

State of California  
Regional Water Quality Control Board  
North Coast Region

MINUTES OF MEETING  
September 22, 2000  
Arcata City Council Chambers  
736 F Street  
Arcata, California

The September 22, 2000, meeting of the California Regional Water Quality Control Board, North Coast Region was called to order at 9:00 a.m. by Chairman William Hoy. Bev Wasson led the Pledge of Allegiance.

#### **i. Introductions**

Chairman Hoy introduced the Board members present, Executive Officer Lee Michlin, State Board liaison John Brown, legal counsels Phil Wyels and Yuri Won, State Board Acting Executive Director Ed Anton.

#### **Board Members Present**

Jason Liles, James Mitchell, Bev Wasson, Leslie Dahlhoff, William R. Massey, and Daniel Crowley.

#### **Staff Present**

Craig Johnson, Robert Tancreto, Frank Reichmuth, Kathleen Daly, Jean Lockett, Lynda Doherty, Luis Rivera, Andrew Baker, Emily Dean, Tom Dunbar, Nathan Quarles, and Drew Bayless.

#### **ii. Minutes of Past Meetings**

Chairman Hoy, Jason Liles, and Dan Crowley recused themselves from the approval of the Gravel Mining Workshop Minutes, as they were not present. William Massey moved approval of the August 24, 2000, Gravel Mining Workshop Minutes. James Mitchell seconded and the motion carried 4-0.

William Massey moved approval of the August 25, 2000, Board meeting Minutes. James Mitchell seconded and the motion carried by unanimous vote.

#### **iii. Board Member Ex Parte Communication Disclosure**

There were no ex parte disclosures.

#### **iv. Procedural Changes Related to Regional Water Board Meetings**

Executive Officer Lee Michlin read the Notes section on page 4 of the agenda pertaining to the procedural changes that the Board has enacted relating to meetings.

#### **v. Public Forum**

Mr. Steve Ross stated that he believes some of the board members have a vendetta against Pacific Lumber Company ("PALCO"). He asked the Board to keep an open mind.

Mr. Clint Bush stated that he was an eleven-year employee of PALCO. He stated that he believes staff is only concerned about environmental issues. He also suggested that PALCO is considering a class action lawsuit. He submitted his letter to the Board for the record.

Mr. Dennis Schlotzhauer made reference to the Headwaters Agreement and that PALCO has been treated with a double standard.

Mr. Bert Silva stated that he is a lifelong resident of Humboldt County and he believes the Headwaters Agreement would allow employees to be left alone so they can work and raise their families. He encouraged the Board to consider carefully their decisions pertaining to the PALCO issue.

Mr. Robert Overholt and asked the Board to find a common ground and stop punishing PALCO.

Ms. Tera Prucha expressed her concerns about the beneficial use of water. She stated that Freshwater has an over abundance of sediment, a 290% increase in sediment over the last four years. She commended staff for their work in Humboldt County and enforcing the Porter-Cologne Act and the Clean Water Act. She asked the board to continue addressing the concern of private citizens.

Mr. Jan Kragelien stated that he is a 28-year resident of Freshwater. He commended staff for their work and asked the Board to continue the good work. He provided a videotape by CBS 60-Minutes on "King Coal" and suggested the board view the video.

Mr. Felice Pace discussed Shasta River and Lake Shastina. He also discussed the cleanup of Beaughton Creek. He stated that he believes that the sediment should be tested.

Mr. Ken Miller stated that he was at the CDF meeting in Freshwater the day before. He discussed the THP moratorium in Freshwater and stated that he believes no one is singling out PALCO. He discussed five watersheds and how they are cumulatively impacted.

Ms. Sylvia DeRooy commended staff for their honesty and integrity. She asked the Board to support the best available science.

Mr. Kenny Sanders discussed water issues stating he wants everyone to work together to resolve problems.

Mr. Bob Martell wants the Habitat Conservation Plan (HCP) to work and wants to restore peace and harmony in the communities.

Ms. Sharon Greene requested that the Board fulfill its mandate.

Chairman Hoy thanked everyone for their presentations. Mr. Liles stated that he wants to find a balance between jobs and environment. He also asked the public to stop criticizing staff. He discussed the newspaper article in that day's local newspaper and apologized for the poor journalism. He stated that the Board will not make a decision on the PALCO matter until the hearing date. Mr. Crowley concurred with Mr. Liles' comments.

### **1.a. DISCUSSION OF WASTE DISCHARGE REQUIREMENTS (Mendocino Forest Products)**

Mr. Luis Rivera, Senior Water Resource Control Engineer, presented this matter to the Board. He recommended the Board approve the permit. In response to Ms. Dahlhoff's question, Ms. Roxanna Barry stated that Gates 1 and 2 have been replaced once and that the others have shown no evidence of breakthrough.

Ms. Wasson moved to approve the permit. Mr. Mitchell seconded and the motion unanimously carried.

### **2.a. CORRECTIVE ACTION (Public Hearing to Consider Whether to Affirm, Reject, or Modify Complaint R1-2000-11 for Civil Liability Issued to Roy Hauser dba Tall Timber Forest Management)**

Nathan Quarles, Senior Water Resource Control Engineer, addressed the Board. He presented slides and discussed the case. He stated that CDF has revoked Mr. Hauser's license to operate in California and they will not reissue his license for two years.

Mr. Crowley inquired regarding forest practice rules. Mr. Liles discussed collection procedures. Mr. Quarles stated that Mr. Hauser could appeal the Board's decision. Chairman Hoy reiterated his request for witnesses. In response to Chairman Hoy's question, Mr. Quarles stated that staff was not present during the actual harvest.

Mr. Crowley asked Mr. Wyels if licensed timber operators post bonds. Mr. Wyels stated that he will research that avenue as a resource for recovering fines.

In response to Ms. Dahlhoff's question, Mr. Quarles stated that there are three landowners who are responsible for the cleanup work on the property. He stated that staff only prosecuted Mr. Hauser because of the cooperation received from the property owners.

The Board decided not to discuss this matter in closed session. Mr. Liles moved that the Board accept staff's recommendation and impose the \$10,000 civil liability amount. Mr. Massey seconded. Mr. Mitchell recommended the fine amount be increased to the maximum amount of \$14,500. Mr. Liles accepted Mr. Mitchell's amendment to his motion. The motion carried unanimously.

At 10:25 a.m., Chairman Hoy recessed the meeting. At 10:40 a.m., the meeting reconvened.

Mr. Mitchell, on behalf of the Board, commended the property owners for their efforts and cooperation in the cleanup of the property.

**2.b. PUBLIC HEARING to Consider Renewal of Waste Discharge Requirements, City of Crescent City, Wastewater Treatment Facility, NPDES Permit No. CA0022756, WDID No. 1A84006ODN and Adoption of Cease and Desist Order**

Emily Dean, Water Resource Control Engineer, addressed the Board. Ms Dean presented slides and discussed the wastewater treatment facility in Crescent City. She stated that there are approximately 12,400 people served by the facility. She explained that the facility was constructed in the 1950's and is in need of significant repair or upgrade. She also discussed the effluent violations and the unallowed bypasses.

In response to Ms. Dahlhoff's question, Tom Dunbar, Senior Water Resource Control Engineer, stated that when the bypass happens, waste flows into the harbor rather than the ocean. The facility meets the treatment daily requirements.

David Wells, City Manager of Crescent City stated that Crescent City's lumber and fishing is declining. He also discussed the funding problems of the city.

Mike Young, Public Works Director for the City of Crescent, stated that he wants to develop a short term and long term schedule. The main issues are the facility study design, financing, and construction. He stated that a decision should be made by April next year.

Bev Wasson stated that Assembly Member Strom-Martin addressed the issue of funding and stated that there is funding for grants for smaller cities for sanitation plants.

In response to Ms. Dahlhoff's question, Mr. Young stated that the problems are infiltration and inflow.

Mr. Dunbar summarized the errata sheet and the addition of two items. He stated that this item will be back before the Board in May or June next year.

Mr. Michlin commended the City for its willingness to work with staff.

James Mitchell stated that he wants the time schedule to remain the same as on the proposed Cease and Desist Order. Further discussion ensued and the Board agreed with a March 1, 2001, deadline for completion of the CEQA process and an April 1, 2001, deadline for the City to submit a time schedule for obtaining financing, selecting design consultant, completing design and purchasing property.

In response to Ms. Dahlhoff's question, Mr. Dunbar stated that there were overflows during Spring. He also stated that a harbor discharge is not an effluent violation.

William Massey moved adoption, with the two additions to the Waste Discharge Requirements and the two changes to the Cease and Desist Order. Jason Liles seconded and the motion unanimously carried.

### **3. OTHER BUSINESS**

#### **a. Executive Officer Administrative Liabilities**

Mr. Michlin discussed the Administrative Civil Liability Complaint against the City of Santa Rosa in the amount of \$21,000. He also discussed the Kernit and Susan Rankin (Hillside Vineyards) Administrative Civil Liability Complaint in the amount of \$50,000. The Complaint against the Rankins proposes forgiveness of \$25,000 contingent upon submittal of a complete erosion control plan by September 22, 2000, and implementation of adequate erosion control work before October 15, 2000.

#### **b. Joint California/Oregon Total Maximum Daily Load (TMDL) Effort on the Klamath River as Requested by the Klamath Forest Alliance**

Dave Evans addressed the Board and discussed both the California and Oregon regions that are affected by this TMDL. He stated that in the year 2004, the California TMDL should be completed. Mr. Evans introduced Mr. Felice Pace who represents Klamath Forest Alliance.

Mr. Pace addressed the Board and stated that his group has prepared a booklet entitled *A Conservation Vision for the Klamath Basin*. He also discussed the clean water lawsuit against the Bureau of Reclamation. He also discussed the latest fish kill. He referred to a book entitled *Water in the West* and read several quotes from the book. Oregon may have an additional 6 – 10 years to develop a Total Maximum Daily Load (TMDL). He believes the upstream should be completed prior to the downstream. He discussed possible grants and suggested that the Board ask the Federal EPA to come in because of the interstate pollution. He further suggested a cooperative TMDL because two separate processes will not benefit the river.

Mr. Pace distributed to the Board a brochure entitled *Action Alert* that discusses the Fish Kill and the quote by Tim Palmer. He asked if the Board would direct staff to write a letter to EPA.

Mr. Chris Heppe, with the EPA, addressed the Board and stated that a region-wide approach is needed for the Klamath basin. He strongly supports both states working together.

Alice Kilham, with the Klamath River Compact stated that she has been encouraged by local agencies and entities to coordinate efforts. She believes water quality and water quantity issues are a crisis situation. She stated that getting both California and Oregon to work together will take a lot of work by the State but that we also need EPA's assistance. She urged the Board to do what it can to bring the two states together.

Chairman Hoy discussed water issues in the lower Klamath River. He discussed the shortage of water in the bird refuges that house six to ten million birds. He discussed the cholera issue with Ms. Kilham and in response to Chairman Hoy's question, Ms.

Kilham stated that the ranch area could hold 40,000 acre feet of water but she is concerned about how it will affect water quality.

Mr. Dave Evans stated that a coordinated approach is necessary. He suggested that staff investigate a little more with the Federal EPA. He noted that he and Tom Dunbar were planning on going to Klamath Falls the following Monday.

Daniel Crowley stated that he thought the State Board should be sent a letter because that is the appropriate entity that has the authority to handle interstate matters. Jason Liles asked for an update of this matter at the October meeting.

Mr. Evans noted that the State Board approved the Garcia River TMDL at its meeting on September 21, 2000.

At 12:30 p.m., Chairman Hoy adjourned the meeting for lunch.

At 1:50 p.m., Chairman Hoy reconvened the meeting.

### **3.e. State and Regional Water Board Communications**

Mr. Brown addressed the Board and stated that the Garcia River TMDL had areas of biological significance and that staff may want to pay close attention to this area.

Mr. Crowley brought up the PALCO hearing that is scheduled for November in Arcata and stated that he has concerns about a November hearing date and requested the hearing be continued to January of next year. He stated that he wants the agencies that signed the Habitat Conservation Plan (HCP) and the Sustained Yield Plan (SYP) to come before the Board to discuss their intentions in the HCP/SYP and related documents with respect to water quality. He stated he wants to make sure that any action the Board takes is legally defensible.

Jason Liles expressed his concerns about a November hearing date and stated it will take more than one day.

Bev Wasson stated that the people want a resolution and putting off a decision on this matter, which originally arose in 1997, to 2001 is a long time.

James Mitchell thinks that water quality issues should be addressed. He stated that regardless of what the agreements relating to the HCP/SYP provide, the Regional Board is supposed to be the judge of water quality issues.

William Massey stated that whatever decision is made will be appealed and he wants the decision to be procedurally correct. He concurred with the delay of the public hearing.

Leslie Dahlhoff stated that the Board was the entity that enforces the Porter-Cologne Water Quality Control Act, not the various agencies involved with the HCP/SYP.

Chairman Hoy asked for guidance from staff. Mr. Johnson stated that he spoke to the State Board attorney, Steven Blum, who suggested that the Board speak with the prosecutorial staff on whether they would agree to reschedule the hearing date to a later date.

In response to Chairman Hoy's question, Frank Reichmuth addressed the Board and recommended that the Board listen to all parties, conduct the hearing in November, then the Board could choose to continue the hearing, or it could choose not to make a decision.

Ms. Won informed the Board that matter has already been postponed once from September to November. Mr. Wyels added that the Humbolt Watershed Council requested the extension.

Jason Liles discussed how long it took to discuss and resolve the *Hauser* matter. He stated a lot of time was going to be needed for the PALCO matter.

William Massey commented that if the matter is heard starting in November and continues until after January when new Board members are appointed, then the Board would have to essentially start over with the proceedings.

Ms. Won stated that the new Board members would merely have to familiarize themselves with the record, to which Mr. Wyels concurred.

Leslie Dahlhoff commented that if the Board does not already know what the HCP/SYP and related agreements provide with respect to water quality, it is self-evident that the Board is not bound by those documents.

Mr. Reichmuth stated that in his discussions with signatory agencies to the agreement regarding the HCP/SYP, all parties are interested in participating in the PALCO hearing, but that he did not know if representatives of each agency could come to the November hearing.

Chairman Hoy requested that an invitation be extended to state and federal agencies to come and appear before the board and give an explanation of the HCP as it applies to water quality. He said that the November 16<sup>th</sup> date would be used to start the testimonies, especially from the agencies, and that the 29<sup>th</sup> of November be used to conclude testimony. He further stated that a decision would be reached in January.

Mr. Michlin advised the Board that because of an appearance of a conflict of interest, he will be recusing himself from any discussions regarding the PALCO matter.

Jason Liles stated that rather than extending an invitation to the state and federal agencies, it should be more in the form of a request for their attendance.

Mr. Wyels suggested that rather than make solid commitment on the date to act, the Board should leave open the date the decision is going to be made. Chairman Hoy agreed.

### **3.d. Violation and Enforcement Report**

Craig Johnson addressed the Board and stated that the report is submitted as written.

### **3.c. Update by the Redwood Creek Landowners Association on their Activities Within the Redwood Creek Watershed**

Bernie Bush, with Simpson Timber Company, discussed the road assessment and the two crews work to be completed by 2002. He estimated that the total project costs will be \$290,000.

Steve Self addressed the Board and stated that a lot of research has been done to develop the report. He also stated that past information is of little help.

Mr. Steve Horner, with Barnum Timber Company, stated that they have begun testing a hypothesis on salmonid recovery at the salmon and steelhead trapping site. He stated that over one-half million fish migrated out of Redwood Creek. He stated that the stream system is healthy and functioning well.

In response to Mr. Michlin's question, Mr. Horner stated that he would request that Regional Board become more involved in monitoring the salmonids.

Jason Liles suggested that after Mr. Horner discusses the matter with staff, staff could make a recommendation to the board.

In response to Leslie Dahlhoff's question, Mr. Horner explained the methodology used in the monitoring procedures.

Mr. Felice Pace discussed if landowners are concerned about year to year variation and suggested Mr. Horner have peer review.

Ms. Ann Antoville, a landowner from Redwood Creek stated that the Department of Fish and Game's data is different. She stated that the impact on the salmon population needs to be reviewed.

At 3:00 p.m., Bev Wasson and Jason Liles departed. After a short break, the meeting reconvened at 3:10 p.m.



**3.f. Disturbance Index as an Indicator for Watershed Health as Requested by Natural Resources Organization (South Fork Mahole River)**

Mr. Michael Evans distributed handouts to the Board members. He discussed mass wasting and how heavy rainfall affects less stable areas. He discussed the detriment of clear cutting trees and the relationship between landscape and rivers. He asked the Board members to review the figures and commended the Board for applying the law.

Mr. Jan Kraepelien testified in support of Michael Evans and the residents. He expressed concern and wants an explanation of how the different watersheds relate in their treatment by Pacific Lumber/Maxxam.

Mr. Frank Reichmuth addressed the Board and stated that staff will examine the South Fork Mahole River watershed as time allows.

**4.a. Executive Officer's Report**

Mr. Lee Michlin addressed the Board and submitted his report as written.

William Massey commended staff regarding the entire packet and, in particular, the material pertaining to PALCO.

Leslie Dahlhoff commended the Executive Officer's report.

There being no closed items to discuss, Chairman Hoy adjourned the meeting at 3:30 p.m.

Associate Governmental Program Analyst Lynda Doherty recorded the minutes of the September 22, 2000, meeting of the North Coast Water Quality Control Board, approved by the Board at its next meeting.

Approved by \_\_\_\_\_, William Hoy, Chairman