

STATE WATER BOARD
BOARD MEETING MINUTES
June 16, 2005

Copies of the resolutions and water quality orders can be obtained from Debbie Irvin at (916) 341-5600 or downloading from our [website](#).

CALL TO ORDER

Arthur G. Baggett, Jr., called the meeting to order on June 16, 2005 at 9:06 am in the Sierra Hearing Room, 1001 I Street, Sacramento, California

BOARD MEMBERS PRESENT

Arthur G. Baggett, Jr., Chair; Peter S. Silva, Vice Chair; Richard Katz, Member; Tam M. Doduc, Member; and Gerald D. Secundy, Member

STAFF PRESENT

Celeste Cantú, Executive Director; Harry Schueller, Chief Deputy Director; Tom Howard, Deputy Director; Debbie Irvin, Clerk to the Board; Craig M. Wilson, Chief Counsel; David Boyers, Michael Levy, Marleigh Wood, and Ted Cobb, Office of Chief Counsel; Stan Martinson, John Ladd, Rik Rasmussen, and Gaylon Lee, Division of Water Quality; Miles Burnett and Esteban Almanza, Division of Administrative Services; Beth Jines, Executive Officer, and Liz Kanter, Office of Public Affairs

OTHERS PRESENT

Catherine Kuhlman and Robert Klamt, North Coast Water Board; John Muller and Tom Mumley, San Francisco Water Board; Kenneth Landau, Central Valley Water Board; Mark Rentz, Department of Pesticides Regulation; Tim Johnson and Roberta Firoved, California Rice Commission; Bill Jennings, DeltaKeepers; Sejal Choksi, BayKeepers; Richard Price, Agriculture Commissioner; Richard Tienger; Daniel Myers; Marianne De Sobrino; Alan Levine, Coast Action Group; Richard Sadowski, Marla Jo Bruton, and Joey Racano, Central Coast Outfall Group; Jesse Noell; Michele Dias, California Forestry Association; Edgar Washburn, Pacific Lumber; Kristi Wrigley; Alexis Strauss, U.S. Environmental Protection Agency; Kevin Buchan, Western States Petroleum Association; David Williams, East Bay Municipal Utility District; Arleen Navarret; Peter McGaw; Michele Plá, Bay Area Clean Water Agencies; Andria Ventura, Clean Water Action; Courtney Watts, Petaluma Riverkeeper; Sharon Green, Tri-TAC and California Association of Sanitation Agencies; Ivan Karnezis, Department of Transportation; Leslie Mintz, Heal the Bay; Donna Chen, City of Los Angeles; Connor Everts, Southern California Watershed Alliance; Steve Arita, WSPA; and Sharon Duggin, Epic Sierra Club

PUBLIC FORUM

Richard Ely representing Davis Hydro addressed the Board.

MISCELLANEOUS

Court Reporter Karen Challe, Northern California Court Reporters, transcribed Items 10 & 11.

CONSENT AGENDA (Items 1 - 9)

FINANCIAL ASSISTANCE

1. Consideration of a resolution designating \$10 million from Proposition 50 funds for Ocean Protection Projects

Motion: The Board unanimously adopted the proposed resolution. **Resolution 2005-0041**

2. Consideration of a resolution adopting the Proposition 50 Santa Monica Bay Restoration Grant Program Competitive Project List

Motion: The Board unanimously adopted the proposed resolution. **Resolution 2005-0042**

3. Consideration of a resolution approving projects and authorizing issuance of grants from Proposition 40, Proposition 50, and Clean Water Act Section 319(h) to implement the Agricultural Water Quality Grant Program and Nonpoint Source Implementation Grant Program

Motion: The Board unanimously adopted the proposed resolution. **Resolution 2005-0043**

4. Consideration of a resolution adopting guidelines for the Proposition 50 Dairy Water Quality Grant Program

Motion: The Board unanimously adopted the proposed resolution. **Resolution 2005-0044**

5. Consideration of a resolution adopting the State Fiscal Year 2005/06 State Revolving Fund Loan Program Priority List

Motion: The Board unanimously adopted the proposed resolution with changes.
Resolution 2005-0045

WATER QUALITY

6. Consideration of adoption of modification to Attachment E of the State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, Statewide General National Pollutant Discharge Elimination System Permit for the Discharger of Aquatic Pesticides for Aquatic Weed Control in Waters of the United States, General Permit No. CAG990005

Motion: The Board unanimously adopted the proposed resolution. **Resolution 2005-0046**

7. Consideration of a resolution authorizing the Executive Director to accept Leaking Underground Storage Tank Trust Fund grants from and execute a Cooperative Agreement with the United States Environmental Protection Agency, Region 9

Motion: The Board unanimously adopted the proposed resolution.
Resolution 2005-0047

8. Consideration of a resolution authorizing the Executive Director to accept Underground Storage Tank Trust Fund grants from and execute a Cooperative Agreement with the United States Environmental Protection Agency, Region 9

Motion: The Board unanimously adopted the proposed resolution.
Resolution 2005-0048

9. In the matter of the petition of Dan Thomas for closure of Underground Storage Tank site located at 596 East Perkins Street, Ukiah, California

Motion: The Board unanimously adopted the proposed water quality order.
Water Quality Order 2005-0008-UST

REGULAR AGENDA (Items 10 - 13)

ADMINISTRATION

10. Consideration of a resolution adding a Fee Schedule for agricultural waivers (California Code of Regulations, Title 23, Division 3, Chapter 9, Article 1)

Johnny Gonzales presented the item introducing the Memorandum of Understanding (MOU).

Ted Cobb asked if the Board wanted to accept 4 late comment letters from California Citrus Mutual, Glenn County Board of Supervisors, California Cattleman's Association, and Mariposa County Board of Supervisors into the record. The Board unanimously decided not to include them.

Mssrs. Schneider, Rentz, and Price addressed the Board.

Chair Baggett announced that the pilot MOU is separate and we are not voting today.

Member Katz made a motion to implement the MOU (June 15, 2005 version); Member Silva seconded the motion.

Motion: The Board unanimously adopted the proposed resolution with the MOU.
Resolution 2005-0049

WATER QUALITY

11. In the Matter of the Petitions of Humboldt Watershed Council, Environmental Protection Information Center, and Sierra Club (Review of Directives to Enroll Pacific Lumber Company Timber Harvest Plans Under General Waste Discharge Requirements R1-2004-0030) California Regional Water Quality Control Board, North Coast Water Board, SWRCB Files A-1683 and 1692

Ted Cobb presented the issues to the Board and noted receipt of 58 timely form letters; 57 in support and 1 in opposition; there were 4 late letters not included in the record, received after 5 pm on June 15, 2005. The Board concurred in excluding those letters. On the merits of the matter, the issue before the Board is not whether the North Coast Board could have adopted waste discharger permits for PALCOs Timber Harvesting, thereby using the Timber Harvest Plans (THPs) approved by California Department of Forestry (CDF). The question is whether the Regional Board acted appropriately in using the general waste discharge requirements that they have adopted in 2004 to give the go ahead to those Harvesting projects. The general requirements were intended only for those that did not involve significant environmental impacts, either actual or potential. The general waste discharge requirements contain detailed provisions setting forth what sort of projects can or cannot be included. From the record it's pretty clear that these PALCO projects cannot be included. The very fact that the Regional Board thought they needed additional mitigation to fit these THPs within the general waste discharge requirements clearly show they don't belong. The mitigation issue raises the second concern addressed from the order. Recommend that you adopt the staff's order with the Errata sheet.

Chair Baggett stated the motion that Michael Gjerdes's comments with regards to PALCOs request be stricken from the record was denied. The comments are not now in the records. The motion to disqualify and screen Theodore A. Cobb from further participation of proceeding involving these petitions is denied. No bias or prejudice has been alleged. The motion that Sheryl Schaffner be screened from further participation in the proceeding involving these petitions is denied. The motion to augment the administrative records by adding a declaration by Dr. William McCarab, along with Dr. William McKillops's resume is granted.

Sharon Duggin, Marianne De Sobrino, Marla Jo Bruton, Michele Dias and Kristi Wrigley addressed the Board.

Edgar Washburn addressed the Board.

Ms. Kuhlman does not support the order as drafted and if it is adopted, wants it not to set a precedent.

Member Secundy requested that Mr. Cobb explain "precedential". Mr. Cobb responded that all orders are precedential unless the Board decides otherwise.

Mssrs. Noell, Sadowski, Racano, Levine, Tienger, and Meyers, addressed the Board

Chair Baggett would like to allow the parties to speak if they have closing comments. Ms. Kuhlman declined. Mr. Washburn reiterates, "Precedential issue would be construed as targeting PALCO." Chair Baggett clarified the CEQA position.

Motion by Member Katz and seconded by Member Secundy; Motion carried with Errata, adopted unanimously.

Motion: The Board unanimously adopted the proposed water quality order, with Errata.
Water Quality Order 2005-0009

WATER QUALITY (Informational Progress Report)

12. Continuation of prior State Water Board consideration of an amendment to the Water Quality Control Plan for the San Francisco Bay Region to incorporate a total maximum daily load for mercury in San Francisco Bay

Joanne Cox presented the item to the Board. Staff recommends bringing this item back for approval within a couple of months.

Mssrs. Muller, Jennings, McGraw, Williams, Buchan, and Wolfe addressed the Board.

Mr. Mumley addressed the Board and gave a power point presentation.

Messes. Chosky, Ventura, Plá, Navarrett, and Watts addressed the Board.

Chairman Baggett excused himself at 2:55 p.m.; Member Silva became acting Chair.

Mr. Levy addressed the Board and gave clarification on the California Toxics Rule.

Member Secundy recommends holding the item over until July 2005 Board meeting.

Item 12 held over to future Board meeting.

13. Consideration of a resolution adopting the Water Quality Control Policy for Addressing Impaired Waters: Regulatory Structure and Options (Policy), and approving a guidance document entitled “A Process for Addressing Impaired Waters in California” (TMDL Guidance)

Rik Rasmussen presented the item to the Board.

Sharon Green addressed the Board concerned with the proposed language on page 3 and requesting 2 added sentences be deleted.

Mr. McGraw addressed the Board.

Mses. Pla, Strauss, Cheng, Ventura, and Mintz addressed the Board.

Mr. Jennings addressed the Board and stated, “This is just another lynching of water quality protection.”

Messrs. Levine, Arita, Everts, and Karnezis addressed the Board.

Member Katz asked Mr. Karnezis what the Cal/Trans budget this year for environmental and stormwater compliance is. Mr. Karnezis was not able to give an answer but was going to research it. Then Member Katz asked if they can get any information about how much Cal/Trans is spending for anything environmental. Mr. Karnezis said they have already spent 75 million in Los Angeles for the L.A. Trash TMDLs and have a budget for 300 million over the next several years for the L.A. Trash TMDL.

Member Doduc commented that excellent points were raised regarding prioritization and specific criteria for TMDL and would like the staff to address those points, as well as the point that was raised from the last speaker regarding TMDL through Basin Plan amendments. Mr. Rasmussen responded by saying the primary prioritization of waters is done through the 303(d) listing process. That’s when they prioritized the schedule itself not through the development of TMDLs.

Member Secundy asked Ms. Mintz about staff’s respond to standard’s review and timelines. Ms. Mintz responded that it conflicts standards review with TMDL implementation development.

Member Doduc made a point of clarification to Ms. Mintz’s comment regarding the timeline specifically, to the certification of non-regulatory programs, not to the TMDL itself and not reevaluating the TMDL if the timeline is not made but revoking or terminating the certification of the non-regulatory program.

Member Doduc also supports retaining the new language, page 3 section B and supports the addition of language to page 9, section E, regarding a timeframe and the trigger points of which Ms. Mintz spoke. Member Secundy seconded the motion.

Motion: The Board unanimously adopted the proposed resolution with changes.
Resolution 2005-0050

ADJOURNMENT

The Chairman adjourned the meeting at 11:42 a.m.