

**CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD**

**586<sup>th</sup> BOARD MEETING MINUTES**

**THURSDAY, 27 APRIL 2023, 9:00 A.M.**

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**BOARD MEETING LOCATION**

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Kern County Board of Supervisors Chambers  
1115 Truxtun Avenue  
Bakersfield, CA 93301  
Zoom Teleconference and Webcast

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**BOARD MEMBERS PRESENT**

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Avdis, Nick	Lee Reeder, Elena
Bradford, Mark	Yang, Sean
Kadara, Denise	

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**STATE WATER BOARD MEMBERS PRESENT**

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Morgan, Nichole

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**STATE WATER BOARD OFFICE OF CHIEF COUNSEL PRESENT**

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Jahr, Jessica	Moskal, Christopher
Knight, Kennedy	Okun, Lori

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**STATE WATER BOARD OFFICE OF ENFORCEMENT PRESENT**

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Rubin, Naomi

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**REGIONAL BOARD STAFF PRESENT**

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Asami, Rebecca	Hatton, Scott	Shelton, Brad
Baum, JJ	Laputz, Adam	Smith, Bryan
Busby, Rob	Jain, Vinoo	Olsen, Alex
Chow, Bob	Laputz, Adam	Perea, Griffin
Coughlin, Gene	Lovato, Maria	Pulupa, Patrick
Durette, David	Maxwell, Mindy	Pyle, Jeffrey
Gamon, Dan	McConnell, Sue	Ramsey-Lewis, Jarrod
Garver, Kelli	Meeks, Glenn	Snyder, Clint
Gomes, Kristen	Mostafa, Omar	Thao, Vicky
Gotham, Stacy	Mushegan, Alex	Toft-Dupuy, Bayley
Harvey, Dale	Schroeder, Jason	Kumar, Vishaal

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**REGIONAL BOARD STAFF PRESENT CONT.**

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Vidic, Natasha  
Walters, Anne

Warren, Eric  
Werlyklein, E.J.

Wilson, Angela

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**ADDITIONAL IDENTIFIED ATTENDEES**

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Agpar, Mike  
Amis, Jonathan  
Bell, Nicole  
Bowman, Jeremy  
Burton, Clerk  
Chandrasekar, V.  
Claiborne, Michael  
Cory, David  
Diemel, Caitie  
Dodd, D. Ryan  
Dunham, Tess  
Dunn, Deborah  
Frei, Vaughn  
Garza, Armando  
Hodges, Nathan

Horn, Randy  
Houdesheldt, Bruce  
Ikemiya, Donald  
Jones, Jeff  
Jones, Trent  
Kane, Nathaniel  
Kipps, Joanne  
Lemus, Gerry  
Lloyd, Bob  
Logan, Tom  
Meadors, Jason  
Miller, Ken  
Mitchell, Patrick  
Atume, Ngodoo  
Pearsall, Scott

Purdy, Jared  
Rivers, Kija  
Rutherford, Sarah  
Trevor, Mark  
Winther, Jarrett  
Yang, Kabao  
Yasutake, Marcus

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**AGENDA ITEM 1 – CALL TO ORDER**

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Chair Bradford called the 586<sup>th</sup> Board Meeting to order and made introductions. Executive Officer (EO) Patrick Pulupa introduced staff. Member Yang led the Pledge of Allegiance.

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**AGENDA ITEM 2 – BOARD MEMBER COMMUNICATIONS**

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The Board took a moment of silence to recognize and remember Assistant Executive Officer Clay Rodgers of the Central Valley Water Board's Fresno office.

**Chair Bradford submitted the following communications:**

- 6 March 2023 – Participated in a “Salty 5” discussion regarding the CV-SALTS Program.
- 6 March 2023 – Participated in the monthly Waterboard Chairs’ discussion.
- 26 April 2023 – Participated in the Oil Field Tour at Cawelo Water District. Chair Bradford commented it was an informative tour and expressed his appreciation.

**Member Yang submitted the following communications:**

- 26 April 2023 – Participated in the Oil Field Tour at Cawelo Water District. Member Yang expressed his appreciation and commented it was informative, provided good historical information, and was a fascinating look at the operations.

**Member Kadara submitted the following communications:**

- 11 March 2023 – The Community of Allensworth is under a flood alert and community members set up a command center, as well as coordinated efforts to shore up some of the levees to help prevent the community from completely flooding. As of 27 April 2023, the community was still operating under that alert.
- 15 March 2023 – Appointed into the Integrated Climate Adaptation Resiliency Program Technical Advisory Council.
- 14 April 2023 - Participated in the first Integrated Climate Adaptation Resiliency Program Technical Advisory Council meeting. Flooding was a topic related to climate change.
- 21 April 2023 – Attended a meeting at the White House Rose Garden to witness President Biden sign the Environmental Justice Executive Order. Member Kadara had an opportunity to speak with policymakers from the Environmental Protection Agency, as well as several other agencies about stormwater management for Southwest Tulare County.
- 25 April 2023 – Governor Newsom and other policymakers toured the flooding situation in the community of Allensworth. This also provided an opportunity to express the need for stormwater systems for the Lake Tulare area.
- 26 April 2023 – Participated in the Oil Field Tour at Cawelo Water District. Member Kadara expressed her appreciation and commented it was informative and provided good historical information.

**Member Lee Reeder submitted the following communications:**

- 27 February – Met with environmental groups regarding Nitrate Control Program implementation.
- 26 April 2023 – Participated in the Oil Field Tour at Cawelo Water District.

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**AGENDA ITEM 3 – STATE WATER BOARD LIAISON UPDATE**

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State Water Board Member Nichole Morgan provided the following updates:

**Governor Newsom Eases Drought Restrictions**

- March 24 media release: [24 March 2023 Media Release](#)

(<https://www.gov.ca.gov/2023/03/24/governor-newsom-eases-drought-restrictions/>)

- Terminates or rescinds:
  - The State Water Board's authority to re-establish the level two requirements. However, this provision of the regulation adopted by the board in May 2022 is still in effect until the Board rescinds it.
    - The State Water Board is now evaluating whether to rescind or modify the emergency regulation. It will expire in June 2024 if it is not rescinded.
    - The State Water Board does not expect water suppliers to stay at level 2 of their water shortage contingency plans if they determine it is not needed based on local conditions. Additionally, the Board will not initiate enforcement against any supplier for moving off level 2.
  - Request for voluntarily 15% conservation.

## **Flood Emergency Response**

[April 25 Media Release: Governor Newsom Surveys Tulare Basin Flooding, Highlights State Support for Ongoing Planning and Response](#)

(<https://www.gov.ca.gov/2023/04/25/governor-newsom-surveys-tulare-basin-flooding-highlights-state-support-for-ongoing-planning-and-response/>)

- Governor Newsom, Chair Esquivel, and others visited the Tulare Basin to see flooding impacts firsthand, meet with community leaders, and emphasize the state's commitment to supporting and providing appropriate assistance to the counties impacted by recent and anticipated flooding this spring and summer.

[April 20 Media Release: California to deliver 100% Water Supply Allocation](#)

(<https://www.gov.ca.gov/2023/04/20/california-to-deliver-100-water-supply-allocation/Water-Use-Efficiency-Regulations>)

- On 22 March 2023, the State Water Board held a workshop on Water Use Efficiency Regulations. Visit the [program website](#) for more information.

(<https://water.ca.gov/Programs/Water-Use-And-Efficiency/Urban-Water-Use-Efficiency>)

- A [video](#) of the meeting can be found here:  
([https://www.youtube.com/watch?v=DOb8Xtbmc\\_0](https://www.youtube.com/watch?v=DOb8Xtbmc_0))
- Staff plans to release draft regulations in May 2023.

## 2024 California Integrated Report

- At the 21 March 2023 State Water Board Meeting, staff [held a hearing](#) to receive oral comments on California's draft Clean Water Act section 303(d) list of water quality limited segments portion of the 2024 California Integrated Report.

([https://www.waterboards.ca.gov/public\\_notices/comments/docs/2023/notice-2024integratedrpt-020323.pdf](https://www.waterboards.ca.gov/public_notices/comments/docs/2023/notice-2024integratedrpt-020323.pdf))

## Onsite Wastewater Treatment Systems Policy

- On 18 April 2023, State Water Board staff held [a workshop](#) to present information and answer questions about the proposed Onsite Wastewater Treatment Systems Policy (OWTS Policy) amendments, conditional waiver renewal, and the California Environmental Quality Act addendum.

([https://www.waterboards.ca.gov/water\\_issues/programs/owts/docs/notice\\_owts.pdf](https://www.waterboards.ca.gov/water_issues/programs/owts/docs/notice_owts.pdf))

- Visit the [program website](#) for more information.

([https://www.waterboards.ca.gov/water\\_issues/programs/owts/](https://www.waterboards.ca.gov/water_issues/programs/owts/))

## Water Quality Enforcement Policy

- On 18 April 2023, State Water Board held a [public hearing](#) to receive written and/or oral comments relevant to the proposed amendments to the Enforcement Policy.

([https://www.waterboards.ca.gov/public\\_notices/comments/water\\_quality\\_enforcement/notice\\_wqenforcement\\_021023.pdf](https://www.waterboards.ca.gov/public_notices/comments/water_quality_enforcement/notice_wqenforcement_021023.pdf))

- Written comments are due no later than 28 April 2023 by 12:00pm. Visit the [program website](#) for more information.

([https://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](https://www.waterboards.ca.gov/water_issues/programs/enforcement/))

## Drinking Water Updates

- During the 8 March 2023 Board Meeting, the State Water Board [adopted](#) the draft guidelines for the Expedited Drinking Water Program.

([https://www.waterboards.ca.gov/public\\_notices/comments/docs/2023/notice\\_edwg\\_010623.pdf](https://www.waterboards.ca.gov/public_notices/comments/docs/2023/notice_edwg_010623.pdf))

- March 20 media release: [State Water Board expedites funding process for high priority drinking water projects](#)

([https://www.waterboards.ca.gov/press\\_room/press\\_releases/2023/pr03212023-ca-water-board-dfa-expedited-funding-3-20-23-final.pdf](https://www.waterboards.ca.gov/press_room/press_releases/2023/pr03212023-ca-water-board-dfa-expedited-funding-3-20-23-final.pdf))

- SAFER Program
  - On 2 May 2023, staff will hold a [public webinar](#) to provide an opportunity for stakeholders to review and discuss the results of the 2023 Drinking Water Needs Assessment.

([https://www.waterboards.ca.gov/board\\_info/calendar/docs/2023/notice-2023dwneeds-033023.pdf](https://www.waterboards.ca.gov/board_info/calendar/docs/2023/notice-2023dwneeds-033023.pdf))

- The SAFER Advisory Group will meet on 24 May 2023. Also, on 24 May 2023, staff [will hold](#) a public webinar workshop to provide an opportunity for stakeholders to contribute towards the enhancement of the Administrator Policy Handbook.

([https://www.waterboards.ca.gov/board\\_info/calendar/docs/2023/notice\\_adminpolicy\\_042623.pdf](https://www.waterboards.ca.gov/board_info/calendar/docs/2023/notice_adminpolicy_042623.pdf))

### **California Tribal Water Summit, 11-13 April 2023**

- Secretary Yana Garcia and Board Member Laurel Firestone spoke at this year's Summit, coordinated by the Department of Water Resources and the Tribal Water Summit Planning Committee. The Summit convened Tribal, State, and Federal leaders to discuss water issues and strategies towards watershed resilience of California's sacred waters and discussions will be incorporated into the 2023 California Water Plan update.
- On 4 May 2023, Chair Esquivel will attend the Quarterly CalEPA Tribal Liaison and [Tribal Advisory Committee](#) Meeting.

(<https://calepa.ca.gov/tribal/committee/>)

### **Site Cleanup Subaccount Program (SCAP) Update**

- On 18 April 2023, the State Water Board adopted the Comprehensive Project and Fundable Project Lists for the SCAP. Visit the [program website](#) for more information.

([https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/scap/](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/scap/))

### **Prop 1 Groundwater Grant Program Guidelines**

- On 2 May 2023, State Water Board will consider adoption of the [draft guidelines](#). Written comments were due no later than 12:00 noon on Tuesday, 25 April 2023.

([https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/proposition1/groundwater\\_sustainability.html](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/proposition1/groundwater_sustainability.html))

### **Statewide Nutrient Management**

- On 18 May 2023, State Water Board will hold a [public staff workshop](#) to present information on the impact of nutrient discharges on inland and ocean waters and activities underway (or planned) to address nutrients.

([https://www.waterboards.ca.gov/board\\_info/calendar/docs/2023/notice\\_nutrientmanagement\\_041023.pdf](https://www.waterboards.ca.gov/board_info/calendar/docs/2023/notice_nutrientmanagement_041023.pdf))

### **Salton Sea Management Program Phase 1 Plan**

- On 16-17 May 2023, State Water Board [will hold a public workshop in Imperial, CA](#) at their regularly scheduled Board Meeting to receive information and solicit public input regarding the status of the California Natural Resources Agency's Phase 1 of the Salton Sea Management Program, including development of a long range plan.

([https://www.waterboards.ca.gov/board\\_info/calendar/docs/2023/notice\\_ssmpp\\_032023.pdf](https://www.waterboards.ca.gov/board_info/calendar/docs/2023/notice_ssmpp_032023.pdf))

### **Questions and Comments from Board Members**

Member Kadara commented she was pleased to hear of the recently approved programs by the State Water Board. She felt it was enlightening to hear these programs were moving forward due to their impact on many vulnerable communities throughout the State and the update provided was an indication of progress in the Clean Water Act.

Member Yang thanked Ms. Morgan for the report and commented the recently approved programs could have an impact on homelessness issues. Member Yang cited a recent flood situation on Hwy 99 near Elk Grove that claimed the lives of four individuals. He asked if there was a particular strategy or timetable for addressing flood emergencies and preventing recurring disasters. Ms. Morgan replied State Water Board is continuing to work with sister agencies (such as the Dept. of Water Resources) as well as local agencies to continue to move forward and build resiliency in all programs (i.e., drinking water, wastewater, and stormwater), which included floods. The water resiliency portfolio contained actionable items for multiple state and local agencies and collaboration with these agencies was on-going.

EO Pulupa commented he appreciated the report and affirmed Region 5's commitment to support the State Water Board's efforts to achieve targets under the Water Supply Strategy.

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### **AGENDA ITEM 4 – PUBLIC FORUM**

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JoAnne Kipps, a Fresno resident and former Central Valley Water Board employee, raised concerns about E&J Gallo Winery discharging wastewater to land near the Fresno airport. Ms. Kipps requested the Board take enforcement action against the Winery in the form of a Cease

and Desist Order (CDO). Ms. Kipps further stated the Winery's discharges caused severe nitrate groundwater contamination and caused the City of Fresno to discontinue use of certain municipal drinking water wells down gradient of the plume. Although the Winery initiated treatment at the facility, Ms. Kipps believes the removal of biological oxygen demand from the wastewater and the high use of ammonia (to adjust for the PH) was causing nitrate contamination to rise substantially, posing a risk to human health. When the Winery discharged during the grape crush or during the August to November timeframe (when the ground was not growing a crop), the ammonia seeped into groundwater, causing contamination to one of the largest drinking water municipalities in the area. Ms. Kipps noted the Regional Board issued a Notice of Violation to the winery in 2022 that indicated the possibility of a CDO. The Winery's response indicated they would not discontinue the practice and felt it was not causing groundwater contamination. Ms. Kipps felt this was an unacceptable response and requested the Board require the Winery retain a third-party independent specialist to review the model and data submitted by the Winery's consultant, and report back to the Board. If the Regional Board were not willing to protect the resources of the City of Fresno by requiring further action of the Winery, then maybe it would be appropriate for the State Water Board to step in.

### **Questions and Comments from Board Members**

Board Member Kadara thanked Ms. Kipps for her comments and concern.

EO Pulupa thanked Ms. Kipps for her comments and concern and stated her comments would be shared with the Board's Prosecution Team for consideration.

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### **AGENDA ITEM 5 – EXECUTIVE OFFICER'S REPORT**

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Chair Bradford noted prior to each Board Meeting, the EO works with the Executive Assistant and the Board's Program Managers to compile a report on the status of the Board's programs and initiatives.

EO Pulupa stated staff and managers were adapting to the hybrid work environment and supervisors and managers had increased training on managing a hybrid workforce. There are still some challenges to ensure Region 5 was operating as efficiently and effectively as it was prior to the pandemic. The Executive Management Team is collaborating with CalEPA to revisit the hybrid environment and potentially increase in office days as we work to ensure productivity remains high. The Rancho Cordova office was working on a consolidation to reduce the office footprint and the Redding Office was reorganizing to move staff to the upper floor. Lastly, staff are still adapting to the loss of the Fresno Office's Assistant Executive Officer, Clay Rodgers.

### **Questions and Comments from Board Members**

Member Kadara commented she appreciated the revised format of the report because it was easier to read and understand. Under the Confined Animal Facilities Program, Ms. Kadara noted a number of facilities that had not filed annual reports and asked what enforcement



action was being taken against non-filers. EO Pulupa replied the focus was on recent flooding and keeping track of where the animals were located/moved. The non-compliant facilities were a high priority for both the Dairy and Nitrate Programs. Staff determined many of the non-compliant facilities were not paying into the Central Valley Dairy Representative Monitoring Program and were closed facilities trying to maintain their Waste Discharge Requirements to re-open or sell the facility. Ms. Kadara also asked if there was information regarding nitrate contamination due to flooded dairies causing impacts to surface waters and vulnerable communities. EO Pulupa noted that floodwaters could carry high bacteria loads and a lot of debris even without a contribution from dairies. Nitrate from dairies is primarily a groundwater contamination issue. Staff are working with the Department of Drinking Water and the Governor's Office of Emergency Services to identify facilities with potential water quality contamination issues due to floodwaters.

EO Pulupa replied staff was focused on this issue and although there was a high bacteria load and debris in floodwaters, it was not impacting nitrate exceedances with dairies. Nitrate is a groundwater and drinking water issue for facilities dependent on groundwater. Staff is seeing drinking water facilities and groundwater wells threatened because of floodwaters and are working with the Department of Drinking Water and the Governor's Office of Emergency Services to identify facilities with potential water quality contamination issues due to floodwaters.

Member Yang asked if Region 5 had the current technology to continue with hybrid Board Meetings (to allow for less travel). EO Pulupa replied the current Board Room in the Sacramento office had been renovated and upgraded with modern technology and would be ready for the June 2023 Board Meeting. As it related to travel, the California Legislature was determining rules surrounding Board Members and their ability to participate from remote locations. The Waterboards currently operate under the Bagley-Keene Act's temporary rules related to the pandemic.

Chair Bradford thanked EO Pulupa for the update on potential impacts to groundwater due to flooding.

The Board took a moment to speak to former Board Member Raji Brar and recognize her service on the Central Valley Water Board. All Board Members wished Ms. Brar well on her future endeavors.

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## **AGENDA ITEM 6 – ADOPTION OF MINUTES FROM PRIOR BOARD MEETING**

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### **MOTION TO ADOPT 23 FEBRUARY 2023 BOARD MEETING MINUTES**

Motioned: Member Nick Avdis  
Seconded: Member Lee Reeder

Roll Call Vote:

Member Yang	Yes
Member Lee Reeder	Yes
Member Kadara	Yes
Vice Chair Avdis	Yes
Chair Bradford	Yes

Approved by Roll Call Vote of 5-0-0

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**AGENDA ITEM 7 – ADOPTION OF UNCONTESTED CALENDAR AGENDA ITEMS 16 THROUGH 19**

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(Cal. Code Regs., tit. 23, section 647.2, subd. (f).) Uncontested items are those items that are not being contested at the Board Meeting and will be acted on without discussion. If any person or Board Member requests discussion, the item may be removed from the Uncontested Calendar.

**WASTE DISCHARGE REQUIREMENTS (AGENDA ITEM 16)**

- a. Azteca Milling, L.P. dba Valley Grain Products, Azteca Madera Masa Plant, Madera County – Consideration of Revised Waste Discharge Requirements Order 70-208
- b. Homestake Mining Company, McLaughlin Mine, Lake, Napa, and Yolo Counties – Consideration of Revised Waste Discharge Requirements Order No. R5-2012-0010-01
- c. Lost Hills Environmental, LLC; Lost Hills Environmental Waste Facility, Kern County – Consideration of Revised Waste Discharge Requirements Order Nos. R5-2022-0028 and R5-2010-0123
- d. Mariposa County, Mariposa County Landfill, Mariposa County – Consideration of Revised Waste Discharge Requirements Order No. R5-2003-0094
- e. Merced County Regional Waste Management Authority, Billy Wright Solid Waste Landfill, Merced County – Consideration of Revised Waste Discharge Requirements Order Nos. R5-2022-0029 and R5-2011-0061

**(THIS ITEM WAS MOVED FROM THE CONTESTED CALENDAR)**

- 9. City of Folsom, Folsom Corporation Yard Landfill, Sacramento County – Consideration of Rescission of Waste Discharge Requirements Order R5-2008-0106 [Jarrod Ramsey-Lewis, (916) 464-4762]

## **NPDES PERMITS (AGENDA ITEM 17)**

- a. Calaveras County Water District and Saddle Creek Golf Club LLC, Copper Cove Wastewater Reclamation Facility, Calaveras County – Consideration of NPDES Permit Renewal (NPDES Permit CA0084620)
- b. City of Lincoln, Wastewater Treatment and Reclamation Facility, Placer County – Consideration of NPDES Permit Amendment (NPDES Permit CA0084476)

Limited Threat Discharges to Surface Water General Waste Discharge Requirements Order – Consideration of General Permit Amendment (NPDES General Permit CAG995002)

**(THESE ITEMS WERE MOVED FROM THE CONTESTED CALENDAR)**

- 12. City of Mt. Shasta and U.S. Department of Agriculture, Forest Service, City of Mt. Shasta Wastewater Treatment Plant, Siskiyou County – Consideration of NPDES Permit Renewal (NPDES No. CA0078051) [Michael Nilsen (530) 224-4853]
- 13. City of Redding, Stillwater Wastewater Treatment Plant, Shasta County – Consideration of NPDES Permit Renewal (NPDES No. CA0082589) [Michael Collins (530) 224-4785]
- 14. Reynolds Consumer Products, LLC, Reynolds Molded Pulp Mill, Tehama County – Consideration of NPDES Permit Renewal (NPDES No. CA0004821) [Stacey Alexander (530) 224-3219]

## **RESCISSIONS (AGENDA ITEM 18)**

- a. Adriana Smith, Shady Glen Mobile Home Park, Placer County – Waste Discharge Requirements Order No. 86-187
- b. Wayne Beutler, Dell Wayne Estates Mobile Home Park, Sutter County – Waste Discharge Requirements Order No. 91-067

## **CHANGE OF NAME (AGENDA ITEM 19)**

- a. Chris Ottone, North State Rendering Company, Inc., Butte County – Waste Discharge Requirements Order No. R5-2020-0023
- b. Kent and Alice Pryor, Casa de Amigos Mobile Home Park, Stanislaus County – Waste Discharge Requirements Order No. 94-056
- c. Larry Morales, Gold Beach Park, El Dorado County – Waste Discharge Requirements Order No. 90-055

## Comments from Interested Persons

Marcus Yasutake, Environmental and Water Resources Director, City of Folsom, stated he supported the recommendation to rescind the Waste Discharge Requirements for the City of Folsom. On behalf of the City, Mr. Yasutake thanked Brad Shelton, Jared Ramsey-Lewis, and the Rancho Cordova staff for their time and effort to bring this to fruition.

Michael Garabedian, Placer County Now, was not available to speak when called upon. EO Pulupa noted Mr. Garabedian submitted comments on Agenda Item 17 b. City of Lincoln, Wastewater Treatment and Reclamation Facility, Placer County NPDES Permit Amendment. However, the comments were received after the public comment period and would not be entered into the record.

## **MOTION TO ADOPT AGENDA ITEM 7 WITH LATE REVISIONS (Uncontested Calendar Items 16 through 19)**

Motioned: Member Avdis  
Seconded: Member Lee Reeder

### Roll Call Vote:

Member Yang	Yes
Member Lee Reeder	Yes
Member Kadara	Yes
Vice Chair Avdis	Yes
Chair Bradford	Yes

Approved by Roll Call Vote of 5-0-0

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## **AGENDA ITEM 8 – IRRIGATED LANDS GROUNDWATER PROTECTION TARGETS – INFORMATION ITEM ONLY**

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### **Staff Presentation**

Eric Warren, Sr. Water Resource Control Engineer, Fresno office, introduced himself and noted he was in attendance with Sue McConnell, Irrigated Lands Regulatory Program (ILRP) Manager and Bryan Rock, Engineering Geologist and Staff Lead, to provide an update on the development of Groundwater Protection Targets (GWP Targets).

In February 2018, the State Water Board issued revisions to the Eastern San Joaquin River Watershed General Order. One of the new requirements was the development of a Groundwater Protection Formula and calculation of Values and Targets for townships within Groundwater Quality Management Plan areas. The intent of these changes was to establish target loading rates necessary for growers to achieve compliance with receiving water limitations.

The first phase of the GWP Targets process was the development of a methodology or formula for estimating the current nitrogen load to groundwater from irrigated agricultural lands. The second phase in the process was to use the approved formula to calculate GWP Values. The third phase was the development of GWP Targets. While the previous phases focused on understanding current nitrogen loading, the GWP Targets provided township-based loading rates estimated to meet receiving water limitations. Mr. Warren stated this would be an iterative process, with the Targets reviewed and revised as necessary every five years.

The initial GWP Target report was submitted July 2022, with a revised report provided in December 2022 in response to comments received. The Coalition groups used a UC Davis groundwater flow and transport model known as the “Nonpoint Source Assessment Tool” to develop the GWP Targets. As a result of the comments received, staff agreed Groundwater Quality Management Plans needed to contain both long-term targets and short-term milestones to ensure progress.

One comment received raised concern that township-scale GWP Targets would reduce the ability to identify local community impacts and requested monitoring in areas with disadvantaged communities that rely on domestic wells or small water systems be prioritized. Mr. Warren stated disadvantaged communities are prioritized in both the ILRP and CV-SALTS Nitrate Control Programs. The GWP Targets process designed by the State Water Board was a township-scale loading assessment and is not intended to identify local impacts. However, there are other efforts currently providing both local and regional groundwater information that include the drinking water supply well monitoring requirements for growers, the Groundwater Trend Monitoring Program, and the CV-SALTS Early Action Plans.

The current effort underway is an ambitious effort to assess region-wide nitrogen loading on irrigated lands and correlate that information to groundwater quality outcomes. The coalitions have done an excellent job developing a process capable of being improved and refined as current information becomes available.

The last comment received from the Environmental Law Foundation claims the GWP Targets assign assimilative capacity to Coalition Members and requested an additional Antidegradation Analysis. Staff disagreed with the commenter’s statement, which may be a misunderstanding of the methodology used to develop the Targets. For areas where assimilative capacity was estimated to exist, the current nitrogen loading rate was maintained, not increased. In no case were the GWP Targets greater than current estimated loading rates.

Dr. Thomas Harter, Lead Scientific Researcher on the UC Davis Science Team and author of the SBX2 study, provided background and information as part of his statement to the Board. Dr. Harter developed the Nonpoint Source Assessment Tool and expressed his intent to utilize the CV-SWAT loading estimates in future work.

The Environmental Justice Team which consisted of Michael Claiborne (Leadership Counsel for Justice and Accountability), Ngodoo Atume (Clean Water Action), Nathaniel Kane (Environmental Law Foundation), and Kija Rivers (Community Water Center) provided a presentation to the Board. Closing points included the following:

- The Board require estimated total nitrate N load reductions from coalitions based on proposed GWP Targets;
- The Coalitions include values for the estimated nitrate N load reductions from denitrification;
- The Board ensure hotspots within townships be accounted for and protected; and
- The Team reiterated the Board had the duty to prevent degradation of high-quality waters, prevent pollution and nuisance, and require compliance with water quality objectives consistent with the Porter Cologne Water Quality Control Act, the Nonpoint Source Policy, and the Antidegradation Policy.

Representatives from Agricultural Coalitions (Tess Dunham, Kahn, Soares & Conway and Ken Miller, Formation Environmental) gave a presentation to the Board that covered an overview of assessment framework and approach to determining GWP Targets, GWP targets to comply with receiving water limitations, groundwater protection milestones, next steps, and future updates.

Mr. Miller reviewed NPSAT output against ambient water quality data from GAMA. Based upon monitoring data, 20 Townships in the Sacramento Valley had an apparent overestimation of nitrate concentrations in NPSAT. Previous work from United States Geological Survey (USGS) and others highlighted local environmental factors that favored post-root zone attenuation (i.e., denitrification), and felt denitrification was currently handled in a very conservative fashion in terms of spatial extent and magnitude. Additionally, Mr. Miller reviewed a detailed slide of GWP Targets and milestones that compared GWP Township's average Nitrate-N load of pounds per acre.

Upon Executive Officer approval, Mr. Miller indicated Coalitions should integrate GWP Targets and Interim Milestones into Groundwater Quality Management Plans, GWP Targets should serve as performance goals under those plans, and Coalitions should evaluate progress towards achieving milestones and GWP Targets through subsequent calculations of GWP Values.

Mr. Miller stated anticipated future revisions to GWP Values and Targets at the next five-year update include:

- Subsequent recalculation of GWP Values.
- Regional and local refinements to hydrology and groundwater model (e.g., SGMA process).
- New/refined data and information on other N loads (e.g., CV-SALTS process).
- Improved representation of post-root zone attenuation processes.
- Overall improved ability to assess impacts to groundwater quality.

### **Questions and Comments from Board Members**

Chair Bradford thanked the presenters for the detailed and highly technical information and recognized the level of work done to create the models and indicated looked forward to future

updates. Chair Bradford asked if there was significant overlap with the SAFER Program and CalEnviroScreen. EO Pulupa explained it was the Nitrate Control Program that tied everything together and the Board had a significant amount of acreage currently in compliance or near compliance with the requirements of the East San Joaquin Order. However, EO Pulupa explained there was also acreage within the Central Valley that needed to work diligently on reducing nitrate. EO Pulupa referenced the slide in Mr. Miller's presentation that showed townships where improvements were needed and stated this was a useful snapshot showing where improvements are needed from a CV-SALTS perspective to determine Management Zone Implementation Plan Targets (to meet the objective of the 35-year compliance timeframe to reduce nitrates). Modelers are meeting with drinking water staff, geologists, and soil scientists and have developed a useful process. There will be some challenges in the future to ensure technical teams merge this information with future information for Management Zone Plans (to ensure drinking water programs within the nitrate control plans comply with SAFER requirements). These models allow staff to sharpen their focus on those areas needing the greatest load reductions.

EO Pulupa thanked everyone that contributed to this effort and noted future presentations would include formulas, values, and targets.

Member Yang thanked the presenters for the information and asked if the data was being collected for farmland as well as residential wells. Additionally, Member Yang asked if both farmland and residential well owners were being notified of nitrate levels in their groundwater. EO Pulupa replied the reporting structure was determined by the East San Joaquin Order, which all 13 Coalitions operate under. The Order required individual growers to report information on nitrogen loading, which was aggregated by the Coalitions. Each grower had the responsibility to monitor nitrate for domestic wells on their parcels and a notification requirement was included in those requirements. Additionally, the drinking water replacement component is required under the Nitrate Control Program and augmented by SAFER.

Member Yang also asked if individual well testing is required for Region 5 and if so, what the associated costs would be. EO Pulupa replied that currently, it is not required on a household-level basis. Despite available funding in the CV-SALTS and SAFER Programs, domestic well testing did not happen frequently enough, resulting in nitrate (and other contaminants) in drinking water. EO Pulupa further stated from the Regional Board's perspective, the modeling developed under the Nitrate Control Program showed that in many of the nitrate impacted areas, even if farming was stopped, publicly operated treatment works (POTWs) were closed, and food processing was ceased, there was a 50-to-70 year timeframe before many of the domestic wells in those areas returned to compliance with nitrate standards. The focus of the Board is implementing the Nitrate Control Program to get replacement drinking water into the hands of those with contaminated wells and work with the ILRP, Dairy Program, POTWs, and other facilities that impact groundwater. The Dairy General Order is still under consideration by the State Water Board and may impose a separate set of requirements on dairies. As the Management Zone Implementation Plan's timeframes were developed, conversations about practicability, technical feasibility, and economical feasibility under the Dairy General Order would be reviewed. The goal for the Regional Board was to provide free well testing, ensure replacement drinking water where needed, and work diligently with sources of nitrate to ensure compliance. Assistant Executive Officer (AEO) Adam Laputz added as it related to the

denitrification concern, the models were not developed based on assumptions. With partial funding by the State Water Board, the models were previously developed models updated by Dr. Thomas Harter of UC Davis, and were used by the agricultural community and vetted by many stakeholders.

Member Yang asked how much responsibility lied with the Regional Board in the testing of the impacted domestic wells on private lands. EO Pulupa replied the testing of domestic wells and groundwater was solely the responsibility of the Regional Board under the ILRP and was limited to domestic wells on irrigated land parcels. The responsibility for other testing programs was shared by many different agencies. Individual domestic wells were lightly regulated in the State of California, with limited testing requirements. Regulations begin with public water systems. That said, the Regional Board wants to reduce the number of potentially contaminated domestic wells within the Region. AEO Laputz added the ILRP sampled many domestic wells (in the vicinity of 10,000) and the CV-SALTS Program is currently at approximately 1,400 wells tested. Staff continued to make progress in this Program.

Member Kadara thanked the presenters and stated the Environmental Justice Team had been active in supporting vulnerable communities and the need to ensure safe drinking water. She reiterated their comments of the milestones being too modest and expressed concern over some of the townships being excluded. Member Kadara understands the tremendous amount of work being done to address these issues, but wanted to ensure the advocate's concerns regarding vulnerable communities were taken into consideration moving forward since she shared the same concerns.

### **Comments from Interested Persons**

Bruce Houdesheldt, Northern California Water Association, thanked the Regional Board and staff for the hybrid meeting. Mr. Houdesheldt stated the comments from Dr. Thomas Harter where he discussed the work being performed with USGS was important to note and stated he wished to emphasize the robustness of that technical work related to denitrification. The work of Dr. Harter was independent of the work the 13 Coalitions had been performing with Formation Environmental. The work began in 2012 and each of the Coalitions had a Groundwater Quality Management Plan. Mr. Houdesheldt stated he was preparing to submit the Sacramento Valley's Plan five year analysis. Mr. Houdesheldt stated there were tens of thousands of on farm drinking water wells related to irrigated agriculture that had been sampled in the Sacramento Valley. He further stated Sacramento Valley trend monitoring and on farm drinking water data allowed the Coalition to focus and prioritize where additional outreach was needed. This awareness was created because of this process which was a benefit to safe drinking water.

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### **AGENDA ITEM 9 – CITY OF FOLSOM, FOLSOM CORPORATION YARD LANDFILL, SACRAMENTO COUNTY – CONSIDERATION OF RESCISSION OF WASTE DISCHARGE REQUIREMENTS ORDER R5-2008-0106**

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This item was moved to the Uncontested Calendar.



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**AGENDA ITEM 10 – SIERRA NEVADA CHEESE COMPANY, INC. AND GREGERSON PROPERTIES, LLC, SIERRA NEVADA CHEESE PROCESSING FACILITY, GLENN COUNTY – CONSIDERATION OF REVISED WASTE DISCHARGE REQUIREMENTS ORDER R5-2007-0043**

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This item will be heard at a future Board Meeting.

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**AGENDA ITEM 11 – MUNICIPAL WASTEWATER DISCHARGERS THAT MEET OBJECTIVES/CRITERIA AT THE POINT OF DISCHARGE TO SURFACE WATER (MUNICIPAL GENERAL ORDER), REGION 5 – CONSIDERATION OF NPDES GENERAL ORDER RENEWAL (NPDES GENERAL ORDER CAG585001)**

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This item will be heard at a future Board Meeting.

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**AGENDA ITEM 12 – CITY OF MT. SHASTA AND U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE, CITY OF MT. SHASTA WASTEWATER TREATMENT PLANT, SISKIYOU COUNTY – CONSIDERATION OF NPDES PERMIT RENEWAL (NPDES NO. CA0078051)**

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This item was moved to the Uncontested Calendar.

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**AGENDA ITEM 13 – CITY OF REDDING, STILLWATER WASTEWATER TREATMENT PLANT, SHASTA COUNTY – CONSIDERATION OF NPDES PERMIT RENEWAL (NPDES NO. CA0082589)**

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This item was moved to the Uncontested Calendar.

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**AGENDA ITEM 14 – REYNOLDS CONSUMER PRODUCTS, LLC, REYNOLDS MOLDED PULP MILL, TEHAMA COUNTY – CONSIDERATION OF NPDES PERMIT RENEWAL (NPDES NO. CA0004821)**

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This item was moved to the Uncontested Calendar.

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**AGENDA ITEM 15 – OILFIELD PROGRAM UPDATE – INFORMATION ITEM ONLY**

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Alex Olsen, Sr. Engineering Geologist, Fresno Office, stated he would provide an overview of oil field activities in the Central Valley, with a focus on the southern portion of the Valley. Areas to be covered included program resources, discharges to land, underground injection control (UIC), well stimulation, and program priorities.

Formation water produced with oil, also known as produced water/wastewater, was the primary waste product generated during oil production activities. Produced water is often high in salts and boron and contains minor amounts of organic compounds. These constituents could have negative impacts on potential beneficial use waters and human health.

Currently, there are 23 staff assigned to oversee produced wastewater disposal and reuse, UIC practices, and well stimulation practices (also known as SB4) to ensure the protection of

water quality. Staff's primary work activities consist of reviewing operator's applications for enrollment under the General Orders or for coverage under individual Waste Discharge Requirements (WDRs). Additionally, staff respond to spill reports produced by the Governor's Office of Emergency Services for those spills of crude oil and produced water that occur within the oil fields. Lastly, Mr. Olsen stated staff work with reporting parties and sister agencies to ensure spills were cleaned up, with potential impacts mitigated. Board staff also provided regulatory oversight for 343 facilities with a total of 1,381 ponds. Most of the facilities were in Kern County on the western and eastern edges of the Valley, with many of the larger facilities located along the western edge.

In 2014, the Central Valley Water Board began a reevaluation of its Oil Field Program, particularly with respect to discharges to land. In 2015, orders pursuant to Water Code section 13267 were issued requiring oil field operators to submit information on their discharges to land. Additionally, cleanup and abatement orders pursuant to Water Code section 13304 were issued to those discharging to ponds without valid or outdated WDRs.

On 6 April 2017, the Central Valley Water Board adopted three general orders for produced water discharges to land. The general orders were prepared to provide regulatory coverage for existing facilities that began discharging produced water to ponds prior to November 2014.

In 2015, Board staff began an in-depth investigation of the practice of using produced water for irrigation known as the Food Safety Project. Experts that understood food safety issues (including toxicologists, public health experts, and food and agricultural experts) were chosen to serve on the panel. Experts were selected from public and private entities and environmental advocacy groups. The Panel provided guidance on three studies conducted by a third-party consultant, GSI Environmental Inc., a national and international consulting firm. The Board also obtained a science advisor, Dr. William Stringfellow from Lawrence Berkeley National Laboratory. The Food Safety Expert Panel provided input on a Food Safety White Paper that concluded there were no elevated risks to human health from the use of produced water for irrigation identified in any of the studies conducted for the Food Safety Project. The Food Safety White paper was released on 8 September 2021.

Staff also review applications for UIC projects and provide comments on project-by-project reviews conducted by the California Geologic Energy Management Division (CalGEM). Mr. Olsen further explained that to date, staff have reviewed 108 UIC applications and an additional 96 UIC applications for non-expansion projects.

As part of the State Water Boards Regional Groundwater Monitoring Program, the United States Geological Survey (USGS) evaluates potential impacts from well stimulation treatments and other oil field development on groundwater resources. Studies conducted by the USGS demonstrated oil field produced water had potentially migrated outside the oil field administrative boundaries and impacted beneficial use waters. In response to this study, Board staff sent out six orders pursuant to Water Code section 13267 requiring five oil field operators to perform groundwater investigations of injection activities conducted in the Tulare Formation in the Elk Hills, Lost Hills, and Belridge Oil Fields.

Well stimulation treatments have occurred for decades in the southern San Joaquin Valley. Since 2015, these treatments have occurred primarily in Kern County. Well stimulation activities include, but are not limited to, hydraulic fracturing and acid well stimulation. The Board staff's primary focus is on hydraulic fracturing. Hydraulic fracturing uses high-pressure to inject a fluid mixture that consists of gels and sand into a geologic formation to increase oil production. Depths of well stimulations in California range from about 600 to over 13,000 feet below ground, and the water present in the formations being fractured is poor quality. Senate Bill 4 was passed in September 2013, setting the framework for regulation of well stimulation treatments.

As required by Senate Bill 4, the Water Boards developed groundwater monitoring requirements known as the "Model Criteria" in 2015. These criteria were adopted by the State Water Board and outline the requirements for operator monitoring and the Regional Monitoring Program.

In December 2022, the Board adopted the Racial Equity Resolution. In alignment with the priorities and goals of the Racial Equity Resolution, Program staff will begin an increased focus on oil field sites with the potential to affect MUN-designated portions of the aquifer and increase collaboration with the State Air Board and CalGEM on priority sites that may be affecting disproportionately burdened BIPOC communities. Program staff will create an inventory list to assess which sites are located near these communities and use the inventory list and associated CalEnviroScreen scores to identify sites for program work prioritization. In addition, once priority sites have been identified, program staff will then begin planning for potential outreach meetings with communities near high priority sites to provide information regarding work being performed as part of the Oil Field Program.

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**AGENDA ITEM 22 – JOE SILVA, TONY SILVA, AND JAMES SILVA, SILVA BROTHERS DAIRY #1, SAN JOAQUIN COUNTY – RESCIND CEASE AND DESIST ORDER R5-2020-0029**

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No one was present to contest or comment on this item.

**MOTION TO ADOPT AGENDA ITEM 22 – JOE SILVA, TONY SILVA, AND JAMES SILVA, SILVA BROTHERS DAIRY #1, SAN JOAQUIN COUNTY – RESCIND CEASE AND DESIST ORDER R5-2020-0029**

Motioned: Member Lee Reeder  
Seconded: Member Yang

Roll Call Vote:

Member Yang	Yes
Member Lee Reeder	Yes
Member Kadara	Yes
Chair Bradford	Yes

Approved by Roll Call Vote of 4-0-0

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**AGENDA ITEM 23 – CITY OF ARVIN, ARVIN WASTEWATER TREATMENT FACILITY, KERN COUNTY – CONSIDERATION OF CEASE AND DESIST ORDER R5-2023-XXXX**

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Chair Bradford called the Hearing to Order. The parties are the Board's Prosecution Team and the City of Arvin.

**Testimony from Prosecution Team**

Omar Mostafa, Senior Water Resource Control Engineer, Fresno Office, indicated he had taken the Oath and stated the City of Arvin Wastewater Treatment Facility was in Kern County, and had a population of approximately 20,000 residents. The City is designated by the State of California as a disadvantaged community. Mr. Mostafa explained the proposed Cease and Desist Order (CDO) was unique because it included a restriction on new connections to the sewage collection system, which was a necessary component of the CDO.

The Arvin Wastewater Treatment Facility is regulated by Waste Discharge Requirements (WDRs) adopted by the Board in 2000. The WDRs authorized the discharge of up to 2,000,000 gallons per day (mgd). Historically, the land application areas consisted of approximately 240 acres of city-owned land and approximately 1,200 acres of land owned and operated by a contract farmer. In March 2021, the City's agreement with its contract farmer ended, leaving the City with approximately 225 permitted irrigable acres of land for wastewater disposal.

On 8 December 2021, the City's Engineer contacted Board staff and reported the City's wastewater storage ponds were nearing capacity and wastewater was seeping from pond 3, which was constructed above grade and was the City's largest storage pond. To lower the pond levels, the City would need to over apply wastewater to its permitted land application areas and temporarily discharge wastewater to two additional unpermitted areas for emergency disposal. The City had not performed the environmental and technical reviews necessary for staff to determine if they were able to be permitted for future wastewater disposal.

One of the unpermitted properties was a privately owned 75-acre parcel owned by Mr. Garcia. Due to the seriousness of the information reported by Engineer, Board staff inspected the wastewater treatment facility ponds and land application areas in December 2021. Board staff observed wastewater seeping from pond 3 and flowing off site to publicly accessible areas. This seepage from pond 3 threatened to cause a levy failure, which would lead to the unauthorized discharge of nearly 140 acre-feet of undisinfecting wastewater to public roads and adjacent properties not owned or controlled by the City. Additionally, it was noted land application areas were oversaturated and contained standing water and dying vegetation. The City installed un-engineered berms approximately 3 feet high, creating an unauthorized wastewater pond. Based on these and other observations, the City is in violation of the WDRs by failing to maintain pond 3 in good working order, failing to keep discharges within designated disposal areas, and failing to apply wastewater to land application areas at reasonable rates. To date, these problems have not been resolved.

In August 2022, the City submitted a draft technical report with an analysis of storage and disposal capacities that indicated there are 387 acres of irrigable area available for wastewater

disposal and pond 3 would be repaired and in operation by the end of 2022. The report concluded the City could manage its current design flows of approximately 1.3 million gallons per day (mgd) using the reported 387 acres of land application areas and 282 acre-feet of storage. After review, staff found the City was proposing to use unpermitted areas, overestimated the irrigable area, and pond 3 had not been repaired by the end of 2022 as previously reported. Board staff estimated it would take two years or longer for pond 3 to be repaired and in full service. The City applied for funding from the State Water Board to repair pond 3, which will take 9 to 12 months to obtain, as well as one year to construct improvements. The proposed maintenance for ponds 1 and 2 would render those ponds unusable for a significant amount of time, further reducing the City's wastewater storage capacity.

Mr. Mostafa explained in December 2022, a revised technical report was submitted by the City (including water and nitrogen balances) that indicated the City had 370 acres available to grow alfalfa and dispose of its wastewater. The nitrogen balance in the report indicated the application of the City's wastewater to these land areas would not cause them to be overloaded with nitrogen and concluded they could manage its current design flows of 1.3 mgd. A review of the revised technical report found it was not properly signed and stamped by a California Licensed Engineer, was missing appropriate data calculations and citations to support its claims, and contained a deficient water balance because it was reliant on the use of pond 3, which is currently in disrepair and will remain in disrepair for approximately two years. The nitrogen balance in the revised technical report was also deficient. The nitrogen balance was based on the application of its wastewater to alfalfa and indicates the land application areas would not be overloaded with nitrogen. Based on research by Board staff, the amount of nitrogen taken up by alfalfa depends on its yield and uptake rates. The revised technical report would require unrealistic yields of alfalfa. In addition, the nitrogen balance did not consider the City's lack of effluent storage capacity. The City would be forced to irrigate during the winter when alfalfa is dormant and unable to effectively uptake nitrogen. This would result in higher nitrogen loading during the winter months, allowing the potential for excess nitrogen to percolate to groundwater. Finally, the nitrogen balance does not consider nitrogen loading to the land application areas from other sources, such as fertilizers and supplemental irrigation water.

On 18 January 2023, an additional inspection of the City's wastewater treatment facility, ponds, and land application areas was conducted. Staff observed the bermed area within one of the unauthorized land application areas contained substantial amounts of standing water, indicating wastewater was not being applied at agronomic rates. Staff also observed pond 3 (while mostly empty) contained a shallow amount of wastewater. The City's Wastewater Operator explained during January 2023, the City discharged wastewater into pond 3. Since the January 2023 inspection, staff learned the City has continued to discharge wastewater to pond 3, despite the need for repairs, which showed the City did not have adequate storage and disposal capacity to manage current wastewater flows.

On 14-15 March 2023, the City submitted a copy of its lease agreement with the current contract farmer and a separate agreement between its contract farmer and Mr. Garcia for farming of the Garcia property. Staff determined the agreements did not support the contention that the City would have adequate land application area for wastewater disposal. The City's

lease with its contract farmer only described use of wastewater for irrigation on city-owned land permitted by the WDRs. It did not describe irrigation of the unauthorized land areas being proposed for use by the City or any privately owned land. Regarding the agreement between the City's contract farmer and Mr. Garcia, the agreement made no mention of the City or use of its wastewater for irrigation and stated approximately 25 acres of the Garcia property would be set aside for a future development and research facility (thus decreasing the potential irrigable area of the property). Another issue with both agreements is they indicated plans for converting the properties to hemp production (rather than alfalfa). Hemp typically requires much less water (approximately 1/2 to 2/3 for irrigation of hemp compared to alfalfa).

On 17 April 2023, another revised water balance and management plan report was submitted by the City. Staff found it did not adequately address previously identified deficiencies, nor provide current information to support the City had adequate storage and disposal capacity. The revised water balance was based on irrigation demands for alfalfa and did not consider irrigation demands for future hemp cultivation. It also did not consider during winter months, irrigation demands would (at least partially) offset by precipitation and the City would need additional storage capacity compared to other times during the year. The nitrogen balance in the revised report was also deficient as it was based on nitrogen data for one effluent sample collected in January 2023, rather than historic nitrogen data. It was based on unrealistic uptake rates for alfalfa and did not include nitrogen balance calculations for hemp cultivation. A map submitted as part of the revised technical report showed the total acreage of the land areas for wastewater disposal was approximately 438 acres. Staff analyzed APN maps and aerial images of the parcels and found of the 438 total acres, only approximately 352 acres were irrigable due to features such as ponds, canals, well pads, buffer areas, as well as 25 acres of the Garcia property to be set aside for a future development and research facility. Of the approximately 352 irrigable acres proposed to be used by the City, 149 of those are not permitted and based on limited information, it is unclear whether those areas could be properly permitted in the future.

Based on the 2007 Engineering Report submitted by the City, the staff's analysis determined the City was operating with 45% of the storage capacity and 49% of the disposal area necessary to accommodate its permitted flow limit.

The proposed CDO was necessary to ensure the City could return to compliance with its WDRs. The CDO would require the City to be in full compliance with its WDRs within two years. To accomplish this, the City would be required to submit a report of waste discharge with technical reports describing proposed short-term actions to repair pond 3 three and require more land application areas, as well as a technical report describing the City's long-term plans for upgrading its wastewater treatment facility. Given the City does not have capacity to deal with existing flows, the CDO also included a sewage connection restriction to prohibit new connections. This would limit potential increases in the City's wastewater flows and would remain in effect until removed by the Board. The City raised concerns that the connection restriction would inhibit economic development. However, once the City had demonstrated it had adequate storage and disposal capacity and can operate in compliance with its WDRs, Board staff would bring the CDO back to the Board to consider its rescission. To address the City's concerns regarding the sewage connection restrictions and potential effects on growth, the CDO includes specific provisions that allow exceptions to the sewage

connection restriction for projects issued a building permit prior to 27 April 2023. To alleviate an extreme public hardship or public health problem, the Board may grant additional exceptions to the sewage connection restriction upon finding the City has met certain conditions described in the CDO. These conditions included demonstration the City had the means to complete corrective actions necessary to achieve compliance with its WDRs and those corrective actions would be implemented in the shortest practicable time.

The Prosecution team noted late revisions were provided to the City. There were no questions or comments.

### **Testimony From Discharger**

Gerry Lemus, City of Arvin, took the Oath and testified average flow for 2022 was 1.08 mgd and wanted to ensure this was taken into consideration. Mr. Lemus also mentioned an email sent to the City's previous Engineer (and forwarded to Mr. Lemus) allowing discharges to unauthorized land.

Armando Garza, Veolia Consulting and Principal Engineer for City of Arvin, took the Oath and presented information on the water and nitrogen balances and effluent disposal facilities. He further stated with the full 370 acres in production, as well as utilization of ponds 1, 2, and 4, the City had adequate storage for 1.27 mgd effluent. During the summer months, irrigation demand is much greater than the effluent produced and indicated the City was able to dry ponds if needed (for maintenance) and still have adequate capacity. From a nitrogen balance, the City had a 20 milligrams per liter concentration for nitrogen taken from sampling and analysis, but noted they did not sample for total nitrogen on the effluent. Mr. Garza stated that spread over 370 acres, data indicated only 40% of nitrogen was applied. Mr. Garza further explained the delay in facility construction and upgrade was related to the delay in obtaining financing from the State Water Board.

Dr. Trent Jones testified his group managed the farms beginning in April 2023. In April 2021, there were 242 acres available. Pond 4 had been in operation since 1999 and was a 12-acre pond with high percolation capacity. Mr. Jones stated his team drained the tanks needing repair on a total of 263 acres on the Garcia farm and another reserve farm, plus pond 4. Now, 380 acres are being double cropped. The winter blend was three-way grass and Sudan grass and with current harvest would be at least three tons, which was three times the normal cut. Nitrogen was being used and assimilated through the plants. Mr. Jones further stated there were 102 million gallons of rainwater that went on the 380 acres of ground not included in the calculations. Therefore, the City of Arvin had much more water capacity than it was given credit for. During the month of April 2023, 100% of the effluent was discharged on 25% of the land. Mr. Jones concluded by stating the facility was able to properly run without pond 3 and requested additional time to show the actual percolation rates and emphasized there were no nitrogen contamination issues.

Jeff Jones, Arvin City Manager and Finance Director, presented the City's economic situation and disadvantaged community status. Mr. Jones indicated it was his understanding that the Water Code required the Board not only consider environmental impacts, but also economic impacts when making decisions. The City of Arvin was a disadvantaged, rural, and

linguistically isolated impoverished community. Despite limited staff capacity and funding options, the City continues to work towards climate resiliency for better health outcomes for all residents. Arvin's population was 19,669, with 94% Hispanic. 89% of residents speak a language other than English at home, with Spanish being the dominant at 86%. Additionally, the Arvin population placed in the 99th percentile for low educational attainment. As of 2020, 61% of residents did not finish high school. The City was in the 100th percentile in the State for poverty. In 2020, the poverty rate was 32%, the average median income is \$39,750. 5% had an average income of less than \$10,000. Approximately 36% of children live below the poverty level and 91% qualified for free or reduced meals. Regarding pollution, the City had some of the worst air in the nation due to proximity at the end of the San Joaquin Valley. Residents were subject to emissions from cars, trucks, and industrial operations. Due to its geographic nature, these emissions were not able to ventilate and remained stagnant within the area. According to the CalEnviroScreen 4.0, the City was between the 75th and 100th percentile for ozone.

Mr. Jones further testified the City ranked 417 out of 421 cities statewide per capita for sales tax revenue, meaning there was little sales tax revenue (no hotel, chain restaurants, car dealerships, etc.). There was one bank and one grocery store. Five years ago, the City had a negative general fund balance and was looking at a 25% deficit of the general fund for the upcoming year. Thankfully, a recovering economy, prudent budgeting, and efficient spending turned things around. As of 30 March 2022, the City had a balanced budget and positive general fund. By the end of 2023, Mr. Jones expected the City to have approximately \$1.8 million in general fund balance (25% of one year's general fund). City management predicted modest growth while maintaining a balanced budget over the next three years. Projected economic growth was critical to the City and relied upon future economic development. Several operations had expressed interest in Arvin. The main concern was the CDO would inhibit future growth.

Current wastewater flow equated to 57 gallons per day per person. The City estimated an increased flow of 1.27 mgd, an increase of 150,000 gallons. Proposed projects in the next two years included one housing tract (120 homes), which meant approximately 28,500 gallons per day wastewater flow increase. The City also expected an infill ADU project for another 100 homes (400 people). The Arvin campus of Kern Community College was under construction and would be completed in the next two years. The average per use per day per student based on high school numbers was .031, so the Community College would only use approximately 1,000 gallons per day of wastewater. Additional retail was being determined. However, most people would use facilities in their homes, so only a slight impact was anticipated. This equated to an expected increase of approximately 70,000 gallons over the next two years (half of which the City believed could be accommodated). In closing, the City believed it had the storage and land to handle current wastewater flows plus an additional 13%. A CDO with an underlying commercial and residential growth moratorium would cripple the City, even to the point of disenfranchisement within five years. If the CDO was issued, the City requested it be limited in scope so all commercial and minor residential development (defined as under 10 units) not be subject to the CDO, and the City of Arvin be able to approve the connections internally. City staff will continue to meet monthly with Regional Board Staff and report all new connections to the Board.



## **Cross Examination by the Prosecution Team**

Naomi Rubin, Prosecution Team, indicated they had no cross examination and stated the remaining time would be reserved for closing statement.

## **Cross Examination by Discharger**

Nathan Hodges, Attorney for the City of Arvin, asked Mr. Mostafa if the average daily flow of 1.08 mgd was used when making the determination the City did not have adequate land or storage capacity within tanks 1, 2, and 4.

Omar Mostafa replied staff received and reviewed the monitoring reports and were aware the average flow for 2022 was approximately 1.08 mgd. The 1.3 and 2.0 mgd were obtained from engineering reports submitted by the City. 2.0 mgd is currently the permitted flow limit in the permit. The disposal and storage capacities were analyzed for a flow of 2.0 mgd in the City's 2007 engineering report. The design flow was reported as 1.3 mgd in two of the City's water balance reports. 1.27 mgd was reported in the most recent water balance report dated 17 April 2023. Mr. Hodges replied 1.27 mgd was the capacity that **could** be stored and disposed of by the City. Mr. Mostafa replied the Prosecution Team did not believe that was an accurate number based on analysis and field observations. Field observations showed wastewater being stacked on unpermitted land application areas with berms constructed by the City (to have adequate capacity), as well as the use of pond 3 despite it being in a state of disrepair. At the last monthly meeting with the City in April 2023, the City's Wastewater Operator, Gerry Lemus, reported pond 3 contained approximately 6 feet of wastewater, further indicating the City did not have adequate storage capacity.

## **Comments from Interested Persons**

None.

## **Closing Statement from Discharger**

Mr. Hodges stated ponds 1, 2, and 4 can hold sufficient effluent. Additionally, the City had 370 acres available for wastewater discharge. Mr. Hodges noted the City did not dispute some of the discharge is on unpermitted land and would work diligently to get it permitted with its contract farmer and the Regional Board. The City requested that if a CDO was approved, it not be effective until the daily flow reached 1.25 mgd. Additionally, once effective, it would contain a provision the Regional Board's Executive Officer could approve commercial connections and residential connections up to 10 units upon a 30-day written notice on the Board's website. If there were a request for over 10 residential connections, the City would bring the request to the Regional Board for approval, assuming the City was continuing provide due diligence in moving forward with needed maintenance.

## **Closing Statement from Prosecution Team**

Dale Harvey, Supervising Water Resources Control Engineer, Fresno Office, stated staff understood the City was economically disadvantaged and experiencing hardship, which was more reason to ensure adequate wastewater disposal and storage capacity for the health and

safety of residents. The City's water balance showed they could adequately dispose of 1.27 mgd. However, staff did not agree based on differing reports submitted by the City, as well as field observations. Therefore, staff would not recommend nor propose a 1.27 mgd limit. Dr. Trent Jones testified regarding wastewater disposal efforts over the past two years and the manner in which those efforts took place, violated the City's current WDR permit by stacking wastewater and over-irrigating at rates that exceeded hydraulic rates needed by plants. Given the City's lack of storage and disposal capacity, staff believed the CDO with the connection restriction was necessary. Mr. Harvey further stated the Prosecution Team did not object to the proposal the Executive Officer, upon showing of due diligence by the City, could approve commercial connections and up to 10 residential connections following a 30-day public comment period via the Board's website. Mr. Harvey also noted the late revisions to the CDO and there were no objections raised.

Chair Bradford closed the hearing.

### **Staff Recommendation**

EO Pulupa thanked all parties involved and noted the City's non-compliance with current WDRs due to unpermitted discharges. From a permitting standpoint, the Regional Board, via the CDO, requested the City of Arvin provide data and submit a revised water balance and report of waste discharge that accurately reflects current practices to allow the permit to be updated. Language would be included to address not allowing hemp cultivation due to it not providing adequate water uptake. Secondly, the City was to upgrade pond 3, while allowing sufficient time for state funding so as to not have financial impacts at the local level. The CDO would contain verbiage to allow exceptions to the connection restriction at the EO level. In summary, the CDO would be adopted as is, and provided the City of Arvin was performing due diligence of continuing meetings with Regional Board Staff, continuing discussions with the State Water Board Division of Financial Assistance, and giving 30 days written notice to the Board and posting for public comment via the Region 5 website, the EO could approve exceptions to commercial development and up to 10 residential connections. As it related to the 1.27 mgd, the evidence showed the City had issues with their current flows and storage capacity and did not recommend changes to that portion of the CDO. Additionally, EO Pulupa recommended the removal of provision 9 and edits to numbers 7 and 8. EO Pulupa stated he wished to see the City of Arvin grow and succeed. Compliance was close and it was vital for the permit writers, Prosecution Team, and the City of Arvin to determine the water balance and current data. Building permits issued prior to 27 April 2023 would not be subject to the CDO.

Jessica Jahr, Office of Legal Counsel, confirmed the late revisions (finding 14) and amendments to the CDO (amendments to provisions 7 and 8, removal of provision 9, including late revisions).

### **Questions and Comments from Board Members**

Member Kadara commented while she supported disadvantaged communities, she had concern over the request for no restrictions until the 1.25 mgd flow and felt that should have been considered before the City allowed unpermitted discharges and inappropriate land use.

Ms. Kadara felt the welfare of the community should come first and was disappointed the City was asking for negotiations after evidence showed the practices being undertaken by the City.

Member Lee Reeder commented that she shared the same concerns as Member Kadara and stated there appeared to be a substantial amount of deferred maintenance. While Ms. Lee Reeder hoped for future growth for the City, she stressed the importance of the City staying focused on the health and safety of its residents.

Member Yang commented he also fully supported disadvantaged communities and hoped for a mutually beneficial outcome for all parties involved. However, Member Yang stressed the importance of compliance to protect the community and its residents.

Chair Bradford thanked all the parties that testified and commented he did not have any issues with the EO's recommendation.

**MOTION TO ADOPT AGENDA ITEM 22 – CITY OF ARVIN, ARVIN WASTEWATER TREATMENT FACILITY, KERN COUNTY – CONSIDERATION OF CEASE AND DESIST ORDER R5-2023-XXXX WITH AMENDMENTS AND LATE REVISIONS**

Motioned: Member Yang  
Seconded: Member Lee Reeder

Roll Call Vote:

Member Yang	Yes
Member Lee Reeder	Yes
Member Kadara	Yes
Chair Bradford	Yes

Approved by Roll Call Vote of 4-0-0

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**MEETING ADJOURNED**

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The Board Meeting adjourned at 4:10 p.m. to the 22-23 June 2023 Board Meeting in Rancho Cordova, CA.