
Colorado River Basin Regional Water Quality Control Board

MINUTES OF BOARD MEETING

September 10, 2024, 9:00 am to 12:40 pm

In-Person and Zoom Video/Teleconference Meeting

Archived audio and video webcasts of Board meetings are available at the following link: <https://cal-span.org/static/meetings-RWQCB-COLO.php>

Introductory Matters

1. Introductions, Pledge of Allegiance and Roll Call

The meeting was called to order by Chair Satin at 9:00 am on July 9, 2024.

The Board Clerk was directed to conduct a roll call of Board Members present at the meeting. Peter Satin, Ed Muzik, Nancy Wright, and Azucena Beltran-Serrano were present. Beatriz Gonzalez was absent, and Vivian Perez arrived at 9:20 a.m.

The Board Clerk stated that a quorum was present.

State and Regional Water Board Staff Present

Paula Rasmussen, Cassandra Owens, David Lancaster, Mary Castaneda, CJ Jasieniecki, Don Nguyen, Jose Cortez, Emma McCorkle, Angela Garcia, Michael Perez, Kevin Gonzalez, Ryan Culhane, Samantha Shapiro, and David Boyers, Assistant Chief Counsel, State Board Office of Chief Counsel.

Public Attendance

Tom West, Coachella Valley Water District
Luis Torres, Coachella Vallet water District
Dan Charlton, Coachella Valley Water District
Lillian Garcia, United For Justice, Inc.

Remote Public Attendance

Marlee Nelson, Court Reporter

2. Public Forum

There were no Public Speakers.

3. Approval of Minutes

Minutes of the July 9, 2024, Board meeting.

Motion to approve Item 3: Nancy Wright moved, Ed Muzik seconded, a roll call vote was taken.

Roll Call Vote: Peter Satin – Aye, Azucena Beltran-Serrano- Aye, Ed Muzik – Aye, Nancy Wright – Aye.

The motion was passed to approve the minutes of July 9, 2024.

4. Update from the State Water Resources Control Board Liaison, Laurel Firestone

This Agenda Item was skipped because Ms. Firestone was not in attendance.

Closed Session I

5. Closed Session

The closed session was held from 9:06 am to 10:15 am. The Board met in closed session to discuss the appointment, employment and/or evaluation of performance of the Executive Officer. (Gov. Code, § 11126, subd. (a)(1).).

***Break – 10:15 am – 10:22 am**

Uncontested Calendar of Items for Adoption

6. Rescission and Substitution Order R7-2024-XXXX

Substitution of parties under existing orders (e.g., name changes and transfers), and/or rescissions of existing orders.

Affected Orders	Actions
96-001 Inert Waste Gypsum Inert Waste Mgmt. Facility, Imperial County	Rescission of Order
R7-2021-0012 Needles Waste Mgmt. Facility San Bernardino County	Rescission of Order
R7-2005-0097 Lucerne Valley Waste Mgmt. Facility, Class III Sanitary Landfill, San Bernardino County	Rescission of Order
R7-2006-0036 Turtle Rock Estates Wastewater Collection, Treatment, and Disposal Systems, San Bernardino County	Substitution of Parties under Order
R7-2006-0057 Desert Knoll Wastewater Collection, Treatment, and Disposal Systems San Bernardino County	Substitution of Parties under Order
R7-2022-0001 Victory Pass Solar Project, Riverside County	Rescission of Order
R7-2022-0002 Arica Solar Project, Riverside County	Rescission of Order

Staff Contact: Bryanna Allen, Engineering Geologist
(Bryanna.Allen@waterboards.ca.gov)

Motion to approve Item 6: Ed Muzik moved, Nancy Wright seconded, a roll call vote was taken.

Roll Call Vote: Peter Satin – Aye, Vivian Perez – Aye, Azucena Beltran-Serrano- Aye
Ed Muzik – Aye, Nancy Wright – Aye.

The motion was passed to approve Uncontested Order Item 6 as presented.

Contested and Discussion Calendar of Items for Adoption

7. Stipulated Administrative Civil Liability Order R7-2024-XXXX

Parties: Coachella Valley Water District
Subject: Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order
Location: Riverside County
Staff Contact: Michael Perez, WRC Engineer
(Michael.Perez@waterboards.ca.gov)

Staff presented information on the Sanitary Sewer Overflow Settlement Agreement. Staff provided background information, a description of the Facility, the location, processes and operations, and the upgrades made to the Facility. David Boyers, Assistant Chief Counsel, Office of Enforcement explained policy factors and the methodology that led them to the final liability imposed. The prosecution team recommended that the Board approve the proposed Settlement Agreement and the liability amount of \$236,792.10.

Speaker: Dan Charlton, Assistant General Manager, Coachella Valley Water District

Board member Muzik inquired about the enforcement calculation policy factors. Mr. Boyers explained how the level of harm scores are calculated and explained how they differentiate.

Motion to approve Item 7: Ed Muzik moved, Azucena Beltran-Serrano seconded, a roll call vote was taken.

Roll Call Vote: Peter Satin – Aye, Vivian Perez – Aye, Azucena Beltran-Serrano- Aye. Ed Muzik – Aye, Nancy Wright – Aye.

The motion was passed to adopt Contested Order Item 7 as presented.

9. Cease and Desist Order R7- 2024-XXXX

At the Prosecution Team’s request, Agenda Item 9 was heard prior to Agenda Item 8.

Parties: Christopher L. Heltebran
Subject: Residential Onsite Wastewater Treatment System,
58758 Natoma Trail, Yucca Valley
Location: San Bernardino County
Staff Contact: Michael Perez, WRC Engineer
(Michael.Perez@waterboards.ca.gov)

The Chair administered the Oath for those intending to speak on this item.

Michael Perez of the Prosecution Team gave a brief presentation, providing background information, the Yucca Valley septic tank prohibition, and public outreach. He concluded

with a recommendation to adopt the Tentative Cease and Desist Order (Tentative Order). The Prosecution Team also requested a change to the date of the conversation referenced in Finding 12 of the Tentative Order. The date should read August 18, 2023 (not August 18, 2024). Michael Perez and Assistant Chief Counsel David Boyers, counsel for the Prosecution Team, addressed Board member questions and comments.

Christopher Heltebran (Discharger) was not present at the public meeting, and therefore did not contest adoption of the Tentative Order.

No comments from the public.

Member Wright asked the Prosecution Team whether the Discharger was contacted by the Hi-Desert Water District (District) to assist them with connecting to the sewer. Michael Perez responded that the Discharger had been given this information.

David Lancaster, Board counsel, reminded Member Muzik that he should not provide factual testimony based on his own experiences and background knowledge as the former general manager of the District.

Chair Satin inquired about occupancy verification, and staff's response to voicemail message received from the Discharger (Exhibit 12), and what type of follow-up was provided. Michael Perez responded that Elene Heltebrand stated they were not the owners and has had nothing to do with the property. With regard to occupancy, Mr. Perez further stated that he had, within the last five days, verified that the property was still owned by the Discharger. There had been no further transactions.

David Lancaster asked Michael Perez to clarify whether his argument was that there was a threatened discharge because the property had not changed hands. Mr. Perez responded that the threat exists as long as there is a home that can be occupied, regardless of whether it is the owner that is actually living there.

David Lancaster asked Michael Perez whether he had personally looked at the property. Mr. Perez responded that he and others had performed 17 site visits on September 21, 2023 (i.e., to determine by staff mail was being returned), and the subject property could have been one of those that were visited. However, Mr. Perez subsequently clarified that the Discharger's mailing address was elsewhere (La Habra), the subject property was probably not among those that were visited.

Michael Perez recalled that he had looked at the address on Google Streetview. The image was from within the last year or so. Mr. Perez stated that he remembered seeing a home with a car on the front driveway. The home was not boarded up or otherwise seemingly abandoned, and it looked as though someone was or at least could have been living there.

Chair Satin asked again about the voicemail from the Discharger's spouse that indicated that the property was in foreclosure. Michael Perez stated that he responded

by asking for proof that the Discharger no longer owned the property, and that nothing was provided. Mr. Perez also personally spoke with the Discharger's spouse.

Member Muzik stated that in 2015, the District went through an assessment district and every parcel within the septic prohibition was assessed and notified of the requirement to hook up to the sewer. He also commented that there are 4,000 parcels in Phase I. He asked the Prosecution Team how many still needed to be hooked up. Michael Perez responded that there are approximately 180 parcels yet to connect to the sewer.

Member Muzik commented that only the parcel is affected by the septic prohibition, not the owner, and does not impact them. David Lancaster, Board counsel, responded that the Tentative Order was being issued to the Discharger, with the potential for subsequent imposition of civil liability, based on a finding that the Discharger owned or control the subject property with a septic tank on it.

David Lancaster explained that although the Discharger's spouse had claimed that she and her husband had had nothing to do with the property for several years, Michael Perez's observation of the vehicle and other signs of habitation in a recently taken Google Streetview image could be interpreted as evidence that someone is still living on the property (e.g., a tenant). Mr. Lancaster also stated that the Prosecution Team's evidence supported a finding that the Discharger was still the owner.

Member Muzik reiterated that the Tentative Order would not affect the Discharger if he did not own the property. Again, David Lancaster responded that the Prosecution Team's undisputed evidence established that the Discharger was still owner of record.

Member Muzik suggested that the Prosecution Team contact the District to determine whether there was water service to the subject property, and the name on the account for that service. Michael Perez responded that the water bill would not necessarily establish ownership, as it could be in someone else's name.

David Lancaster reminded the Board Members that the issue was not property ownership, as it was undisputed that the Discharger still owned the property (notwithstanding Elene Heltebrand's statements to Michael Perez about the property being in foreclosure). Ownership or responsibility for septic system discharges was not a disputed issue. Mr. Lancaster proceeded to remind the Board Members that, under Water Code section 13301, a Cease and Desist Order (CDO) requires there to be an actual or threatened discharge of a wastewater. In other words, will there be any further discharges from the septic system on the property?

David Lancaster asked Michael Perez whether a septic system would continue to discharge for a period of time after wastewater was no longer being generated on the property. Mr. Perez responded that he did not believe that there would be continued discharges. He explained that when a toilet is flushed, the water goes into the septic tank, which is where the solids are separated from the liquids. The liquids are then sent to a leachfield or seepage pit. If the tank is "topped out," any additional liquids entering

the tank would result in additional liquid being discharged through the leachfield or seepage pit. Otherwise, if there are no additional flushes, there will be no additional discharge. However, if someone were to start inhabiting the property and flush the toilet or run the sink, there would be additional discharges.

Member Muzik asked David Lancaster what it means to have a discharge prohibition in the Board's Water Quality Control Plan for the Colorado River Basin Region (Basin Plan). Mr. Lancaster responded that it meant that the owners of septic systems were no longer allowed to dispose wastewater through the septic system. The point of discharge would be the leachfield or seepage pit connected to the septic tank.

David Boyers, counsel for the Prosecution Team, stated that he did not believe that the Prosecution Team was required to show current or ongoing water usage, or any other kind of immediate threat of wastewater discharge. He opined that the existence of a septic system onsite poses a threat to groundwater. Even though there may not be any discharges today, there may be discharges tomorrow. The existence of a septic system on a property would be enough to issue a CDO to the owner of record.

David Lancaster, the Board's counsel, responded that he generally concurred with David Boyers regarding the low threshold for establishing a threatened discharge at some point in the future. However, Mr. Lancaster clarified that he there still needs to be some line of analysis or inferences supporting a finding that someone could occupy the property and begin generating wastewater. In other words, the home should be at least readily occupiable or could be occupied again. He further stated that the Prosecution Team's observations from the Google Streetview image would support that inference.

Chair Satin expressed bafflement over contesting the issue of property ownership. Chair Satin questioned how the property would not have already been sold via tax sale or repossessed if the Discharger had not paid the mortgage or property taxes on the property for over 10 years (as claimed by the Discharger's spouse in her voicemail).

Member Muzik asked whether there was a way to issue a CDO to the parcel itself and not just the person who owned it at the time (i.e., so as to "run with the land" akin to a real covenant). David Boyers, counsel for the Prosecution Team, responded that the order could not be issued to the parcel. If the parcel was conveyed to someone else, a new order would be required. David Lancaster, Board's counsel, further added that the order must be issued to the person who is in ownership or control of the septic system. Even under a typical residential lease agreement, the owner of record maintains ownership and control of the septic system (i.e., not the tenant).

Member Wright observed that the District water bill is tied to the property itself, and if the bill remained unpaid, the balance would be added to the property tax assessment. Consequently, the District would know who was paying the bill and whether they were in default.

With agreement of the other Board Members, Chair Satin closed the hearing.

Motion to approve Item 9, subject to the change in date requested by the Prosecution Team (i.e., change date to August 18, 2023 in Finding 12): Nancy Wrigh moved, Vivian Perez seconded, a roll call vote was taken.

Roll Call Vote: Peter Satin – Aye, Vivian Perez – Aye, Azucena Beltran-Serrano- Aye. Ed Muzik – Aye, Nancy Wright – Aye.

8. Cease and Desist Order R7- 2024-XXXX

As noted above, Agenda Item 8 was heard after Agenda Item 9.

Parties: Kristyanne Green
Subject: Residential Onsite Wastewater Treatment System,
6468 Linda Lee Drive, Yucca Valley
Location: San Bernardino County
Staff Contact: Michael Perez, WRC Engineer
(Michael.Perez@waterboards.ca.gov)

The Chair administered the Oath for those intending to speak on this item.

Michael Perez of the Prosecution Team gave a brief presentation, providing background information, the Yucca Valley septic tank prohibition, and public outreach. Mr. Perez further incorporated by reference the presentation given for Agenda Item 9. Mr. Perez concluded with a recommendation to adopt the Tentative Cease and Desist Order (Tentative Order). Michael Perez and Assistant Chief Counsel David Boyers, counsel for the Prosecution Team, addressed Board members questions and comments.

Kristyanne Green (Discharger) was not present at the public meeting, and therefore did not contest adoption of the Tentative Order.

No comments from the public.

Chair Satin inquired if these are non-communicative entities, and how would they comply with a Cease and Desist Order (CDO). David Boyers responded that Board would be able to impose civil liability on the parties that do not comply. David Lancaster, the Board's counsel, further elaborated on Mr. Boyers' response.

David Lancaster, referencing a similar discussion as part of Agenda Item 9 (see above), asked Michael Perez of the Prosecution Team whether he had looked at an image of the subject property on Google Streetview. Mr. Perez responded that he could not recall doing so. However, Mr. Perez stated that the subject property was one of those that were visited. Although he could not recall any specific details about the subject property, he did not recall any of the visited properties appearing abandoned or uninhabited.

Motion to approve Item 8: Nancy Wrigh moved, Ed Muzik seconded, a roll call vote was taken.

Roll Call Vote: Peter Satin – Aye, Vivian Perez – Aye, Azucena Beltran-Serrano- Aye. Ed Muzik – Aye, Nancy Wright – Aye.

The motion was passed to adopt Contested Order Item 8 as presented.

***Break – 11:46 am – 11:55 am**

10. Cease and Desist Order R7- 2024-XXXX

Parties: Pedro Luna
Subject: Residential Onsite Wastewater Treatment System,
6415 Ronald Drive, Yucca Valley
Location: San Bernardino County
Staff Contact: Michael Perez, WRC Engineer
(Michael.Perez@waterboards.ca.gov)

The Chair administered the Oath for those intending to speak on this item.

Michael Perez of the Prosecution Team gave a brief presentation, providing background information, the Yucca Valley septic tank prohibition, and public outreach. Mr. Perez further incorporated by reference the presentation given for Agenda Item 9. Mr. Perez concluded with a recommendation to adopt the Tentative Cease and Desist Order (Tentative Order). Michael Perez and Assistant Chief Counsel David Boyers, counsel for the Prosecution Team, addressed Bord members questions and comments.

Pedro Luna (Discharger) was not present at the public meeting, and therefore did not contest adoption of the Tentative Order.

No comments from the public.

Member Muzik asked Michael Perez of the Prosecution Team how much staff time was needed to complete a Cease and Desist Order (CDO). Mr. Perez responded that he had lost count but estimated that it might be about 50 hours per case.

Member Beltran-Serrano asked Michael Perez whether any of the notices of violation were sent in any other language besides English. Mr. Perez stated that the notices sent were only in English.

Chair Satin asked for a summarization of site visits to the location to demonstrate occupancy. Staff stated they had visited 17+ sites in the area.

David Lancaster, Board's counsel, asked Michael Perez of the Prosecution Team whether he had ever seen a picture of the house on the subject property. Mr. Perez responded that he could not recall. Mr. Lancaster also asked Mr. Perez whether the subject property was one of the sites that he visited in person. Mr. Perez responded that he could not recall whether the subject property was among those he visited.

Vice-Chair Perez asked how expensive this process is for the dischargers is, and what type of assistance is available. Staff responded that the cost depends on the location, but it ranges from \$4,000 - \$10,000 to connect and decommission the septic tank. He also stated that there is federal assistance which they can apply, and information for that is available on the Hi-Desert Water District website.

Motion to approve Item 10: Ed Muzik moved, Vivian Perez seconded, a roll call vote was taken.

Roll Call Vote: Peter Satin – Aye, Vivian Perez – Aye, Azucena Beltran-Serrano- Aye. Ed Muzik – Aye, Nancy Wright – Aye.

The motion was passed to adopt Contested Order Item as presented.

Informational Items

(No Actions on Items 11-13)

11. Report from Executive Officer, Paula Rasmussen

The Executive Officer, Paula Rasmussen, provided an update on activities and plans for the region. She also mentioned the upcoming office renovation scheduled for September 16, 2024 – December 20, 2024. During this time, most staff will be working remotely, and Board meetings will be held at an alternate location.

12. Comments from Board Members

Board member Wright mentioned that Jose Angel extended an invitation to the Board to tour the New River Improvement Project.

Board member Muzik stated he has received re-appointment confirmation.

13. Report from Board Chair, Peter Satin

The Chair reported that he attended the monthly Chair's meeting with budget being the topic of discussion. He also mentioned that as of now, the Water Quality Coordinating Committee meeting in October will have a virtual attendance option.

Closed Session II

5. Closed Session (Revisited)

The Board reconvened briefly into a closed session for follow-up items . The closed session held from 12:17 pm to 12:40 pm. The Board met in closed session to discuss the appointment, employment and/or evaluation of performance of the Executive Officer. (Gov. Code, § 11126, subd. (a)(1).)

Adjournment

There being no further business, the meeting adjourned at 12:40 pm.

Next Board Meeting:
October 10, 2024 at 9:00 am