



California Regional Water Quality Control Board Central Coast Region



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Protection

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Arnold Schwarzenegger
Governor

MINUTES OF
REGULAR MEETING
Thursday, May 13, 2004 & Friday, May 14, 2004
Regional Water Quality Control Board

Thursday, May 13, 2004, 1:00 p.m.

Chairman Jeffrey Young called the meeting of the Central Coast Regional Water Quality Control Board to order at 1:00 p.m. on May 13, 2004, in the conference room of the Regional Water Quality Control Board, 895 Aerovista Place, Suite 101, San Luis Obispo, California.

1. Roll CallOffice Technician Carrie Fauset

Board Members Present:

Chairman Jeffrey Young
Vice Chair Russell Jeffries
Gary Shallcross
Daniel Press
Donald Villeneuve

Absent:

Leslie Bowker
Bruce Daniels

2. IntroductionsExecutive 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. Chair Young asked if anyone wished to address the Board on any issues that were not on the agenda (public forum). No one came forward

3. Meyley Timber Harvest Plan No. 1-03-042 SCR, Santa Cruz County Resolution No. 2004-0035
[William Arkfeld 805/ 542-4627]

Staff engineer William Arkfeld presented background information for the site and the reasoning for the monitoring and reporting program. Staff showed photographs of two failed culverts and an easement road that will be mitigated this year.

foresters. Mr. Greig said temperature and visual monitoring were currently being performed.

Written and oral comments were received. Significant comments included:

James Greig, Registered Professional Forester

- The landowners and foresters have a long history of good land stewardship.
- Monitoring requirements should be suspended until, and if, a water quality problem occurs.

- A general waiver should be adopted to simplify the regulatory process and make better use of Regional Board staff's limited resources.
- Proposed monitoring for turbidity is not effective.
- The monitoring costs are too high and unjustified.
- Regional Board staff should increase their field presence.

Sarah Newkirk, Ocean Conservancy

- Water quality monitoring is inadequate. Foresters should monitor to demonstrate compliance with waiver conditions.
- CEQA documentation is inadequate
- Fees should be imposed to help fund additional Regional Board staff.

Chairman Young asked Mr. Greig what monitoring was currently being performed by his

- Watershed-wide waste discharge requirements should be developed to simplify the permitting process for everyone involved.
- Monitoring should be performed similar to the monitoring program developed for the Agriculture Waiver.

Chairman Young asked Ms. Newkirk if she had any studies concerning water quality and forestry in the Santa Cruz mountains. She said she did not. Ms. Newkirk reiterated her support for a timber workshop. Dr. Press noted that watershed monitoring is necessary but that it is inequitable for a single landowner to cover the costs of monitoring an entire watershed. Regional Board counsel Lori Okun pointed out that California Department of Forestry and Fire Protection (CDF) is the lead agency for CEQA and that issues of the inadequacy of the CEQA document should be taken up with them.

Kevin Collins, Lompico Watershed Conservancy

MOTION: Mr. Shallcross moved to approve Resolution No. 2004-0035: SECONDED by Dr. Press. CARRIED – Unanimously (5-0).

4. Pryce Fork Timber Harvest Plan, No. 1-03-173 SCR, Santa Cruz County..... Resolution No. 2004-0036 [William Arkfeld 805/ 542-4627]

Staff engineer William Arkfeld presented background information and discussed the protection of trees in and near the Channel Zone. Staff showed photos of two trees proposed for retention immediately adjacent to the Channel Zone. Staff also proposed giving the forester the option to perform photo-point monitoring in years three and four following timber harvest. The Executive Officer summarized staff recommendations to retain the two trees mentioned in staff's presentation and change the MRP to allow the forester discretion to perform photo-point monitoring in years three and four.

The Board received comments, which included:

Sarah Newkirk, Ocean Conservancy

- The Board should not base decisions on the economic impact of the monitoring requirements. Mr. Shallcross commented that the Board must consider reasonableness in their imposition of monitoring. Legal staff noted that Section 13267 of the Porter-Cologne Water Quality Act did

- Cumulative impact analysis for this and other THPs continue to be inadequate. The recent case of the Lompico THP was used to illustrate this point. For the Lompico THP, a decision was made that the Board of Forestry did not adequately address the cumulative watershed impacts when they approved this timber harvest plan.

David Van Lennup

- Unlike agriculture, timber harvesting is already heavily regulated.
- Watershed monitoring by a single land owner would be overly burdensome
- The Little Creek study should help address the issue of watershed level monitoring.

Executive Officer Briggs recommended approval of this waiver as proposed.

require reasonableness when the Board requested reports.

Kevin Collins, Lompico Watershed Conservancy

- Fees should be imposed, especially for THPs that require extensive regulatory review such as the Pryce Fork THP.
- Roots are critical for protecting stream banks. Streamside trees whose roots protect the bank should be retained.
- Monitoring could have started as yearly as 1995 (when the land was purchased).

Chairman Young asked Mr. Collins how CDF did their cumulative impacts analysis. Mr. Collins replied that the cumulative impacts analysis in the Santa Cruz region was not much different from that done on the North Coast. He indicated the analysis was simply a paper exercise of tallying previous harvest areas in a planning area.

Peter Twight, Registered Professional Forester

- No observed problem with cutting trees immediately adjacent to the Channel Zone.

- Root die back is a concern for landslides, but not for stream banks.
- Redwood Empire does not have enough staff to perform additional monitoring.

Bob Berlage, Big Creek Lumber

- The two trees proposed for retention will eventually fall and cause a bigger sediment release than if the stream banks

were to erode following root die back after harvesting.

Counsel Okun asked Mr. Arkfeld if, in his professional judgment, the monitoring plans proposed were sufficient to show that the conditions of the waivers were being met. Mr. Arkfeld replied, "Yes".

MOTION: Mr. Jeffries moved to approve Resolution No. 2004-0036 with recommended changes and SECONDED by Mr. Villanueve. CARRIED – Unanimously (5-0).

5. Estrada Non Industrial Timber Management Plan, 1-98NTMP-022 SCR..... Resolution No. 2004-0037 Santa Cruz County [William Arkfeld 805/ 542-4627]

Staff engineer William Arkfeld presented background information. Executive Officer Briggs recommended approval of this waiver with changes to the Monitoring & Reporting Program as proposed in a supplemental sheet.

The only comments received were from the forester for this NTMP. The forester requested a series of changes that were already addressed in a supplemental sheet.

MOTION: Dr. Press moved to approve Resolution No. 2004-0037 to include changes proposed in the supplemental sheets. SECONDED by Mr. Jeffries. CARRIED – Unanimously (5-0).

Further discussion about monitoring goals and costs ensued. Mr. Young asked if possibly the sawmill might be a clearinghouse for funding. Dr. Press suggested that funding might be available

through a grant from a foundation. Mr. Young indicated that he would like to discuss this subject at the upcoming timber workshop.

6. PG&E Supplemental Environmental Project, Program Coordinator Board Approval [Alison Jones 805/594-6197]

Alison Jones of Regional Board staff presented a brief update on progress toward the use of nearly \$4 million of settlement funds for NPS implementation and monitoring projects in Elkhorn Slough, Moss Landing Harbor and the lower Salinas River watershed. The Board had previously approved criteria for the use of the funds at a Board meeting held July 11, 2003. Staff has convened a technical advisory committee and met with them to discuss water quality issues in the project areas and priorities for the use of the funds. Staff proposes to use a portion of the funds to provide administrative assistance in distributing the funds. Tasks include assistance with development of a request for proposals consistent with the Board-approved criteria and recommendations of the technical advisory

committee, community outreach, review and ranking of proposals, oversight of projects, distribution of funds, and tracking of projects. The proposed cost of the coordinator would be \$150,000 over three years, to be taken from the NPS Implementation Fund, with a contingency of an additional \$5,000 per year if the number of proposals and funded projects is large. Staff proposed the Community Foundation for Monterey County as the coordinator.

Board Member Press asked if the tasks were water quality specific and whether the Foundation had the technical expertise to perform the tasks. He also asked if the amount requested would be a meaningful amount of relief for staff.

Ms. Jones responded that staff would be doing the technical review of projects, with the funds that have been allocated for staff oversight, and the help provided by the coordinator would be important in administering the funds.

in setting priorities. Board Member Jeffries stated his desire to have an annual progress report, including a review of the coordinator position. Ms. Jones noted that when the Board approved criteria last year, annual progress reports were a part of the criteria.

Board Member Jeffries asked if the TAC would be reviewing projects. Ms. Jones responded that many of the TAC members would be potential recipients of the funds and that their input has been important

There were no public comments.

MOTION: Dr. Press moved to approve funding for coordinator position, and to have staff provide and annual progress report: SECONDED by Mr. Jeffries CARRIED – Unanimously (5-0).

7. Coastal Boatworks, San Luis Obispo County..... Order No R3-2004-0026
 [Jennifer Bitting 805/549-3332]

Mr. Briggs said the hearing was postponed to the July meeting at Discharger’s request, due to illness.

8. City of Pismo Beach, San Luis Obispo County Order No. R3-2004-0008
 [Scott Phillips 805/549-3550]

Chairman Young read an opening statement and all interested parties were sworn in. Executive Officer Roger Briggs reviewed the history of the previous meeting and introduced Regional Board staff member Scott Phillips. Mr. Phillips mentioned that a hearing to consider Order R3-2004-008 had been held on February 6, 2004, for 245 violations between July 1, 2001, and July 31, 2003, at the City of Pismo Beach’s wastewater treatment facility. The hearing was closed on the number of violations and penalty amount of \$735,000, but was continued to this meeting to allow the City to develop and submit a new Supplemental Environmental Project (SEP) proposal.

City representatives were available to discuss the origin and of each aspect of the SEP. City representative Rocky Rogers spoke about project details. Administrative Services Director, George Edes, spoke about financial considerations of the SEP. Acting City Engineer, Greg Ray discussed legal implications of the Order. Connie O’Henley spoke on behalf of Central Coast Salmon Enhancement to elaborate on their ambitions for the Pismo Creek watershed study. Amy English and Dr. Jean-Pierre Wolfe spoke on behalf of Central Coast wine growers to encourage stewardship of the local watersheds, and express strong support for the work of Central Coast Salmon Enhancement. Regional Board members discussed the cost and relevance of the water reclamation feasibility study. Legal counsel proposed a few editing and wording changes for clarification. The changes clarified that the San Luis Obispo County Community Foundation will be the only agency to hold money for the implementation fund. Regional Board members also encouraged Central Coast Salmon Enhancement to consider the results of the pier and reclamation study when compiling a list of priority projects for the implementation phase of the SEP.

Mr. Phillips introduced and briefly described the six elements of the proposed SEPs. These elements included two education elements (one for ranchers, one for treatment plant operators), a Pismo Creek watershed investigation, a beach/pier bacteria source investigation, a water reclamation feasibility study, and an implementation fund for projects identified in the watershed and pier studies for a total of \$375,000. Staff presented the nexus for each element and its compliance with the enforcement policy. Staff also briefly reviewed the supplemental sheet, which clarified the responsibilities and deadlines for the parties involved in each element of the SEP.

MOTION: Donald A. Villeneuve moved that Order No. R3-2004-008 and associated Supplemental Environmental Projects be adopted with the included supplemental sheet and editing corrections as noted by legal counsel. **SECONDED** by Dr. Press
CARRIED: (4-1), Mr. Shallcross voted no.

9. Reports by Regional Board Members..... Status Report

Board Member Jeffries announced that he attended the April 2, 2004 Monterey Bay Sanctuary Advisory Committee Meeting. He also advised that he and Board Members Shallcross and

Daniels attended the April 19, 2004 Water Quality Coordinating Committee (W.Q.C.C.) Meeting in Sacramento.

10. Executive Officer’s Report

Petroleum Contamination in the Community of Avila Beach

Executive Officer Briggs summarized the report on Avila and petroleum. Tom Guernsey of Avila Beach thanked staff for their help and expressed concern for other contamination on and around Avila Beach. Mr. Jeffries thanked Mr. Guernsey for being vigilant on the issues.

present to speak at this time. Bruce Paine (Los Osos resident) requested Cabrillo Estates be included in the sewer project, alleged it was left out because a Regional Board member lived there, questioned how prohibition area boundary was drawn, and asked about the Regional Board considering other alternatives. Chair Young pointed out that former Board Member Rathmell, was not appointed to the Regional Board until years after the prohibition area was established, so there was no such conflict. Mr. Briggs reviewed how the prohibition area was established. Chair Young responded to the question about alternatives by saying that is the role of the CSD.

Los Osos Wastewater Project

Mr. Briggs explained that discussion on the Los Osos project would be Friday afternoon, but recommended the chair allow those who were

Chairman Young adjourned the meeting at 6:15 p.m.

Friday, May 14, 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 May 14, 2004, in

the conference room of the Regional Water Quality Control Board, 895 Aerovista Place, Suite 101, San Luis Obispo, California .

11. Roll Call..... Diane Glanville

Board Members Present:

- Chairman Jeffrey Young
- Gary Shallcross
- Vice Chair Russell Jeffries
- Daniel Press
- Donald Villeneuve (arrived 8:45 a.m.)
- Leslie Bowker (arrived 10:45 a.m.)

Absent:

- Bruce Daniels

12. 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.

23. Carpinteria Sanitary District, Santa Barbara County Complaint No. 2004-0007
[Todd Stanley 805/542-4769]

Discharger waived hearing and paid penalty. No hearing to be held.

25. RMC Pacific Materials, Santa Cruz County Order No R3-2004-0056
[Mike Higgins, 805/542-4649]

Discharger waived hearing and paid penalty. No hearing to be held.

15. Public Forum Board Direction

Interested parties below made comments:

Rick Nyznyk (Los Osos vacant property owner) requested that the Regional Board consider rescinding the discharge prohibition (Resolution No. 83-13) which, in his opinion, is contributing to community sewer project delays.

(Board Member Villeneuve arrived at 8:45.)

13. Approval of March 19, 2004 Minutes Board Motion

MOTION: Mr. Jeffries moved to approve the March 19, 2004 minutes. SECONDED by Dr. Press. CARRIED – Unanimously (5-0)

16. Uncontested Items Calendar Board Motion

Mr. Briggs recommended including item 32, Chicago Grade Landfill, on the consent calendar.

MOTION: Mr. Jeffries moved to approve the proposed consent calendar, items 27 through 45. SECONDED by Dr. Press. CARRIED: Unanimously (5-0)

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

Mr. Briggs pointed out the cases summarized in the agenda. There were no comments or questions from the Board Members.

18. MTBE Cases Status Reports

Eric Gobler, Staff Engineer, said that the Local Oversight Program transition from Santa Clara Valley Water District to Santa Clara County continues, but has been delayed. The Water District is committed to assisting with the transition at least through December 2004. Regarding the Chevron Service Station site (2194 Main Street, Cambria), Eric Gobler mentioned that Chevron and Cambria had settled its lawsuit and that Chevron has provided Cambria, in part, with an alternative potable water supply as required by Cleanup and Abatement Order No. 00-28. Mr. Gobler indicated that the Executive Officer intends to rescind CAO No. 00-28, unless the Regional Board gives different direction. Eric Gobler mentioned that three comments had been received

regarding the CAO. 1) The Cambria CSD " would support whatever decision was made by the Regional Board"; 2) Lemieux & O'Neill sent a letter representing United Lot Owners of Cambria opposed to rescinding the CAO because they believe the Cambria CSD does not believe the "temporary well" (new high school well) provides sufficient replacement water and thus will not lift its moratorium on new water service connections; 3) Greg Berge called and expressed opposition to rescinding the CAO for reasons similar to those of Lemieux & O'Neill. Mr. Gobler indicated that providing water service for property development exceeds the Regional Board's authority, Chevron has provided an alternative water supply well, and since the District and Chevron had settled their related suits, Regional Board staff intends to rescind the CAO. Executive Officer Roger Briggs responded to a Board question by saying it was his intent to rescind the CAO, considering that the

order was issued by him and not by the Regional Board. There were no further questions from Board Members. On another MTBE matter, Chairmen Young inquired how Santa Barbara County Local Oversight Program staff are doing in providing timely MTBE data for the Region-wide MTBE Site List. Burton Chadwick, Engineering Geologist, indicated that there are a few sites on the list with older data, however, those cases are footnoted to explain why or to indicate that county staff realizes there are some outstanding issues; two Regional Board cases are similarly footnoted. When recently provided the opportunity to update data for this list, Santa Barbara County staff were very timely and responsive.

Mr. Jeffries asked about the Cal Water Service contamination and plume source, and wondered if staff evaluated the Exxon station. John Goni said staff has analyzed ten years of data for the Exxon site, and it does not seem to be a source.

19. Perchlorate Cases.....Status Reports

Regional Board staff engineer David Athey discussed current status of both the Whittaker Corporation and McCormick Selph facilities in San Benito County. He presented monitoring updates and reviewed recent report submittals from each site. Following, Mr. Athey provided information regarding Olin Corporation's request to increase the level at which bottled water is supplied for residents south of the Olin site from 4 to 6 ppb. Mr. Shallcross recused himself from this item. Regional Board staff denied Olin's request for an increase in a recent letter and is awaiting Olin's submittal evaluating their alternative water supply options. Mr. Athey then summarized recent reports submitted, and detailed Olin's alternative water supply options. Board Member Daniels requested information regarding the validation timeframe for ion exchange wellhead treatment certification from the Department of Health Services. A certification date is unknown, but could be as early as the end of summer 2004. Well water quality was also inquired about within the San Martin area, and Mr. Athey discussed the fluctuations with external influences, including near-by well pumping and Mr. Briggs added fluctuations may be caused by seismic disturbances.

The City of Morgan Hill requested pumping, with a treatment system, of the Tennant well. Currently,

the well is offline due to prior perchlorate detections, but may be needed for the upcoming summer demand. Olin is concerned the operation will negatively influence their on-site groundwater extraction and treatment system, but were recently required to submit additional information supporting their claim.

Olin is tentatively scheduled to present their Alternative Water Supply Evaluation Report at the upcoming community advisory group meeting on June 11th.

Board Member Press expressed his support and appreciation for maintaining the alternative water supply level at 4 ppb. Chairperson Young inquired why 4 ppb was initially chosen; Mr. Athey explained below 4 is trace, reaching the limit of lab detection. Board Member Press questioned if there were alternate technologies for lower-level detection. Currently, labs are looking into new detection capabilities. Chairperson Young also asked for information from other Regional Boards as to terms for alternative water supply. Ms. Lori Okun said there is no other information because other sites are not this far ahead in remediation, nor is this site like any other with many private well detections. Consequently, in other perchlorate areas, water is blended to meet standards.

20. Enforcement Report Status Report

This was a written report only. There were no questions.

24. El Estero WWTP, City of Santa Barbara PWD, Santa Barbara County Order No. R3-2004-0038

Chairman Young read an opening statement and all interested parties were sworn in. Regional Board staff engineer Mike Higgins presented Order No. R3-2004-0038 for Mandatory Minimum Penalties to the City of Santa Barbara. Over a two-year period (from February 14, 2001 to October 30, 2003) the City’s treatment plant incurred twenty-four (24) violations of Order No. 99-40. The California Water Code requires a minimum penalty of \$3,000 per violation, resulting in a proposed total penalty of \$48,000. Mr. Higgins, also briefly described the City’s proposed Supplemental Environmental Project (SEP) entitled “Sources of Microbial Contamination in Urban Streams and Ocean Beaches, Santa Barbara, California”.

Mr. Higgins described why staff proposed the Order assess a \$3,000 penalty for each of a second series of violations (October 21st-October 30, 2004 violations), with the total penalty for this series amounting to \$18,000. In staff’s view, the violations should be not assessed a single \$3,000 penalty, resulting from a single operational upset, because operator error caused the violations.

Ms. Rebecca Bjork, from the City of Santa Barbara presented testimony and argued operator error did not cause the six serious October 2003 violations because the operators had changed the plant’s processes to address these chronic violations approximately two months before the violations occurred. Therefore, stated Ms. Bjork, the violations should not be attributed to operator error but to a single operational upset beyond the operator’s control at the time. Therefore, the City is eligible for a reduction in the number of violations (from one to six) and penalty amount should be reduced from \$18,000 to \$3,000.

Board members asked several questions of Ms. Bjork, including how the plant upset occurred and events leading up to it, inputs to the plant including portable toilet waste and septage, expert advise given the City on plant operation improvements, and the effects of filamentous bacteria on plant operations. Ms. Bjork indicated the City followed the advise provided by a hired expert on activated sludge, regarding chlorination of the return activated sludge stream, but that operational change resulted in a series of violations. The Board discussed whether this change in practice was an error on the part of the City. Mr. Briggs pointed out that had the City received expert advise on how to avoid violations, but then chose to ignore those recommendations and ended up with violations, the Regional Board would view that decision as an error. Mr. Briggs said it would be unfair to consider either course of action an error.

Based on Ms. Bjork’s testimony and other information, Mr. Briggs revised the staff recommendation to find this series of violations (six serious violations in October 2003) was caused by a single operational upset, and a reduction in penalty was appropriate. He recommended the Regional Board adopt Order No. R3-2004-0038, including changes contained in the Supplemental Sheets, changes proposed by Counsel regarding publicizing any SEP element, a penalty of \$33,000, and \$24,000 of the penalty to go towards funding the City’s SEP proposal (USGS study).

MOTION: Dr. Press moved to adopt Order No. R3-2004-0038. SECONDED by Mr. Villeneuve. CARRIED – Unanimously (5-0)

21. Bardex Corporation, Santa Barbara County Order No. R3-2004-0061

Chairman Young read an opening statement and all interested parties were sworn in.

Regional Board Senior Engineer Michael LeBrun presented an overview of the staff report and concluded with a recommendation for assessment of an ACL for \$1,500 for non-submittal of a technical report.

Mr. Bartlett, president of Bardex Inc. spoke regarding site history and characteristics. Mr. Bartlett stated that it came down to an issue of confusion regarding the submittal of the technical report in question.

Mr. Burke, an employee of Bardex, stated that new wells and sampling were planned and while the

sampling of the existing wells was delayed, the sampling of the new well was completed and data submitted early. Mr. Burke further stated that Mr. Bartlett is a cooperative and fair gentleman and a fine in this case sends the wrong message.

Mr. Shallcross asked if Bardex communicated their decision not to test to the staff. Mr. Burke said no, they were confused about what to do and they were very busy in December with the holidays. Dr. Press noted the company is in the process of providing the report and discussed lowering the amount of the penalty to the same amount as the staff cost of \$900.

MOTION: Dr. Press moved to adopt the Order with a modification of the penalty amount to \$900. .
SECONDED by Mr. Jeffries.
CARRIED – Unanimously (5-0)

(Chairman Jeffrey Young announced a lunch break at 11:35 a. m. The meeting reconvened at 1:10 p. m.)

46. PG&E, Diablo Canyon Power Plan, San Luis Obispo County Status Report
[Michael Thomas 805/542-4623]

Staff member Michael Thomas presented an update regarding resolution of cooling water impacts at PG&E's Diablo Canyon Power Plant. Mr. Thomas stated that the technical workgroup (TWG) has reviewed all relevant options for addressing cooling water impacts at Diablo Canyon, and has determined that the best projects are the conservation easement (currently included in the Regional Board/PG&E settlement) and marine protected areas. Mr. Thomas discussed the benefits of marine reserves (a sub-category of the Marine Protected Area term) based on empirical evidence. Mr. Thomas also introduced the Resources Legacy Fund Foundation (RLFF). RLFF discussed their extensive experience on conservation projects, including several projects on the Central Coast, and their affiliation with the Packard Foundation. Mr. Thomas closed staff's presentation by saying that staff would continue to work with RLFF and other agencies to pursue the Marine Protected Area option unless directed otherwise by the Board. Chair Young asked if that meant working with the Department of Fish and Game. Mr. Thomas said yes.

Henriette Groot, Mothers for Peace, stated that the new 316b regulations should be considered in the settlement, that the 2nd Circuit Court decision regarding 316b should be considered, that cooling towers may be a cheaper alternative, and that other forms of energy production should be considered, such as solar or wind generation. Board counsel Okun pointed out that the 2nd Circuit Court decision concerns new facilities (not Diablo Canyon).

Bob Hather, fisherman, stated that he had it in writing from the Department of Fish and Game that the Department is opposed to using RLFF or PG&E funds to support the Marine Protected Area process, and that the Department is opposed to any Marine Protected Areas on the Central Coast.

Jim Wood, fisherman, stated his opposition to Marine Protected Areas.

George Rhodes, fisherman, stated his opposition to Marine Protected Areas.

Rebecca MaFarland, San Luis Obispo County Department of Education, stated that the settlement should include funds for education. She provided a letter from County Schools Superintendent Dr. Julian Crocker supporting the portion of the settlement regarding continued use of the PG&E lab facilities for education.

Pam Heatherington, EcoSLO, stated support for Marine Protected Areas, and said the Board should use the Marine Interest Group to help develop the areas.

Andrew Christie, Sierra Club, stated support for Marine Protected Areas, because they help the fishery, which is in decline.

Archie Ponds, Port San Luis, stated opposition to Marine Protected Areas because there are enough reserves already.

Barry Cohen, Old Port Inn, stated that more research is need on Marine Protected Areas, and funds should be used to control seals, birds, and sea lions. He said reserves crowd fisherman into smaller areas and those areas get over-fished. He said fish get bigger in reserves and there are more of them, but when they get bigger their reproduction rates decline. The money should be used for surveys. In response to a question from Dr. Press, he said we don't know the impact of the plant on fish populations.

Bill Ward stated that the Marine Life Protection Act is bad legislation and should not be pursued.

Tom Capen, stated that fish landings at Morro Bay and Avila total about \$20 million to \$30 million per year. Stated opposition to Marine Protected Areas, and suggested funding Central Coast Salmon Enhancement.

Robert Johnson, fisherman, stated that closure would devastate the fishing industry, sea lions eat a billion pounds of fish per year, and that no studies have been done on Marine Protected Areas.

Michael Logan, fisherman, stated opposition to Marine Protected Areas, and stated that we already have Marine Protected Areas off of Diablo (three mile security closure) and the Channel Islands.

Edwin Ewing, fisherman, stated that data presented by staff does not represent local habitat types, mitigation should be for improvements to the fishing industry, including research, an ice machine, boat yards, and safety.

Paul Peterson, fisherman, stated opposition to Marine Protected Areas, that operations at Diablo should be scaled back, and that sewage pollution should be addressed.

Kathy Diperi, Mothers for Peace, stated that the technical workgroup should take into account the high level waste storage at Diablo Canyon, and opposes the settlement clause that allows PG&E to rescind the conservation easement. Stated that the Board should have adopted a Cease and Desist order, and that Cesium 137 has been found in rockfish off Diablo Canyon.

Stan House, Marine Interest Group member, stated that no one on Marine Interest Group voted for Marine Protected Areas and that not enough information was available to make decisions.

Eric Enersby, citizen, stated that Marine Protected Areas do not make sense as mitigation, and other options should be pursued, such as artificial reefs, a fish hatchery, or restoration of Morro Bay.

Shari Hafer, fisherman, stated that the nearshore fishery decreased from 2000 to 200 boats, and that the Department of Fish and Game overestimates the catch data which results in assumed devastation of the fishery. Stated that research should be done rather than implementing Marine Protected Areas.

Tom Hafer, fisherman, stated that the nearshore fishery has been devastated, artificial reefs work well, and collaborative research should be done with fisherman.

Tom Capan, President of the Commercial Fisheries Association, returned to the podium to answer questions from the Board. Executive Officer's Roger Briggs asked Mr. Capan if his association had been involved in the Marine Life Protection Act legislation process. Mr. Capan said they had not. Mr. Briggs pointed out that since the Marine Life Protection Act is law, shouldn't it be implemented. Mr. Capan stated that the

requirements of the law have been met on the Central Coast.

Renee Hawkins, RLFF, clarified that the role of RLFF is to assist the Board if they chose to pursue the Marine Protected Areas options. Ms. Hawkins stated that RLFF takes no position with regard to what the Board should or should not do with respect to mitigation for Diablo Canyon impacts, and that RLFF can help implement the objectives of public and private institutions.

Board Member Daniel Press said he would like staff to further consider the artificial reef option, including scale, costs, and benefits.

Board Chairman Jeff Young asked about the benefit of Marine Protected Areas to species that are not taken by fishermen. He directed staff to provide information on a network of Marine Protected Areas along the Central Coast, including scale and economic impact.

Board Member Donald Villeneuve stated that the Regional Board's Central Coast Monitoring Program seemed to provide a good nexus to the impacts at a low cost and that some of the other options do not appear to address the impacts.

47. Reports by Regional Board Members Status Report

Board Member Jeffries announced that he attended the April 2, 2004 Monterey Bay Sanctuary Advisory Committee Meeting. He also advised

that he and Board Members Mr. Shallcross and Mr. Daniels attended the April 19, 2004 W.Q.C.C. Meeting in Sacramento.

48. Executive Officer's Report Information/Discussion

Public comments regarding the Los Osos wastewater project were presented during May 13 and 14, 2004, public meeting on the topic. Following is a brief summary of the comments presented.

Pamela Heatherington (ECOSLO) requested interim measures, such as septic tank maintenance program, and septic system pumping, be initiated throughout Los Osos to stop damage to Morro Bay Estuary. Ms. Heatherington referred to the community wastewater project as a "sludge factory", "dinosaur facility" and "mechanical dinosaur" and stated that ECOSLO participated in court action attempting to stop the project. Chair Young asked if ECOSLO is opposed to the Tri- W site. Ms. Heatherington said they have no opinion on the site.

Julie Tacker (Concerned Citizens of Los Osos) distributed copies of average nitrate concentrations in ground water graphs.

Regional Board member Dr. Villeneuve described the basis premise of how septic systems operate, and that just pumping a septic tank will not improve discharge effluent quality.

Rick Nyznyk (Los Osos vacant property owner) requested that the Regional Board consider rescinding the discharge prohibition (Resolution No. 83-13) which, in his opinion, is contributing to community sewer project delays.

Lisa Schicker (Los Osos Technical Task Force) voiced her opposition to the Tri-W site, wants new studies and interim measures such as imposition of septic tank maintenance program similar to that in Santa Cruz County, supports pumping upper aquifer water, and prefers the Andre site for treatment facilities. Ms. Schicker added that she believes the LOCSD project includes discharge of effluent to Morro Bay.

Executive Officer Roger Briggs reviewed the April 15, 2004 Coastal Commission action and implications of that action with regard to project delays and increased costs. Mr. Briggs also summarized a recent letter from the State Board to the Coastal Commission urging prompt project approval, and stated his opinion that the Coastal Commission appears to have lost sight of the importance of the Los Osos wastewater project to coastal resource protection.

Regional Board Chair Young questioned staff regarding effluent discharges. Sorrel Marks responded that effluent is authorized (by WDR adopted in February 2003) for discharge to leachfields or for reuse for landscape irrigation. Effluent discharge to the Bay is prohibited. During construction, ground water encountered may be discharged in accordance with the Storm Water Permit for Construction Activities. As part of the overall ground water basin management, the District has developed a hierarchy of disposal options for future ground water harvested, including potential discharge to storm drains. However, every effort will be made first to beneficially reuse the harvested ground water.

Chuck Cesena (Los Osos Technical Task Force) commented that site selection is within Coastal Commission jurisdiction and that the Andre site is preferred for the treatment facility location. Mr. Cesena requested more time to study project alternatives.

Al Barrow (Citizen's for Affordable & Safe Environment) stated his belief that the community wastewater project will degrade ground water with TOC and disinfection byproducts. Mr. Barrow advocates for a lagoon treatment facility and STEP collection system. Mr. Barrow also stated his contention that Mr. Kreissel studied the area and recommended against a centralized wastewater system.

Eric Greening expressed concern regarding septage disposal during decommissioning of septic tanks.

Stan Gustafson (Los Osos CSD President) commented that shallow areas discharge sewage directly to groundwater. The Los Osos CSD was formed in 1998 with 84% voter support and the assessment district was formed with 85% voter support, demonstrating overwhelming community support for the project. In the last election of Los Osos CSD, the three top vote getters were project supporters. Any changes in the project at this late stage will significantly increase costs and contribute to ongoing water quality impacts. Mr. Gustafson clarified that project opponents suggestions to continually pump septic tanks is actually a sewer, just a more efficient method of waste collection.

Regional Board Member Shallcross questioned whether the project had a certified EIR (staff response: yes), was the EIR challenged (staff response: no), and did the Coastal Commission comment on the EIR (staff response: yes).

Counsel Lori Okun clarified that Coastal Commission consideration should have been limited to consistency with the Local Coastal Plan, and that clearly the project is consistent with that LCP.

Rebecca Mc Farland (Los Osos resident for two years) supports moving the project to the Andre site and believes that sewage spills will go to the bay.

Bruce Buel (Los Osos CSD General Manager) described that the District was shocked by the April 15th decision of the Coastal Commission, but the CSD is still working as hard as possible to proceed with the project. Project has completed 100% design. Bid process has been halted due to Coastal Commission action, and the CSD has been notified by the State Board that SRF funding will likely be released to other projects that are ready to proceed. The CSD has agreed to perform research that the Coastal Commission requests, but has not received any specific description of what is requested.

The Regional Board directed staff to explore and present at the July 2004 meeting enforcement options and means of pushing the project to completion. Options should include, but not be limited to: penalties against individual property owners, requiring property owners to frequently pump their septic tank to avoid or eliminate discharge, requesting assistance from State Cleanup and Abatement Fund and other grant programs to assist the Los Osos CSD. Executive Officer Briggs added that we must also endeavor to educate the Coastal Commission since it is hard to believe they would have taken the action they did if they truly understood the devastating impacts to the project, the community, and coastal resources.

Bruce Buel agreed that there was likely confusion among the Coastal Commissioners regarding Habitat Conservation Plans (HCP) for primary and secondary project impacts. Primary project impacts are mitigated for by project conditions.

Secondary impacts (development of currently undeveloped lots) are prohibited until the HCP addressing those impacts is complete.

Chairman Young adjourned the meeting at 4:37 p.m.

The meeting was audio recorded and the minutes were reviewed by management, and approved by the Board at its July 8-9, 2004 meeting in Watsonville, California.

Jeffrey Young, Chairman