

California Regional Water Quality Control Board
North Coast Region

MINUTES OF MEETING

Thursday, February 27, 2003
Regional Water Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

Wednesday, February 26, 2003
1800 Riverwalk Drive, Fortuna

Chairman William Massey called the Regional Water Board meeting to order at 2:08 p.m., and immediately adjourned into closed session.

Board Members present: Dina Moore, John Giorgi, Gerald Cochran, Shawn Harmon, Bev Wasson, William Massey, Richard Grundy, and John Corbett

Thursday, February 27, 2003
1800 Riverwalk Drive, Fortuna

Chairman William Massey called the Regional Water Board meeting to order at 9:05 a.m. There were no reports for the February 26, 2003, closed session.

7. Pledge of Allegiance

Richard Grundy led the Pledge of Allegiance

8. Roll Call and Introductions:

Board Members present: Dina Moore, John Giorgi, Gerald Cochran, Shawn Harmon, Bev Wasson, William Massey, Richard Grundy, and John Corbett

Regional Water Board staff: Executive Officer: Susan Warner; Assistant Executive Officer: Frank Reichmuth; Administrative Officer: Kathleen Daly; Interim Division Chief: Nathan Quarles; Seniors: Diana Henry, David Hope; Technical staff: Adona White, Holly Lundborg; Administrative Assistant: Terri Korell; Secretary: Jean Lockett; State Board Liaison: Gary Carlton; Legal Counsel: Sheryl Schaffner Freeman, Erik Spiess.

9. Board Members Ex Parte Communication Disclosure

The Chairman called for any ex parte communication disclosure from Board members. He asked Sheryl Freeman to give a brief overview/explanation of ex parte communication. Ms. Freeman stated that it was an opportunity for Board members to disclose any ex parte communications that they may have had regarding any item(s) on the agenda. The Chairman called for such disclosures from the Board members, if any.

Dina Moore disclosed that she received a telephone call from a Tree Sitter, identifying herself as "Remedy," shortly after the January 2003 Board meeting. Ms. Remedy informed Ms. Moore that Pacific Lumber Company was falling trees without a permit. Ms. Moore indicated that, without discussing the issue, she referred Ms. Remedy to the Regional Water Board Executive Officer.

John Corbett informed the Board that he attended a California Department of Forestry review team meeting in which two THPs were reviewed. Mr. Corbett stated that he did not have the THP numbers with him, but will give those numbers to legal counsel should a conflict issue arise. He indicated that there were only two water quality issues briefly discussed, the Watercourse and Lake Protection Zone and a Regional Water Board staff position regarding a cumulative impact and non-concurrence. Mr. Corbett suggested that there is a need for regional conflict resolution on policy matters as opposed to challenging individual THPs between the Regional Water Board staff and CDF.

Sheryl Schaffner Freeman clarified for the record that Ms. Moore's ex parte contact disclosure related to item 17 on today's agenda.

10. Public Forum

Matt Mullan, Assistant Manager for the Town of Windsor, stated that Windsor has concerns with the potential down stream impact of Healdsburg's wastewater systems. Mr. Mullan stated that Windsor had updated their wastewater treatment system to meet tertiary treatment, and Healdsburg should do the same. He asked the Board to stay the course when issuing any waste discharge requirements.

Scott Stegeman stated that he was speaking on behalf of Seghesio family vineyards on the Healdsburg Phase V pond, and the Seghesio Family Vineyards intends to oppose discharge to the pond.

Mark Rentz read a letter from the Forest Landowner's Association, California Forestry Association, and others, and the letter expressed concern that the implementation portion of the TMDL is being developed at the same time that the staff is doing the allocation analysis. He stated that source allocation should be done before implementation of the TMDL.

Jessie Noell stated that he did not appreciate the logging, flooding, traffic and other disturbance in the Freshwater area. Those living down stream in the watersheds have had to bear the burden of the logging in the area.

11. Minutes of Board Meeting of October 24 and November 7, 2002.

Minutes for the October 2002 and November 2002 meetings were presented for approval.

John Corbett requested to add the sentence, "Mr. Corbett suggested that in the future it would be helpful to know what legal options are available to the Board, if any, if the item comes back before the Board" to item 7 on the update of Klamath River Kill on page 11 of the October minutes.

Mr. Grundy requested that they discuss at a future Board meeting how comments from the Board members are included. He also wished that the criteria (for issuing the waste discharge requirements) from the letter addressed to Mr. Manne and that accompanied the order be put into the record. Ms. Warner stated that staff will modify the November 2002 minutes and bring them back to the Board at the next Board meeting.

MOTION: John Corbett moved to adopt the October 2002 minutes with changes and table the November 2002 minutes until

the next Board meeting. Richard Grundy seconded motion. Motion passed unanimously.

12. Chairman's, Board Members', State Board liaison's and Executive Officer's Reports. (These items are for Board discussion only. No public testimony will be allowed, and the Board will take no formal action.)

Ms. Warner stated that Region 1's budget deficit for the year 2002/03 will be about \$200,000. Board meetings held outside of the Regional office are costly, Ms. Warner suggested that the March and May Board meetings take place in the Santa Rosa office.

MOTION: John Giorgi moved to hold all Board meetings from March to June at the Santa Rosa offices. Dina Moore seconded the motion.

John Corbett supported the motion but reserved the right to change if the Board had compelling reasons to have Board meetings in other areas.

Richard Grundy stated that the Board needs to make sure that they do not disenfranchise the public in the northern part of the state. Ms. Warner stated that staff will continue to have workshops for those in the northern part of the region when needed. Ms. Moore stated that she wanted to make sure that we have as many workshops as possible in the northern region.

Chairman Massey stated that it is not the intention of the Board to disenfranchise the northern public, but it is only for budget reasons that meetings are scheduled at the regional office.

MOTION: Motion passed unanimously.

John Corbett stated that he had a request from a local attorney in Humboldt County to hold a workshop to discuss staff communication on the north coast. Mr. Corbett stated that he had conferred with Sheryl Freeman who had given him guidelines to participate in the meeting.

Consent Calendar: Items 13 through 15

13. *Order No. R1-2003-0003* Blue Lake Forest Products, Inc., Glendale Sawmill, Humboldt Co., Recision of Waste Discharge Requirements, WDID No. 1B82002OHUM
14. *Order No. R1-2003-0008* Miranda Community Services District, Waste Water Treatment Facility, Humboldt Co., Update of Waste Discharge Requirements, WDID No. 1B80002OHUM
15. *Order No. R1-2003-0004* California Department of Transportation, South Fork Eel River Bridge Repainting, Humboldt Co., Issuance of Waste Discharge Requirements, WDID No. 1B02182RHUM

MOTION: John Corbett moved to accept the consent calendar with no changes. Gerald Cochran seconded the motion. Motion passed unanimously.

16. Petition for Enforcement Action, filed by Environmental Protection Information Center and Humboldt Watershed Council

Nathan Quarles reviewed the petition filed by Environmental Protection Information Center (EPIC) and the Humboldt Watershed Council (HWC), on January 24, 2003, to protest Pacific Lumber Company's logging operations in the Freshwater Creek without waste discharge requirement. EPIC and HWC requested a temporary restraining order and civil penalties assessed for the violation.

On January 29, 2003, Pacific Lumber contacted the Regional Water Board and stated that they had ceased the felling of timber. Mr. Quarles stated that Porter-Cologne section 13265 states that civil penalties can be sought if the violations continued after written notification to the discharger. The Regional Water Board staff gave written notification on January 30, however, the activities were discontinued before the notification was received by Pacific Lumber Company. Therefore, a restraining order and civil penalties were not appropriate.

John Corbett asked if the Regional Water Board staff and Pacific Lumber Company were communicating with each other regarding the Company's activities. Mr. Quarles stated that there were extensive communications. He referred to a list of activities that was presented to the Board at the January 24, 2003, Board meeting, as well as further communications subsequent to that report.

Richard Grundy expressed that the Board recognized that the CWC 13264 applied to this situation. Mr. Grundy stated if the petition was voted down, then it would appear that the Board did not recognize the petition that it was addressing. The record should show what the Board's policy is and that the Board thinks that CWC 13264 applies and, if the policy needed refinement the Board would do so at a future Board meeting.

Sheryl Freeman stated that it would be a good opportunity to clarify the Board's interpretation of the policy for this item, and to communicate the Board's interpretation to the regulated public. The Board could also include a clause in the notice of intent explaining that if there were any timber harvest activities pending the approval of the waiver, dischargers would be in violation of the law.

John Corbett recommended that the Board take Ms. Freeman's suggestion. Mr. Grundy stated that he supported Mr. Corbett's recommendation.

Ken Miller stated that, to date, the Board and residents do not know the amount of logging that Pacific Lumber Company is doing and it was an outrageous violation. He urged the Board to set an example and regulate the harvest activity of Pacific Lumber Company.

Jim Branham stated that it was never the intent of Pacific Lumber Company to circumvent the Board. Pacific Lumber Company continues to have a disagreement on the legal aspects with the Regional Water Board staff. He urged the Board to follow staff's recommendation and dismiss the petition.

John Giorgi asked Mr. Branham if it was an assumption that a waiver was automatic when a timber harvest plan is approved. Mr. Branham stated that with the current waiver policy the Company had to follow the no discharge restriction. Mr. Giorgi asked if Pacific Lumber Company received restrictions before the waiver. Mr. Branham stated yes, the letter of December 19 provided restrictions for Pacific Lumber Company. John Giorgi stated that if a company wants to fall timber without a WDR, then that company should lose all of their WDRs in that watershed.

Gerald Cochran asked what was used to determine the acreage of the falling trees. Mr. Branham stated that the information was taken from maps and talking to workers.

Mark Rentz stated that, just because one has an activity does not mean that they will create a discharge. The notion of sediment discharge was never discussed. He advised that the Board of Forestry director is prohibited from issuing a timber harvest plan that will violate the Basin Plan.

Danny Myers, representing the Friends of Navarro Watershed, spoke on behalf of the Environmental Protection Information Center, and stated that Pacific Lumber violated the law, and his belief is that Pacific Lumber Company knew that they were in violation by harvesting. Mr. Myers urged the Board to accept the petition.

Ms. Freeman stated that both sides have put their hands on the core of the dispute and that is the way to read the statute. The staff proposal today was to get the Board's input and interpret the statute, so that staff can apply the statute in the future.

Bev Wasson stated that she believed that the statute needed to be interpreted as "any kind of activity that is started on the Plan."

Mr. Grundy stated that the Board has a responsibility to act when there is the likelihood of a discharge. He requested that the motion today be clear and put people on notice that if this happens in the future, and not just for timber but in a generic matter, the Board will issue civil penalties.

John Corbett suggested that the Board issue a notification of the interpretation of the Porter-Cologne Act 13264.

The Board deliberated extensively on the interpretation of the Porter-Cologne Act 13264.

MOTION: John Corbett moved to deny the petition. Gerald Cochran seconded the motion. Motion passed with seven votes. John Giorgi opposed the motion.

Mr. Corbett also moved that the Board consider cutting of trees as the initiation of activities. There was extensive discussion on how to phrase the motion so that it would be clear to staff and the dischargers that the commencement of an activity, including falling of trees, without coverage by a waiver or by waste discharge requirements constitutes an initiation of a discharge that could lead to enforcement under section 13265.

Shawn Harmon stated that he was concerned about any activity extending to such matters as tree marking. He indicated the situation is case-specific as to details, and was concerned that the Board was taking one specific case and setting policies for others.

John Corbett suggested the following language: "In denying the request for enforcement the Board wishes to make clear that it is the view of the Board that the commencement of activities under a Timber Harvest Plan, including the falling of timber, without coverage under a waiver or waste discharge requirements, may constitute the initiation of a discharge under Section 13264 that could lead to enforcement under Section 13265." Mr. Grundy agreed with the changes, and seconded the motion, indicating that the onus is on the discharger not to commence an activity that leads to a discharge. Ms. Moore indicated that when the Board adopted the waiver, the Board then should have confidence in staff in applying the waiver appropriately, and suggested that the Board should use care to not micromanage staff.

MOTION: Mr. Grundy moved the prior suggested language, without the word "may." Beverly Wasson seconded the motion. Motion passed unanimously.

17. **Order No. R1-2003-0027 The Pacific Lumber Company, Freshwater Creek, Humboldt County, Waste Discharge Requirements for timber harvest operations in Freshwater Creek.**

Nathan Quarles presented the staff report on the item, indicating that an order requiring a Report of Waste Discharge (ROWD) was issued to Pacific Lumber Company by the Executive Officer on December 19, 2002, for wet weather operations within the Freshwater Creek watershed. Staff received the Discharger's ROWD on January 16, 2003, and a hearing was scheduled for the February 2003 Board meeting. Mr. Quarles stated that the intent of the ROWD was to cover discharges or threatened discharges that are unique to winter operations between October 15th and May 1st of each year, starting February 27, 2003. The ROWD does not include the broader issues, such as the rate of harvest and cumulative impacts. Mr. Quarles concluded by stating that staff's recommendation is for the Board to adopt the Waste Discharge Requirements as proposed.

Craig Anthony, Vice President of Timberland Division of Pacific Lumber Company, stated that he supports the staff's recommendation to adopt the waste discharge requirements as proposed.

John Giorgi asked Mr. Anthony, with all the problems that Pacific Lumber Company has in the watersheds, why is it that they want to do logging in the winter and not the summer? Mr. Anthony stated that the best road systems are in Elk River and Freshwater Creek, and it is a trade-off between helicopter and cable yarding in the winter and tractor yarding in the summer. The Company needs a year-round base for harvesting.

Steve Wills, employee of Pacific Lumber Company, stated that the employees wanted to thank the Regional Water Board. He stated that Pacific Lumber Company had a payroll of \$300 million and \$31,000 of taxes were taken for the county. The company needs to log. He said the road systems were better rocked than the county road used to by-pass the closure of Highway 101.

Jesse Noell, resident of Elk River, indicated that the flooding has changed the land. Each storm brings down a large volume of sediment. In Freshwater, 97 properties are affected. Mr. Noell suggested that the Board take an economic evaluation of the consequence to the residents in the watersheds.

Ken Miller stated that the waste discharge requirements do nothing and are a sham.

Joe Brecher expressed his disappointment in the WDRs, and his concern over the firing of the Executive Officer.

Richard Grundy requested clarification on whether the waste discharge requirements are key to preserving the beneficial uses of the watershed or whether the basin plan accomplishes the same thing. Ms. Warner stated that the requirements contain, among other provisions, objectives from the Basin Plan that are not enforceable in the Basin Plan, but become directly enforceable when included in the waste discharge requirements.

Mr. Grundy asked several questions regarding the schedule for cleanup and abatement activities and other measures being taken in the watersheds. Mr. Quarles indicated that the schedule would return to the Board under item 18.

MOTION: Dina Moore moved to adopt Order No. R1-2003-0027 as proposed with the monitoring and reporting program. Shawn Harmon seconded the motion. Motion passed with seven votes. Bev Wasson opposed.

Short items were moved forward on the agenda for hearing prior to the lunch break.

20. Update on Development of Proposed Categorical Waiver Policy for Irrigation Return Water Discharges.

Ms. Warner stated that staff recommendation is that the Board delay action on the Categorical waiver for irrigation return waters, pending staff's analysis of the issues that are arising in the Central Valley.

21. Update on recently enacted legislation

This item stands as written.

22. Executive Officer Administrative Civil Liabilities

Ms. Warner reported that in late January and February 2003, two Administrative Civil Liability Complaints (ALC) were issued.

The first ALC issued in January was to Hopland Public Utilities District, which imposed a liability of \$22,500 with the first installment of \$7,500 due and payable on February 21, 2003. The complaint was issued after negotiating the matter with the District.

The second ALC was issued to Carl Boyett, Carol Boyett, and Boyett Petroleum for \$1,305,000. Ms. Warner indicated that she proposed that the discharger pay a total of \$100,000 and the remainder could be suspended depending on their compliance with a Time Schedule Order. At Boyett's request, a hearing has been tentatively scheduled for the May 2003 Board meeting.

The Board recessed for lunch at 11:58, and reconvened at 1:30 p.m.

18. Update on work efforts in five Humboldt County Watersheds Elk River, Freshwater Creek, Jordan Creek, Bear Creek, and Stitz Creek

Nathan Quarles reported on the Regional Water Board staff's efforts to address the Board's directives to pursue TMDL in the five watersheds, evaluate and proceed with cleanup and abatement activities, monitoring activities, and waste discharge requirements. He reported that: Staff conducted several waste discharge requirements compliance inspections in the Elk River drainage. Staff outlined their concerns and transmitted them to Pacific Lumber Company, which addressed some of the issues. Regional Water Board staff continues to work with Pacific Lumber Company in addressing the remainder of the concerns. Examples of some of the concerns were erosion at culvert outlets, and small bank failures. Part of the inspection effort was to identify potential monitoring locations, specifically looking at monitoring road crossings, sediment saving sites and management measures effectiveness.

The Freshwater Creek Watershed tentative WDRs were adopted today. Staff has conducted field inspections to identify monitoring locations. A list has been transmitted to Pacific Lumber Company and staff will be working with Pacific Lumber Company to establish those stations.

The Executive Officer issued a Cleanup and Abatement Order to Pacific Lumber Company on August 1, 2002, requiring the Company to submit a Workplan with a time schedule to conduct corrective action on roads; a report identifying all options and preferred alternatives for landslide remediation; and an assessment of in-stream soil deposits in the Bridge Creek and Little North Fork Elk River watersheds. Mr. Quarles stated that staff will evaluate the information and the next step would be to meet and discuss the information through a technical coordinating meeting

with Pacific Lumber Company at which time a discussion of issuance of a cleanup and abatement order will occur.

A request for technical information for Bear Creek was issued on February 6, 2003. Jordan, and Stitz Creek watersheds technical information requests are tentatively scheduled.

Mr. Quarles reported that staff is compiling a list of all ongoing water quality monitoring in the five watersheds as well as an evaluation of the data generated from monitoring programs. The information will be presented to the Regional Water Board at the March 27, 2003, Board meeting.

Mr. Quarles concluded his presentation by discussing the logistics and the essentials of the monitoring.

Holly Lundborg provided the status on the TMDL Development in the five watersheds.

Ms. Lundborg reported that a stakeholders' public meeting was held on February 13th in Eureka. The meeting was tense, as the people were angry and frustrated. Because staff managed to get good comments and recommendations from the public, Ms. Lundborg indicated that it was nevertheless a good meeting.

Ms. Lundborg reviewed the activity of the Regional Water Board staff in following the January 24, 2003, directives of the Board.

Staff is working on the supporting evidence needed to successfully petition the Board of Forestry and Fire Protection to designate the five watersheds as "sensitive watersheds." The packages may be presented at the March 2003 Board meeting, if information is received in a timely fashion, for the Regional Water Board's consideration.

Staff has taken steps to gather or require submission of data needed to allow staff to refine the Empirical Sediment Budget (Reid) and the Modeled Sediment Budget (O'Connor, 2000) as the Board directed. Information for the Board's review had been provided in the full agenda package. A list of data needed to allow the refinement of the Empirical Sediment Budget as recommended in the Panel's Report is also attached. The Regional Water Board staff will, under the California Water Code 13267(b), request information for the Empirical Sediment Budget and Modeled Sediment Budget, depending on what information is necessary.

Staff is also working with Dr. Twiss to assist Regional Water Board staff on development of a Geographic Information System database and digital library.

Staff propose to include, as part of a Phase II Terms of Reference (TOR), a component related to utilizing the expertise of one or more of the Panelists to assist Regional Water Board staff with their ongoing GIS efforts relative to development of TMDLs, watershed assessments and other Regional Water Board activities.

Staff has also taken steps to better collaborate with HCP signatory agencies for potential mechanisms to use the HCP in achieving some of the water quality requirements. For example, Mark Stoffer met with the Executive Director and Regional Board staff to discuss ways to collaborate on the HCP efforts and Susan Warner followed up by sending a letter to other signatory agencies asking to meet so that the collaborated efforts would be furthered.

Staff is working with the facilitated working group and CONCUR, Inc. to frame the next Terms of Reference (TOR) for Phase II of the Panel. Ms. Lundborg stated that she felt that terms of the fifth motion had been met by meeting with CONCUR and coming up with a proposal for Phase II of the Panel.

John Corbett complimented staff on the schedule for Bear, Stitz, and Jordan Creek watersheds.

Ms. Lundborg stated that once the Board gives staff direction, staff would proceed with Phase II TOR.

Scott McCreary briefly updated the Board on the status of the Science Review Panel Team. Dr. McCreary stated that he was speaking for the Panel. He indicated the panelists felt that the Board should re-iterate the mission to strengthen science-based information to support a Board decision. The Board should move away from adversary science, and the panel continues to see itself as independent and able to avoid adversary science. He indicated that while the report is often characterized as saying one thing or another, the report itself is its best representative.

Dina Moore asked Scott McCreary to walk the Board through on what the Panel would like from the Board. Dr. McCreary stated that the Panel would like to have the opportunity to set the record straight on some of the misconstrued areas of the Panel Report. He also indicated that the panel felt that the top two items for review were the HCP and the Dunne Report, and that further clarification on the two models would be helpful and useful to the Board. Discussion also occurred on the possible workshop format and schedule of a meeting with stakeholders who had information to present. Dr. McCreary also indicated that any report that is produced must be uncoupled, at least at the beginning, from any regulatory action or staff recommendations.

Dina Moore remarked that Dr. McCreary had given them a wealth of information to consider. John Corbett observed that the disturbing thing is the level of opposition from other state agencies.

Chairmen Massey asked Scott McCreary to return to the Board after the discussion of item 19, with specific points or suggestions on the direction the Panel would like to see the Board consider.

19. Implementation of the State Water Resources Control Board "Water Quality Enforcement Policy" (<http://www.swrcb.ca.gov/plnspols/wqep.doc>), adopted by State Water Resources Control Board Resolution No. 2002-0040

Susan Warner indicated that Bob Tancreto was unable to attend the meeting as scheduled. Ms. Warner briefly gave an overview of Mr. Tancreto's presentation and informed the Board that the item will be moved to the March's Board meeting.

Richard Grundy requested clarification on the graduated enforcement application and civil penalties, and Ms. Warner explained the process.

Bill Massey asked how effective have past enforcement actions been. Ms. Warner stated that the State Board has tracked how many violations have been repeated. It appears that for those dischargers that had been assessed a penalty, fewer violations are subsequently reported.

18. (continuation of item 18) Update on work efforts in five Humboldt County Watersheds: Elk River, Freshwater Creek, Jordan Creek, Bear Creek, and Stitz Creek

Scott McCreary presented the Board with the Panel's suggestions.

1. The Panel thinks that if a Phase II of work were to include a review of the Dunne report and HCP's water quality protections, identify any gaps in protective measures, and characterize potential additional protections measures, if necessary.
2. With respect to examining the HCP, the panel thinks that a workshop format in which PL and seniors from peer agencies bring forth results of efforts to date including monitoring results would be important to ensure that the panel is not missing important information.

3. The panel believes that, in presenting its Phase II report it would be desirable to engage in a dialogue with the Board but understands that budget tradeoffs need to be considered. In presenting the Phase II report, it should be discussed on its own merits and uncoupled from regulatory decisions at least in its initial consideration by the Board.
5. The panel suggests focussing on the two methodologies the panel reviewed in Phase I, with further clarifications of the key assumptions, data requirements and potential application in the TMDL process. The Panel believes that an independent outside appraisal in the independent judgment calls inherent in applying these models would be useful. The panel also sees advising on GIS (other than in HCP review) as a second priority

William Rice commented on the Freshwater watershed and basin plan violations.

John Sneed, a Pacific Lumber Company employee, stated that Pacific Lumber Company has adopted extensive operations to protect water quality. He urged the Board to let the Forest Practice Rules and the HCP work.

Hugh Heuer stated that there seems to be some confusion about building houses on a flood plain. The houses will get flooded. We all understand the importance of water and we need to work together. He thanked the Board for everything that they have done.

Ron Bush, a Pacific Lumber Company employee, submitted a petition to the Board members requesting that they direct the staff to work constructively with the Pacific Lumber Company. He indicated that state and federal resource agencies are implementing the HCP and protecting water quality.

Robert Darby, a Pacific Lumber Company biologist, indicated that extensive effort is spent on HCP and TMDL monitoring.

Rick Ross, a Pacific Lumber Company employee, stated that Pacific Lumber Company and the Regional Water Board staff need to work together. Those that signed the petition that Mr. Bush turned in are depending on the Board's decision today.

Dennis Schlotzhauer requested that the Board give Pacific Lumber Company credit for the work that they have done. He suggested that the Board and Panel ask that all three parties of the dispute put in money so that the Board could meet with the Panel.

Byan Jacobs, a Pacific Lumber Company employee, stated that during his last visit at the Regional Water Board meeting, he extended an invitation to the Board members to visit the sites and monitoring efforts of Pacific Lumber Company. He asked that the Board make sure that they receive all the facts by looking at the data that will be presented to them in the summer.

Jeff Barrett, with Pacific Lumber Company, stated they have an enormous crew of 18 scientists. Pacific Lumber Company has spent over \$600,000 in their monitoring efforts. There is an enormous amount of data on all five watersheds. He suggested that staff focus on the data they have before asking for additional data that costs Pacific Lumber Company thousands of dollars.

Lane Russ, resident of Humboldt County, suggested that he had seen the increase of regulations that raises the cost of timber harvest plan. He stated that for a small landowner, the regulations are burdensome. Mr. Russ stated that he had land in the Freshwater area and it floods, but silt is not present.

Jack Rice, involved in agriculture in the Eel River, stated that he could grow crops, raise cattle, and grow timber while protecting water quality. He requested that the Board base their decision on sound science.

Michael Huyette, with California Geological Survey, indicated that CGS was not involved with Pacific Lumber Company's HCP development, but CGS has reviewed portions of the HCP and would be please to submit comments if the Board desired. Mr. Huyette stated that the CGS sent a letter to the Regional Water Board staff proposing that CGS and staff meet to discuss methodology for accessing slope stability and the potential sediment source that would be useful in TMDL studies. Mr. Huyette stated that CGS is looking forward to discussing their proposal with staff.

Kristi Wrigley stated that in 1997 she informed the Regional Water Board that the water in Elk River was unusable. Ms. Wrigley suggested that after seven years of more logging it was clear that the Board did not believe that logging caused harm to the water. She displayed slides to demonstrate the damage that caused water to be unusable. Ms. Wrigley stated that she was not against logging, but just wanted her water rights.

Jim Branham, with Pacific Lumber Company, stated that the day's discussions were all directed at the five watersheds and a series of activities to protect water quality in the five watersheds. Mr. Branham reviewed the subjects of discussion and stated that no other landowner has in place the timber harvest plans with all of the mitigation included in them and mainly aimed at roads, the HCP protection with prohibitions, acreage limitations on harvest in Freshwater and Elk River, a watershed analysis process that is now completed in various area of each watershed, in-stream monitoring, waste discharge requirements, cleanup and abatement orders, and TMDL. Mr. Branham stated that there is a tremendous amount of work going on to cleanup the watersheds. He indicated that Pacific Lumber Company stated their concerns in their letter to the Board. Mr. Branham requested that they be allowed to comment on the TOR before it is brought back to the Board at the next Board meeting.

Jessie Noell stated that he was respectfully impress with how much the Board was unaware of what went on in the watersheds during the flooding. He gave information on the monitoring of effects of a rainfall in the winter. He stated that the TMDL is needed to protect the people in the watershed.

Paul Mason, representing the Sierra Club, stated that the Board have a very good staff and should rely on staff to answer questions that the Board asks others outside of the agency. He urged the Board to use the Regional Water Board staff first, and if the Board is going to go beyond that, recognize that staff has put in thousands of hours to answer those questions that they are asking others. He urged the Board to act decisively.

Mark Rentz, California Forestry Association, stated that he was very encouraged by Scott McCreary's presentation and wanted to remind the Board that the Panel stated that they had not reviewed Pacific Lumber Company's HCP or SYP as a part of the watershed analysis. Mr. Rentz said that he agreed with one of the Board members when it was suggested that the Science Panel Review team not be a part of the regulatory evaluation, recommendations or other process concerning regulatory activities.

There was extensive discussion on the Independent Scientific Review Panel, Phase II, and staff's recommendation.

MOTION: Richard Grundy moved to accept the staff recommendation that the panel look at the HCP, background, and have staff looks for gaps.

Chairman Massey asked how far will the \$68,000 go for the panel to do the work, and specifically whether the funds would include the workshop, the Dunne report and the HCP.

Holly Lundborg stated that the information that she received from CONCUR was the Science Review Panel felt that they could handle both the HCP and the Dunne Report evaluation in Phase II within the existing budget, and this would include the workshop.

MOTION: John Corbett seconded the motion by Mr. Grundy.

Shawn Harmon stated that his impression was that the Phase II activities were coming back to the Board in March. The Chairman agreed. Ms. Lundborg stated that staff would bring back the draft TOR, that would be the blueprint to be given to the Panel, so that the Board can review the language and structure format before it is given to the Panel.

MOTION: The motion passed unanimously.

Richard Grundy gave his observation on what the intent and purpose for the TMDL. He suggested that the TMDL not be used to establish new goals and objectives. In order to change the goals and objectives the Basin Plan must be changed.

Ms. Lundborg stated that the document that she presented to the Board included information from EPA Region 9 TMDL review checklist. She stated that it has always been the Regional Board staff's intention to write the TMDL.

The Board discussed the TMDL meeting held in Eureka on February 13, 2003.

23. Board Member Requests for Future Agenda Items

None presented.

Items 23 through 27 stand as written

Shawn Harmon moved to adjourn. Bev Wasson seconded the motion. Motion passed unanimously, and the meeting adjourned at 5:07 p.m.

There being no further business to come before the meeting body, the meeting adjourned at 5:07 p.m., until the next scheduled board meeting on March 27, 2003.

The Secretary, E. Jean Lockett recorded the minutes of the February 26 and 27, 2003, meeting of the North Coast Water Quality Control Board, to be approved by the Board at a subsequent Board Meeting.

Chairman _____

Date: _____