

Tuesday, March 15, 2005

3:00 p.m.

i. **The Regional Water Board and its Staff Welcome New Regional Board Members.**

Chairperson Wasson called the meeting to order at 3:03 p.m., on March 15, 2005, and introduced the new Board members and requested that they each share their background and experiences in water quality.

Board members present were: John Corbett, William Massey, Richard Grundy, Gerald Cochran, Heidi Harris, Sari Sommarstrom, Beverly Wasson, and Dennis Leonardi

Detained: Clifford Marshall

Catherine Kuhlman, the Regional Water Board Executive Officer, asked the Division Chiefs of the Regional water Board to briefly describe their division and introduce their staff to the new Board members.

Staff introductions:

Robert Tancreto, Chief of the Watershed Protection Division
John Short, Senior of the Russian River Unit
Tom Dunbar, Senior of the Eel, Humboldt, Trinity and Klamath Unit
William Winchester, Senior of Contracts, Loans, and Special Projects Units
Mark Bartson, Senior of the SWRCB Grants Unit

Dr. Ranjit Gill, Chief of Watershed Management Division
David Hope, Senior of the Planning Unit
David Leland, Senior of the Total Maximum Daily Load Unit

Robert Klamt, Chief of the Timber Harvest Division
Fred Blatt, Senior of Klamath River and Trinity River Unit
Mark Neely, Senior of Eel River, and Humboldt Bay Unit
Christine Wright-Shacklett, Senior of the North Coast and Russian River Unit
David Evans, Senior of the Southern Cleanups Unit
Charles Vath, Senior of the Northern Cleanups Unit

1. **Resolution No. R1-2005-0020 for Dina J. Moore**

The Resolution for Dina J. Moore was presented for adoption.

MOTION: John Corbett moved to adopt Resolution

No. R1-2005-0020, for Dina J. Moore. Gerald Cochran seconded the motion. Motion passed unanimously.

2. **Resolution for William R. Massey**

The Resolution for William R. Massey was presented for adoption.

MOTION: Gerald Cochran moved to adopt Resolution No. R1-2005-0021 for William R. Massey. John Corbett seconded the motion. Motion passed with eight votes. William Massey abstained.

Richard Grundy observed that it was the first time that the majority of the Regional Water Board staff was present in the boardroom. He took the opportunity to compliment the staff on its efforts and hard work. The Board concurred with Mr. Grundy's statement and reiterated its appreciation for staff.

8. **Executive Officer Administration Civil Liabilities**

There were no reports

9. **Violation Report**

This report is written.

10. **Board Member Request for Future Agenda Items**

There were no requests made.

11. **Monthly Report to the Board**

This report is written.

12. **Other Items of Interest**

There were none stated.

13. **Closed Session**

At 4:30 p.m., the Board took a break and reconvened in closed session.

Wednesday, March 16, 2005

Chairperson Wasson reconvened the Regional Water Board meeting at 9:07 a.m., on March 16, 2005.

ii. **Pledge of Allegiance**

Gerald Cochran led the Pledge of Allegiance.

iii. **Roll Call and Introductions:**

Board Members present:, John Corbett, William Massey, Richard Grundy, Gerald Cochran, Heidi Harris, Sari Sommarstrom, Beverly Wasson, and Dennis Leonardi

Regional Water Board staff present: Catherine Kuhlman, Luis Rivera, Sheryl Schaffner, Erik Spiess, Cathleen Hudson, Greg Nash, William Winchester, Cathy Goodwin, and Jean Lockett.

iv. **Board Member Ex Parte Communication Disclosure**

Ms. Wasson disclosed that she received a telephone call at 7 a.m. from Congressman Thompson concerning Pacific Lumber Company matters.

Gerald Cochran stated that on March 15, 2005, he also spoke with Congressman Thompson and his representative, Liz Murguia concerning Pacific Lumber Company matters. Mr. Cochran reported that he had a communication with Linda Hill, Humboldt County Assessor. He stated that they spoke about jobs and financial issues pertaining to Pacific Lumber Company. He disclosed that he also spoke with Chuck Center, a Pacific Lumber Company employee, about the scientific information that Pacific Lumber Company gave to the Regional Water Board members on March 15, 2005.

John Corbett reported that he received a call from Chris Manson, an employee of Pacific Lumber Company, asking for clarification on the purpose of the March 15, 2005, Regional Water Board meeting. Mr. Corbett stated that he informed the employee that the meeting was to introduce the Regional Water Board staff to the new Regional Water Board members.

Richard Grundy stated that he received an invitation from Chris Manson at Pacific Lumber Company to visit the Pacific Lumber Company facility. Mr. Grundy indicated that he informed Mr. Manson that he was not in the position to visit the facility as long as the Pacific Lumber Company matter is before the Regional Water Board and the State Water Board. Mr. Grundy concluded that he intends to visit Pacific Lumber Company at a later date with the proper legal and Regional Water Board staff escort.

v. **State Board Liaison's, Board Chair's, Board Members' and Executive Officer's Reports:**

Catherine Kuhlman reported that the Windsor Unified School District presented the Regional Water Board with a plaque of appreciation for the Regional Water Board's donation of used computers.

Ms. Kuhlman stated that she and the other eight Regional Water Board executive officers signed a Statewide Brownsfield Memorandum of Agreement (MOA). She stated that the purpose of the MOA is to improve coordination between the Department of Toxic Substance Control, the State Water Resources Control Board, and the Regional Water Quality Control Boards regarding the oversight of investigation and cleanup activities at Brownfield sites. She indicated that copies would be mailed to the Regional Water Board members.

At 9:25 a.m., new Board member Clifford Marshall arrived at the Regional Water Board meeting and introduced himself.

Returning to Item (iii. Ex Parte Communications), Mr. Marshall disclosed that he met with Terry Tamminen, State of California Cabinet Secretary, on March 15, 2005.

vi. **Public Forum**

Brenda Adelman, with the Russian River Watershed Protection Committee, indicated that the Sonoma Water Agency is involved in a project concerning the removal of Ludwigia from the Laguna de Santa Rosa. She indicated that a permit for the project would be submitted to the Regional Water Board for approval. She indicated that the public should be given an opportunity to comment on the project. Ms. Adelman urged the Board to hold a hearing on the Ludwigia permit when it is submitted.

Catherine Kuhlman informed the Board that an update on the Luwigia project would be placed on the April 2005 agenda.

Duane De Witt, a Santa Rosa resident, requested that the Regional Water Board provide additional information to the public regarding the Roseland district. He stated that Roseland district is a Brownfield site, and he requested that it be delisted as a State Superfund Site.

Richard Gienger passed out news clippings on the Bear, Jordan, and Stitz Creek. He encouraged the Regional Water Board to not lose sight of the three watersheds. He requested an update on the on Del Norte County issues concerning future development with on-site Wastewater Systems.

3. **Approval of Minutes**

The August, October, and November 2004 Minutes were presented for approval.

MOTION: Gerald Cochran moved to approve the August 2004 minutes. William Massey seconded the motion. Motion passed by seven votes, and two abstentions.

MOTION: William Massey moved to approve the October 2004 Minutes. John Corbett seconded the motion. Motion passed with seven votes and two abstentions.

MOTION: William Massey moved to approve the November 2004 Minutes. John Corbett seconded the motion. Motion passed with seven votes and two abstentions.

MOTION: Sari Sommarstrom moved to have the previous month's draft Minutes available at each Regional Water Board meeting for approval. Dennis Leonardi seconded the motion.

Mr. Grundy stated that even though the Minutes were backlogged, it was the first time that they reflected the depth of the Regional Water Board's discussions at its meetings. John Corbett stated he agreed that the Minutes should be done in a timely fashion and suggested that staff should draft the bulk of the Regional Water Board's discussions as possible. Ms. Kuhlman stated that she too agrees that the Minutes should be done in a timely fashion; however, the difficulty is that the Minutes before the Regional Water Board for approval contain one month where the Minutes consisted of 22 pages.

MOTION: Motion passed unanimously.

CONSENT CALENDAR

4. **Order No. R1-2005-0001, Rescission of Cease and Desist Order No. 98-64 for Cream's Dismantling and Scrap, Inc, 3650 Brickway Blvd., Santa Rosa, CA (formerly 1588 Airport Boulevard, Windsor CA).**

In 1998 the North Coast Regional Water Quality Control Board issued Order No. 98-64 to complete five tasks necessary for compliance with the general NPDES Permit for Discharge of Storm Water Associated with Industrial Activities Order 92-12 DWQ (now revised Order 97-03-

DWQ). These tasks have been completed and the site is now in compliance with the general storm water permit.

MOTION: John Corbett moved to adopt the consent calendar.
William Massey seconded the motion.

Erik Spiess requested a roll call vote because this item is a Cease and Desist Order.

Roll Call:	William Massey	Yes
	Richard Grundy	Yes
	John Corbett	Yes
	Clifford Marshall	Abstain
	Beverly Wasson	Yes
	Sari Sommarstrom	Yes
	Heidi Harris	Yes
	Dennis Leonardi	Abstain
	Gerald Cochran	Yes

Action Items

5. PUBLIC HEARING on Order No. R1-2005-0005 to consider whether to affirm, reject, or modify a Complaint for Administrative Civil Liability issued on January 20, 2005 and/or take other enforcement action in the Matter of **Forestville Water District**.

William Massey recused himself from the Forestville Water District item and absented himself from the meeting room.

Chairperson, Beverly Wasson administered the oath to those who expected to testify in the Forestville Water District item.

Chairperson Wasson briefly introduced the item, particularly for the new Board members. She stated that the proposed order was for mandatory minimum penalties; and that the Board did not have the option to reduce the \$87,000 penalty as in a regular civil liability order.

Chairperson Wasson introduced Erik Spiess as the legal counsel to the Regional Water Board staff; Luis Rivera, Assistant Executive Officer, as advisor to the Regional Water Board staff; Sheryl Schaffner as the legal counsel to the Board; and Catherine Kuhlman, Executive Officer, as the advisor to the Board.

The Board briefly discussed the Minimum Mandatory Penalty (MMP) for clarification purpose.

Cathy Goodwin, Regional Water Board staff, entered the administrative file into the record. Ms. Goodwin began her presentation by displaying photos of the Forestville Water District (FWD) facility.

She updated the Regional Water Board on the recent changes in the law regarding the use of MMPs and stated that California Water Code section 13385 requires the issuance of MMPs for specific types of effluent limitation violations, such as:

- Group I = BOD, SS, Nutrients, Detergents, Minerals (Calcium, chloride, Fluoride, and others), Metals (Aluminum, Cobalt, Iron, Vanadium)
- Group II = Generally toxics: other metals (heavy), cyanide, chlorine, and other organics.

Ms. Goodwin stated that Forestville has a small municipal facility, which provides advanced wastewater treatment with aerated ponds, microfilters, and chlorine disinfection. Treated effluent is temporarily stored for subsequent discharge to a nearby creek during wet weather or for irrigation of pastures and urban parcels during dry weather.

Prior to the transfer of ownership to the Sonoma County Water Agency (SCWA), a representative of the Forestville Water District requested to meet with the Regional Water Board staff to discuss the status of the compliance of the wastewater treatment facility, and the revision to waste discharge requirements that was pending at that time. Staff also discussed with the Forestville Water District the pending issuance of the ACL complaint. Staff encouraged Forestville Water District to address this issue in the negotiations with the SCWA.

Staff acted on the information submitted by both SCWA and FWD to determine whom to name in the Complaint. The LAFCO reorganization document and the transfer agreement between SCWA and FWD appear to transfer this liability to the FWD.

Ms. Goodwin concluded her presentation by recommending that the Board consider adopting the proposed ACL. .

Mr. James Dougherty, FWD engineer, suggested that the record state that FWD did not commence operation until December 6, 2004; the revised waste discharge requirements were not adopted until November 30, 2004; the complaint was dated January 20, 2005, and it covered the period of January 29, 2000, through May 5, 2004. Mr. Dougherty asserted that FWD should not be penalized for violations that happened five-years ago, and at a time that FWD was not operating the treatment facility. He stated that FWD is in a position where they are unable to defend themselves, because they do not have the specifics of what happened five years ago. Mr. Dougherty indicated that Forestville did not have \$87,000, but they could do a compliance project. He said that he disagreed with staff's interpretation of the statute, noting that the statute defines a small community median income as 80-percent and a population of 10,000 or less. Forestville has a population of 1,000, is basically isolated, and is a division of a larger municipality. He stated that the financial hardship status of FWD should be determined by the Board and not from a strict application of the statute and other policies.

Also in attendance representing FWD were members of the FWD Board of Directors Jim Smith, Claudia McDermouth, and Darous Borke; and General Manager for FWD George Roberts, and FWD General Counsel Mr. Malcom Manwell.

The Board deliberated on the violation issues.

Because of the time constraints, the Chairperson suggested that the Regional Water Board continue the Forestville item to the next Regional Water Board meeting on April 19 and 20, 2005.

Erik Spiess stated that FWD had not previously submitted a written response to the Complaint that all of the testimony put before the Board that day was new, and he requested that the record show that he objected to the testimony. He recommended that the Regional Water Board not take action on the Forestville item so that the Regional Water Board staff could have an opportunity to work with FWD and come to an agreement to do a compliance project. If the staff and discharger are unable to come to some agreement, then the Complaint could be presented before the Regional Water Board at a future date with a recommendation to adopt the Order.

Sheryl Schaffner suggested that instead of choosing to not act on the Complaint, that the Regional Water Board continue the hearing to April.

Comments were taken from Brenda Adelman

MOTION: Richard Grundy moved to continue the

Forestville hearing to the April 19 and 20, 2005, Regional Water Board meeting. John Corbett seconded the motion. Motion passed unanimously.

6. **Resolution No. R1-2005-0017, Establishing a Priority List for State Revolving Fund (SRF) Loans for Fiscal Year 2005-06**

Item 6 was rescheduled for the April 19 and 20, 2005, Regional Water Board meeting.

The Chairperson adjourned the meeting until 12:00 p.m., at the Luther Burbank Center of the Arts in Santa Rosa.

Chairperson Wasson resumed the Regional Water Board meeting at 12:05 p.m., at the Luther Burbank Center of the Arts in Santa Rosa.

7. **PUBLIC HEARING to consider whether to direct the Executive Officer to enroll additional Timber Harvesting Plans in Elk River and Freshwater Creek watersheds under Order No. R1-2004-0030, General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on non-Federal Lands**

Chairperson Wasson gave a personal statement. She stated that the Regional Water Board has pleaded for help for the downstream residents. She further noted that the Regional Water Board has tried to be responsive to the residents' concerns and the water quality problems by taking informed, measured, and progressive actions to address the problems. At the same time, the Board and its staff have worked hard to maintain a professional relationship with all who are involved. She went on to say that the Board and staff have provided much cooperation while fulfilling their duties to protect water quality, noting that it has been a very demanding difficult road for all involved. Those efforts have "burned out", "churned through" three executive officers, and a number of Board members since this issue began. She said that she was recently informed that Pacific Lumber Company's representative threatened to get the current Executive Officer "fired" if she did not give Pacific Lumber Company (PALCO) the permits it wants issued. Ms. Wasson concluded by emphasizing that if her information is correct, that the threat made to the Executive Officer is simply outrageous and unacceptable, and hopefully, illegal. If it is not illegal to threaten an Executive Officer's job, then it should be, she stated. Speaking on behalf of the Board, Ms. Wasson stated that the members of the Regional Water Board hope that it was an aberration that will never happen again.

The Chairperson provided an overview of the purpose of the hearing. She stated that in the General Waste Discharge Requirements (GWDR)s, section V.A.4, it states that the Executive Office shall deny enrollment "where conditions unique to the watershed (including, but not limited to, cumulative impacts, large acreage ownership holdings or management plans, affected domestic water supplies, or an increased risk of flooding) warrant further regulations." The Regional Water Board's record has a significant volume of data, testimony, scientific review, orders and findings that make it clear that the Freshwater and Elk watersheds exemplify the cited conditions and warrant further regulations.

Based on that evidentiary record, the Regional Water Board has directed the Executive Officer to prepare the necessary regulations, in the form of watershed-wide WDRs. However, due to the difficulties in obtaining the data from PALCO necessary to prepare the watershed-wide WDRs, the watershed WDRs are not yet in place and PALCO finds itself with more forestry permits than it has water quality permit coverage.

Thus, PALCO is requesting interim coverage under the GWDRs until the watershed WDRs are in place. In order to enroll any of the requested Timber Harvest Plans (THPs) in the GWDRs, the Regional Water Board needs to find a way to do so that would be consistent with the terms of the GWDRs, specifically it must address the purposes behind section V.A.4. It was noted that the Regional Water Board has already found that "further regulations are warranted" and efforts are underway to adopt new regulations.

In the meantime, the Regional Water Board needs to ensure that any THPs enrolled in the GWDRs do not contribute to violations of the Basin Plan, or otherwise significantly contribute to the health and safety issues raised by flooding and drinking water supply impacts. She concluded by saying that the hearing is to receive testimony and consider the issues.

Robert Klamt opened his presentation by submitting the administrative file into the record. His power point presentation gave a history of the issues pertaining to this matter. Mr. Klamt provided background for PALCO's lack of permit coverage for logging plans in the Elk River and Freshwater Creek watersheds. He summarized the issues, including the nuisance flooding conditions in the two watersheds and the history of interim enrollments since November 2004, and described the components of staff's proposed Nuisance Reduction Approach.

Matt Buffleben, who works in the Timber Harvest Division, gave a technical presentation on staff's proposed Nuisance Reduction Approach (NRA) to reduce nuisance flooding caused by increases in peak flows from canopy removal in the watersheds. This would guide the interim permitting of THPs until the WWDRs are in place. After modeling future conditions, Regional Water Board staff determined that a 10-year recovery period from current conditions and limiting increases in peak flows to 5-percent is appropriate. This would result in approximately one-half of the clearcut equivalent acres to be harvested for 2005 that are allowed under CDF's harvest limits.

John Corbett asks staff whether current trend or compliance monitoring measure PWWF enough to validate the model and measure compliance with PWWF standards. Staff replied: No.

Jared Carter, retired CEO of Pacific Lumber Company, indicated that PALCO has not received the level of harvesting plans needed to allow it to pay their debt. PALCO must have the requested THPs approved for their economic viability. He stated that PALCO is asking that the Board approve five additional THPs in the Freshwater watershed and five additional THPs in Elk River watershed. He urged the Regional Water Board to accept PALCO's proposal. The environment will be improved rather than hurt if the THPs are approved. Mr. Carter further stated that the administration at PALCO had no knowledge nor did they give authorization for any employee of the company to threaten the Regional Water Board Executive Officer. Mr. Carter requested that PALCO be supplied with the details of that incident and assured the Board that they will pursue the matter. Mr. Carter apologized for the incident and indicated that he shared the Chairperson's statement that if the incident did occur, it was totally inappropriate.

Mr. Corbett proposed that the Porter-Cologne Act provides the guidelines that the Regional Water Board must follow and noted that the Regional Water Board cannot specify the manner of compliance. He asked Mr. Carter if there was a method of placing the mitigation proposal in the resolution, without specifying the manner of compliance.

Mr. Carter response was that anything that PALCO agrees to could be included in the THP with the California Department of Forestry (CDF) and the Regional Water Board.

Gary Clark, Vice-President and Chief Financial Officer of Pacific Lumber Company, stated that he came to the Regional Water Board meeting hoping to provide some level of credibility to the Board's understanding that by not having the additional THPs released, it would add a serious economic catastrophe for PALCO. He stated that it was important that the Board take immediate action because PALCO cannot wait any longer.

Mr. Clark went on to provide a detailed account of PALCO's financial status in the last eight months. He stated that if the THPs are not approved, the company will not be able to pay its employees, 300 logging contracts will need to cancel, and PALCO's bonds will not be paid. He stated that the revenues from the THPs would allow PALCO to pay their debts and continue to be a viable employer in Humboldt County.

Dr. Kate Sullivan, with Pacific Lumber Company, discussed the white paper conclusion that was distributed to the Regional Water Board members as a part of the presentation. Ms. Sullivan suggested that there is no single cause of flooding and no single solution. She discussed storm flows, and channel maintenance flow and stated that flooding cannot significantly be reduced by further reducing harvest rate. She further noted that it is misleading to create false expectations (i.e., that by limiting harvest rates will solve the flooding problems).

Board Member Sari Sommarstrom requested from Dr. Sullivan statistics on the road repair work that PALCO has done to date: number of miles rocked, outsloped, decommissioned, culverts replaced, etc., versus any new roads opened up, for each watershed.

Board Member Richard Grundy observed that the Board is about water quality. His observation was that the discussion was about flooding, and bad water quality doesn't cause flooding. The rivers are degraded due to the level of sediment; therefore, the rivers are flooding. Dr. Sullivan's solution is to improve the channel quality so that there can be more sediment flushed down the rivers. It is not to get the sediment out of the river. He stated that the Regional Water Board is in charge to restore that river and maintain it, and that the burden is on the discharger, noting that there should be zero discharge unless PALCO can prove that its logging will not have an adverse effect on the watersheds. He stated that his observation is that PALCO is saying that the problem is broader than flooding and flooding is a system of the problem. He stated that PALCO is not addressing the reduction of sediment that is going into the river.

Dr. Sullivan stated that she did not do a good job in describing all of the sediment mitigation that is going on in the watersheds. She itemized PALCO's efforts to reduce sediment in the watersheds.

- Prevention of landslides
- Road construction
- Repair and decommissioning work
- Identify sediment sources in THPs

She stated that all of the above-described work has been going on since 1998.

Steve Horner, Manager of Sustainable Forestry for Pacific Lumber Company, stated that in an effort to offer practical solutions for the issues facing the community, PALCO and the Regional Water Board, PALCO is submitting a proposal for the Regional Water Board's approval of 100-percent of the previously approved THPs for 600 clear cut equivalent acres in the Elk watershed and 500 clear cut equivalent acres in the Freshwater watershed.

Mr. Horner covered several items on the proposal, such as:

- Providing drinking water to certain South Fork and Mainstem Elk residents for a period of one-year;
- Assist affected residents during floods to bypass or pass through flooded segments;
- An offer of \$50,000 for a feasibility study to identify potential improvements to infrastructure to reduce flooding impacts,
- An offer of \$50,000 for a feasibility study to identify improvements to flood prone stream segments; cooperative monitoring and inspections;
- Cooperative monitoring and inspections; and
- PALCO's willingness to offer additional sediment offset mitigation over and above that required by its HCP (spell out) in both the Freshwater and Elk Watersheds at the rates of 8:1 for the Freshwater watershed and over 50:1 for Elk River watershed.

Mark Lovelace, president of the Humboldt Watershed Council, provided testimony via videotape for watershed residents who were unable to appear at the Regional Water Board meeting. Mr. Lovelace stated that the residents have been coming to the Regional Water Board since 1997.

He stated that for many years, the Humboldt Watershed Council has sought relief from harm due to flooding for the residents of the "Five Watersheds" (Elk River, Freshwater Creek, and Bear, Stitz, and Jordan Creeks). He further stated that the watersheds are continuing to degrade and that the flooding continues to get larger with a minimum amount of rainfall.

Mr. Lovelace stated that the economic considerations, already incorporated into the basin planning process should acknowledge the ultimate responsibility for the fate of PALCO and its workers lies not with this Regional Water Board or the Courts, but rather with PALCO management and its parent company, MAXXAM.

He stated that PALCO's own documents show a deliberate intent to deplete the resource base upon which its workers depend for their livelihoods. The planned depletion of inventory threatens the health of the watersheds and the viability of the local timber economy. Mr. Lovelace displayed graphs to depict the timber remaining after harvests from 1989 to 2007.

Mr. Lovelace concluded his presentation by saying that the flooding is a serious threat to the lives, health, safety, property, and liberty of the residents of the watersheds. It has damaged homes, foundations, water supplies, septic systems, vehicles, fences, crops, and livestock, and it is all directly attributable to the impacts from aggressive over-harvesting by PALCO.

Jessie Noel and Kristy Wrigley, residents in the affected watersheds, presented photographs of flooding in the watersheds. They urged that the Regional Water Board not approve additional THPs for PALCO.

David Kuszmar, Regional Water Board staff, briefly addressed the Board's approach and reminded them that watershed-wide permits are only one element of staff's overall approach to watershed recovery in the Elk River and Freshwater Creek watersheds. Staff's overall approach to recovery also includes cleanup efforts, instream sediment removal and infrastructure changes, domestic water supply replacement, and ongoing data collection and adaptive management.

Comments were taken from:

Ralph Krause

Tim T. Holden, Elk watershed resident

Gene Senes Traro, Elk watershed resident

Erling Dellabalma, Elk watershed resident

Cheryle Davis, Elk watershed resident

Sheryl Swanson, Elk watershed resident

David Bischel, California Forestry Association

Richard Gienger, Humboldt Watershed Council

Paul Mason, Sierra Club California

Vivian Helliwell, Pacific Coast Federation of Fishermen's Association

Joyce King

Tom Cookman, Freshwater watershed resident

Helen Libeu, landowner

Karen Pickett, Bay Area Coalition for Headwaters

Diane Beck, Redwood Chapter, Sierra Club

Peter Tscherneff,

Ophelia Omai

Alan Levine, Coast Action Group

Jay Halcomb, Russian River Residents Against Useless Logging

Dean Lewis, Lewis Logging

Fred Krueger, Religious Campaign for Forest

Rafael Lopez, Pacific Lumber Company employee
Nico Kilmer, Fortuna Chamber of Commerce
Charles Moyer, Britt Lumber Company
Maralyn Renner, Pacific Lumber Company supporter
Artemisia Noble and Sam Johnston
Robert Darby, Pacific Lumber Company employee
Mike Dunker, Rio Dell/Scotia Chamber of Commerce
Nadine Bailey, representative of Senator Sam Aanestad
Jay Parrish, Pacific Lumber Company employee
Marianne De Sobrino, Elk River and Freshwater resident

Richard Grundy stated that the Regional Water Board was clear when this process began, i.e., that it is responsible for water quality and charged with the responsibilities of implementing the Federal Water Pollution Control Act and the Porter-Cologne Act. He noted that these laws have been on the books for 30+ years. He further indicated that when the Regional Water Board is faced with dealing with problems in five watersheds (Freshwater and Elk River watersheds being two of the five watersheds), the Regional Water Board accepted its staff's report and concluded that dealing with the individual THPs did not address a cumulative impact. Therefore, the Regional Water Board decided it was necessary to instead adopt a watershed-wide wastewater discharge requirement (WWWDR) approach.

Mr. Grundy said that the Regional Water Board did not want to wait for the TMDL approach since that could potentially take years to put in place so the Regional Water Board put a mechanism in place that would allow for the approval of individual THPs. Mr. Grundy further stated that the Regional Water Board directed its Executive Officer to approve THPs in the Freshwater and Elk River watersheds up to the point where the Regional Water Board, as an agency, indicated to California Department of Forestry (CDF) its concerns with a cumulative impact. These concerns are reflected in a non-concurrence letter to CDF. The Regional Water Board then proceeded to direct its staff to prepare a WWWWDR, with the anticipation that it would be on the November 2005 agenda (now scheduled for consideration at the June 2005 meeting).

Mr. Grundy indicated that an open and scientific discussion between Pacific Lumber Company and the Regional Water Board should occur in order to assist staff in perfecting and implementing the models that the Scientific Panel recommended.

Mr. Grundy next explained his thoughts that being in a position that could potentially disagree with its staff is disturbing to him. He stated that there seemed to be more time spent in the hearing encouraging the Regional Water Board to ignore its staff's technical reports rather than spending the time to provide the Regional Water Board and its staff with necessary information. If staff had all of the necessary information, it would be able to recommend a strategy that is consistent with the law for the Regional Water Board's consideration.

Ms. Schaffner, counsel to the Regional Water Board, stated that she heard Mr. Grundy's motion to be that the Regional Water Board not direct the Executive Officer to enroll any additional THPs at this time. However, the Executive Officer is to enroll THPs if she believes, in her professional judgment, that the non-concurrence can be resolved and removed. It was also stated that the Regional Water Board does not plan to revisit this issue until the WWWWDRs are before the Regional Water Board in June 2005.

Mr. Grundy stated that the intent for his motion is to put it on the record that he does not feel that the members of the Regional Water Board should be overriding staff's technical discussions that support non-concurrence.

Mr. Corbett responded to Mr. Grundy's motion by stating the motion had provisions for non-concurrences to still be resolved by the Executive Officer. He stated that there would be "the back

and forth with staff" issue, and he believed that it would not end. He indicated that the board meeting today was to solve the issue.

Clifford Marshall seconded Mr. Grundy's motion for the purpose of discussion. Mr. Marshall stated that this was his first meeting and he did not feel that he could listen to the testimony that was presented today and draw conclusions from it. He stated that he expected any proposal to have been submitted to the members of the Regional Water Board in advance of the meeting so there would have been time to perform some kind of an analysis to see if the proposal was doable. He stated that he could not vote to pick an arbitrary percentage figure out of the air and say that is going to fix something, or this proposal versus the other is going to fix the watersheds' problems. There was no analysis made by the Regional Water Board's technical staff on any of the presentations that came before them today. Mr. Marshall questioned how the Regional Water Board determines facts to alter its staff's technical expertise. He stated that he was uncomfortable, and that he is not opposed to logging, but believes that logging can be achieved through sustained yield, therefore making the world a better place. Mr. Marshall further indicated that he could not rely on the testimony before the Regional Water Board today to say what is truth or fact.

Mr. Corbett stated that the intent of his motion was to give time for the models to be properly presented to the Board and reviewed in time for the watershed wide permit, but the Board had to make a decision at the day's board meeting.

Mr. Corbett stated that he did not believe that the Regional Water Board would be able to resolve the issue on a THP-by-THP method. He stated that he has been unsuccessful in getting the models introduced in the presentations. Mr. Corbett stated that we could not use the CDF clear-cut equivalent as that was maintenance and we were seeking restoration. Seventy-five percent would be a start for restoration until we could adopt the watershed wide permit.

Mr. Marshall stated that he seconded Mr. Grundy's motion for the purpose of discussion and, therefore, withdrew his second since the discussion was complete. Mr. Grundy stated that he made the motion for the purpose of discussion because he felt that the Regional Water Board needed to discuss the issue. Mr. Marshall next seconded the motion for adoption.

Dr. Sommarstrom stated that she was frustrated that there still was no apparent agreement on sediment sources, and that the Board had not heard from Humboldt County Department of Public Works on possible improvements to flooded county road sections. There will continue to be flooding, even if there is no logging allowed. +She was not convinced that the peak flow model was so precise or conclusive as to support a maximum 50% level of harvest, as there is a range depending upon assumptions. We need to focus our energies on the big picture, which is through the WWWDs.

Roll Call on Mr. Grundy's motion:

Massey, William	No
Marshall, Clifford	Yes
Grundy, Richard	Yes
Wasson, Beverly	Yes
Corbett, John	No
Cochran, Gerald	No
Harris, Heidi	No
Sommarstrom, Sari	No
Leonardi, Dennis	No

After further deliberation, John Corbett made the following motion.

After deliberation, the Regional Water Board moved to allow the Executive officer to enroll 7-percent of the Timber Harvest Plans.

MOTION: John Corbett moved that the Executive Officer can enroll 75-percent of the Timber Harvest Plans.

The Executive Officer is directed to enroll however many THPs up to 75 percent of CDF's clearcut equivalent acreage limitations for 2005, provided the following conditions are in form acceptable to the Executive Officer.

- 1) PALCO will provide drinking water supplies for certain South Fork and Mainstem Elk residents for a period of one year. North Coast Regional Water Quality Control Board (NCRWQCB) is to identify eligible residents from among those residents for whom PALCO has not already installed a water supply system
- 2) PALCO will fund a feasibility study to identify improvements to flood prone stream segments. PALCO will provide \$50,000 for this study.
- 3) PALCO will fund a feasibility study to identify potential improvements to infrastructure to reduce flooding impacts. PALCO will provide \$50,000 for this study.
- 4) PALCO will provide additional sediment offset over and above that required by their HCP in both the Freshwater and Elk Watersheds at the rates of 8:1 for the Freshwater watershed and over 50: 1 for the Elk River watershed.
- 5) The conditions must be amended into the THP. All the clearcut equivalent acreage enrolled under this motion will count against whatever limits come out of the watershed-wide WDR's when they are considered for adoption.

These conditions must be in a form acceptable to the Executive Officer, and the Executive Officer is instructed to review them once before the THP is amended and once after the THP is amended. If the amendments are not acceptable, the enrollment will be denied. There should be no time-consuming "back and forth" repeated past dialogue on these items.

There is to be no net gain in granting the permits to PALCO. The requirement to add the conditions to the THP should improve enforceability.

All of the clearcut equivalent acreage enrolled under this Motion will count against calculating whatever limits come out of the watershed-wide WDRs when they are considered for adopted.

MOTION: Seconded by Jerry Cochran.

Vote was taken by roll call:

Massey:	Yes
Marshall:	no
Grundy:	no
Wasson:	no

Corbett: Yes
Cochran: Yes
Harris: Yes
Sommarstrom: (absent, had to leave to catch a plane)
Leonardi: Yes

There being no further business to come before the Regional Water Board, the meeting adjourned at 4:37 p.m., until the next scheduled Board Meeting on April 19 and 20, 2005.

The Secretary, Jean Lockett recorded the minutes of the March 15 and 16, 2005, Regional Water Board meeting of the North Coast Water Quality Control Board.

Chairperson _____

Date: _____