Requirement is more appropriate.

At 12:01 p.m. lunch recess was observed.

The Board reconvened the meeting at 1:20 p.m.

Item 6 Clean Water Act Section 303(d) list 2002 update recommendations

David Leland, senior of the TMDL unit introduced Matt St. John, who made a Powerpoint presentation to the Board on 2002 update of the 303(d) list of impaired waterbodies. He reviewed the Clean Water Act (CWA) Section 303(d). He stated that the four requirements of the CWA are to, (1) identify water bodies that are impaired, (2) identify the pollutant/stressor , (3) identify the sources of the pollutant/stressor, and (4) establish a schedule. The list is updated every two years in conjunction with the federal CWA section 305(b). The process of updating the list incorporates solicitation from the public by means of workshops and other information available to staff. The State Water Board will be reviewing

all 9 regions' draft of the 303(d) recommendations and come up with their own list of impaired water bodies (303(d) list). The State Water Board will hold a workshop in February 2002 and the statewide 303(d) list is scheduled to be adopted in March 2002, and submitted to US EPA in April 2002. In reviewing the water bodies for impairment, staff established that one of three conclusions could be reached. One possibility is that the water body is impaired and consequently placed on the 303(d) list, or the water body is not impaired, or that present information is not sufficient enough to come to a determination and therefore the water body was placed on the 303(d) watch list. The watch list is an internal list used by staff to identify the need for more information on the water body. Another possibility was that the water body presented no change and it would remain on the 303(d) list.

Mr. St. John stated that the Regional Water Board Staff recommends 13 waterbody/pollutant combinations in all or parts of 9 watersheds be added to the 303(d) list. Staff recommends including 28 waterbodies/pollutant combinations on the watch list.

After long discussion, the Board directed staff to provide more in-depth background information on temperature and address the Board's questions at the January 2002 Board meeting.

Matt St. John submitted letters he received by fax from Mary Pjerrou and Charles Acker.

David Anderson, a fish biologist with Redwood National State Park, had concerns about the fishery of Redwood Creek. He stated that the lack of suitable habitat contributes to the low numbers of Coho fish. He recommended that Redwood Creek remain on the 303(d) list due to sediment in the creek. He also recommends that temperature be added.

Tom Herman, attorney representing Barnum Timber Company, said that the company is concerned that Redwood Creek is identified as an impaired water body and placed on the 303(d) list, because of sediment and temperature. He requested the Board to direct its staff to remove Redwood Creek from the list due to the lack of evidence.

Mr. Greg Bundros, a geologist with Redwood National State Park, informed the Board that Redwood Creek has improved over the years, but stated that he believes that the creek continues to be sediment impaired and temperature impaired. He stated that he supports the 303(d) listing of Redwood Creek and hopes that someday it will be de-listed.

Dr. MaryAnn Madej, a USGS research geologist, addressed the Board with a slide presentation to demonstrate the need for Redwood Creek to remain on the

303(d) list. She stated that the sediment still exists in Redwood Creek, and the creek should remain on the list.

Randy Klein, a geologist with Redwood National State Park, stated that there is available evidence showing that Redwood Creek should remain on the 303(d) list. His presentation included the managed streams and unmanaged streams. He stated that he believes that there is an on going sediment and turbidity issue in Redwood Creek.

Steven Self, representing the Redwood Creek Landowners Association, stressed his concerns about the TMDL process. He suggested that the staff make use of direct measures and in his opinion measuring out migrant production would be a better use of information.

Bernie Bush, representing the Redwood Creek Landowners Association, said that water bodies listed for temperature acts as a trigger for developing a pollution control plan (TMDL). He made reference to Kate Sullivan's metrics for measuring temperature in the Pacific North West. He stated that the examples used to justify the listing of a water body, using Kate Sullivan's methods specific to the Pacific North West should not be used because streams are warmer in this area than they are in the area that Kate Sullivan's methods are used.

Bill Trush, a professor in the fishery department at H.S.U., stated that the Freshwater Creek is the perfect example of the failure of the Forest Practice Rules and California Forest Department to address the forest practices rules. He stated that the Regional Water Board is taking an honest effort trying to evaluate the cumulative watershed effects impacts. He stated there should not be any watersheds de-listed at this time. He stated that the workshops that will provide information on the why/not a watershed should be listed or de-listed is a good idea.

Elizabeth Finger, resident of Jacoby Creek Watershed area, stated that the beneficial use of water has not been met. Biological and property values are being diminished in the watershed due to sediment. Frequently rain causes flooding in the area. She urged/petitioned the Board to list the creek on the 303(d) list.

Kim Lucas, a rancher from Dunsmuir area, stated that as a cattle rancher everything revolves around the TMDL. Hopes that staff takes into consideration all the sediment that does come into the area naturally. Requested that the staff and Board consider that sediments come naturally.

Sterling McWhorter, director of the Cattlemen Association, stated that they support the TMDL process. The reports of the Van Duzen and Garcia states that all the sediment is natural except 10 percent and only 8 percent are controllable.

He said that the 303(d) list and the TMDL process are important to the landowners. He stated that the TMDL was designed for point source pollution and now it is being adapted to non-point source pollution. If the information is documented as point source pollution, the landowners will require a permit to run cattle on their land.

Lawrence Dwight, President Humboldt Cattlemen's, stated that he has concerns about the letter that he received from the state requesting information. He stated that they are all concerned, want clean water, and use their land the way they want. In the beginning they did not understand the TMDL process. He questioned how do we come up with the correct science and decide who is correct. He suggested that everyone continue to communicate.

Chair Massey stated that the 303(d) item will be discussed in January 2002 Board meeting.

Item 7 Update on Eureka satellite office

Susan Warner reported that the governor froze all reorganization of staff and structure. The freeze will affect the opening of Eureka satellite office until June 2003. She stated that in an effort to move forward, the paperwork would be completed and sent to the state office for processing.

Item 8 Executive Officer Administrative Civil Liabilities

One Administrative Civil Liabilities was issued by the Assistant Executive Officer to Brian Craig requesting a workplan. The issuance was related to diesel and waste oil discharge. The assessment is \$30,000 of which \$15,000 of the assessment is forgiven if the plan is implemented.

Item 9 State and Regional Board Communication

Susan Warner stated that there are only three State Board members and it has been very difficult for any of the Board Members to attend regional board meetings.

Item 10 Regional Water Board 2002 Board Meeting Agenda

Due to a scheduling issue, Bev Wasson requested that September board meeting be held in Santa Rosa.

Item 11 Budget Priorities/Timing

Susan Warner stated that there is regionwide workplan being prepared that will prioritize the region's work efforts assumed for the next 18-months. The schedule will be updated every six months to project ahead the workload in light of the freeze and other activities coming about that will be important to address. Ms.

Warner reported that the budget cuts have been very significant for our region and will play a role in prioritization in the schedule. She stated that the Workplan will be discussed at the January Board meeting.

Items 12, 13, 14, and 15 stands as written

Items The Board did not meet in Closed Session on items 17, 18, 19, 20, 21, 22, and 23.

Richard Grundy requested information on the ex parte communication. Sheryl Freeman responded by giving him a brief description on what will disqualify him from participating on an agenda item. She stated that possibly Phil Wyels from the State Water Board Office of Chief Counsel would be meeting with the new Board members and go over ex parte communication and other information.

Mr. Massey questioned the number of Board members that will make a quorum in and out of a board meeting. Ms. Freeman stated that the number of Board members on the board would determine how many members are needed for a quorum.

There being no further business to come before this meeting body, the meeting adjourned at 3:10 p.m., until the next scheduled Board meeting on January 23 and 24, 2002.

The Secretary, E. Jean Lockett recorded the minutes of the December 6, 2001 workshop meeting of the North Coast Water Quality Control Board, to be approved by the Board at its next meeting.

_____Chair

_____Date