

# CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

## 573rd BOARD MEETING MINUTES

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**THURSDAY, 18 FEBRUARY 2021, 9:00 a.m.**

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### **BOARD MEETING LOCATION:**

Zoom Teleconference and Webcast

### **BOARD MEMBERS PRESENT:**

Longley, Dr. Karl	Kadara, Denise	Brar, Raji	Avdis, Nick
Ramirez, Carmen	Bradford, Mark	Yang, Sean	

### **BOARD MEMBERS ABSENT:**

None

### **STATE WATER BOARD OFFICE OF CHIEF COUNSEL AND ENFORCEMENT STAFF PARTICIPATING IN THE MEETING:**

Jahr, Jessica	Lancaster, David	Toft-Dupuy, Bayley
Knight, Nickolaus		

### **REGIONAL BOARD STAFF PARTICIPATING IN THE MEETING:**

Pulupa, Patrick	Marshall, James	Flower, Christopher
Laputz, Adam	Asami, Rebecca	Garver, Kelli
Baum, John "JJ"	Harvey, Dale	Coughlin, Gene
Snyder, Clint	Holmes, Kari	Chow, Bob
Rogers, Clay	Court Reporter	Brown, Janelle
Mahoney, Joshua	Maxwell, Mindy	Croyle, Kenny
MacDonald, Alex	Goode, Danielle	Palmer, Joshua
Armstrong, Scott	Holcomb, Ronald	Sewalia, Sid
White, Nicholas		

### **ADDITIONAL ATTENDEES PRESENT WHO WERE IDENTIFIED:**

Zimmer-Faust, Amy	Shonkoff, Seth	Weisberg, Steve
Beckerman, Bernard	Moss, Mark	Charlotte
Scofield, Rob	Packard, Andrew	Stringfellow, William
Huff, David	Grove, Heather	Barren, Sally
Ansolabehere, David	Alina, C.	
Bedore, Paul	Anderson, David	

### **AGENDA ITEMS**

#### **AGENDA ITEM 1 – CALL TO ORDER:**

Chair Longley called the 573<sup>rd</sup> Board meeting to order and made introductions. Executive Officer (EO) Pulupa introduced staff. Member Raji Brar led the Pledge of Allegiance.

## **2 – BOARD MEMBER COMMUNICATIONS**

### **Chair Longley submitted the following communications:**

- 12 February 2021 - Presented Salinity Management Lecture on behalf of the Jordan College of Agricultural Science & Technology (CSU Fresno)/Center of Irrigation Technology World Ag Expo Activity Video Meeting.
- 11 February 2021 - Presented Salinity Management Lecture on behalf of the Lyles College of Engineering (CSU Fresno)/California Water Institute Technology Lecture Series.
- 1 February 2021 - Participated in Monthly Regional Boards Chairs Meeting.
- 14 January 2021 - Participated in CV-SALTS Executive Committee Meeting.
- 11 January 2021 - Participated in Salty 5 (CV-SALTS Executive) Meeting.
- 29 December 2020 - Participated in Community Water Foundation Meeting: New Report and Calculator Tool + Developing Equitable and Effective Early Action Plans.

### **Member Kadara submitted the following communications:**

- 29 December 2020 - Participated in meeting with Tri-County Water Authority to discuss project proposed in Prop 68 grant application that will create storage/retention ponds to capture runoff stormwater. This project area is in southwest Tulare County where subsidence has been occurring. The Allensworth community is within this proposed project and will be partnering with Tri-County Water Authority.
- 14 January 2021 - Participated in CV-SALTS Executive Committee Meeting.
- 29 January 2021 - Participated in Community Water Center briefing on new report and calculator tool: developing equitable and effective early action plans.

### **Member Avdis submitted the following communications:**

- 5 March 2021 – Participated in Northern California Water Association Annual Meeting where Central Valley Water Board’s Strategic Planning effort was discussed.

## **3 – STATE WATER BOARD LIAISON UPDATE**

- Agenda item 3 moved to Friday, 19 February 2021.

## **4 – PUBLIC FORUM**

- None

## 5 – EXECUTIVE OFFICER’S REPORT

EO Pulupa indicated strategic planning would be discussed in further detail on day two of the Board Meeting. However, input is still being solicited on strategic planning efforts. EO Pulupa noted the commendation of members of the Food Safety Expert Panel for their work in analyzing the use of oil field produced water to irrigate food crops in certain areas of Kern County. The Panel consisted of experts from the private sector, universities, and a number of other agencies. Their participation speaks to the Panel’s commitment to water quality, human health, and the environment. Chair Longley and Vice Chair Ramirez appreciated the time and effort from staff and the expert Panel for this important work. AEO Clay Rodgers indicated the panel consisted of:

- Dr. Steven Beam – Chief, Milk and Dairy Food Safety Branch, California Department of Food and Agriculture
- Dr. Andrew Gordus – Toxicologist, California Department of Fish and Wildlife
- Mark Jones – Toxicologist, Army Corps of Engineers
- Patrick Kennelly - California Department of Food and Health
- Dr. Kenneth Kloc – Toxicologist, Office of Environmental Health Hazard and Assessment
- Dr. Gabrielle Ludwig – Director, Sustainability and Environmental Affairs, California Almond Board
- Dr. Bruce Macler – Regional Toxicologist, United States Environmental Protection Agency
- Dr. Dave Mazzera – Chief, Food and Drug and Cannabis Safety, California Department of Food and Health
- Dr. Barbara Petersen – Principle Scientist, Exponent Inc.
- Dr. Seth Shonkoff – Executive Director, PSE Healthy Energy
- Dr. William Stringfellow – Lawrence Berkeley National Labs

Member Kadara, Member Brar, and Member Bradford thanked and commended the Fresno staff and the Food Safety Expert Panel for their efforts on this important project.

### **MOTION TO COMMEND THE PARTICIPATING INDIVIDUALS FOR THEIR OUTSTANDING WORK ON THE ISSUE OF USE OF PRODUCED WATER FOR GROWING AGRICULTURAL CROPS:**

Motioned: Member Kadara  
Seconded: Vice-Chair Ramirez

#### Roll Call Vote:

Member Bradford Yes

Member Yang Yes  
Member Avdis Yes  
Member Kadara Yes  
Member Brar Yes  
Vice-Chair Ramirez Yes  
Chair Longley Yes

Approved by Roll Call Vote of 7-0-0

### **Comments Received from Board Members**

Chair Longley commented he is truly amazed with the progress made by staff and the Board in carrying out the Board's mission despite traveling restrictions and social distancing protocols.

### **Employee Recognition Awards**

EO Pulupa presented recent Employee Recognition Awards:

#### Superior Accomplishment (Team) Award:

- CV-SALTS Team
  - Walt Plachta (Engineering Geologist, Fresno)
  - Cindy Au-Yeung (Environmental Scientist, Rancho Cordova)
  - True Khang (Environmental Scientist, Rancho Cordova)
  - Jennie Fuller (Sr. Environmental Scientist, Specialist Rancho Cordova)
  - Eric Warren (Water Resources Control Engineer, Fresno)

#### Superior Accomplishment (Individual) Awards:

- Janelle Brown (Associate Governmental Program Analyst, Rancho Cordova)
- Carlos Cervantez (Engineering Geologist, Fresno)
- Mike Nilsen (Water Resources Control Engineer, Redding).

Chair Longley, Member Kadara, Member Brar, and Member Yang commented staff has been extremely proficient in their efforts in providing exemplary service to the Board. Member Bradford commended the Committee on the strategic planning survey.

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

Motion to adopt previous Board meeting minutes from October 2020 and December 2020.

### **MOTION TO ADOPT October 2020 Minutes:**

Motioned: Member Bradford  
Seconded: Member Kadara

Roll Call Vote:

Member Bradford Yes  
Member Yang Abstain  
Member Avdis Abstain  
Member Kadara Yes  
Member Brar Yes  
Vice-Chair Ramirez Yes  
Chair Longley Yes

Approved by Roll Call Vote of 5-0-2

**MOTION TO ADOPT December 2020 Minutes:**

Motioned: Member Kadara  
Seconded: Vice Chair Ramirez

Roll Call Vote:

Member Bradford Yes  
Member Yang Abstain  
Member Avdis Abstain  
Member Kadara Yes  
Member Brar Yes  
Vice-Chair Ramirez Yes  
Chair Longley Yes

Approved by Roll Call Vote of 5-0-2

**7 – ADOPTION OF UNCONTESTED CALENDAR AGENDA ITEMS 10 THROUGH 13**

**UNCONTESTED CALENDAR**

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

**NPDES PERMITS (AGENDA ITEM 10.)**

- a. Aerojet Rocketdyne Inc., Groundwater Extraction and Treatment (GET) Systems ARGET, GET EF, GET HA, GET AB, GET J, GET AB, GET KA, White Rock GET, Sailor Bar GET, Golden State Water Wells and Low Threat Discharges, Sacramento County – Consideration of Revisions to (NPDES Permit CA0083861)
- b. City of Manteca, Wastewater Quality Control Facility, San Joaquin County – Consideration of Renewal (NPDES Permit CA0081558)
- c. City of Rio Vista, Northwest Wastewater Treatment Facility, Solano County – Consideration of Renewal (NPDES Permit CA0083771)

- d. City of Turlock, Regional Water Quality Control Facility, Stanislaus County – Consideration of Renewal (NPDES Permit CA0078948)
- e. Lincoln Center Environmental Remediation Trust, Groundwater Treatment System, San Joaquin County – Consideration of Renewal (NPDES Permit CA0084255)
- f. Regents, University of California, University of California, Davis Wastewater Treatment Plant, Solano and Yolo Counties – Consideration of Renewal (NPDES Permit CA0077895)

**WASTE DISCHARGE REQUIREMENTS (AGENDA ITEM 11.)**

- a. California Department of Transportation, State Route 120/McKinley Avenue Interchange Project, San Joaquin County – Consideration of New Order
- b. County of Tulare, Visalia Disposal Site, Tulare County – Consideration of Revision to Order R5-2013-0059
- c. El Dorado County Environmental Management Department, Union Mine Septage/Leachate Treatment Facility, El Dorado County – Consideration of Revision to Order R5-2006-0019-001
- d. Glen Springs Holding Company, Occidental Petroleum Company, Groundwater Remediation Project, Lathrop Facility, San Joaquin County – Consideration of Revision to Order R5-2012-0106
- e. Lassen Regional Solid Waste Management Authority, Westwood Class III Municipal Solid Waste Landfill, Lassen County – Consideration of Revision to Order R5-2004-0042

**RESCISSIONS (AGENDA ITEM 12.)**

- a. Aerojet-General Corporation, Sacramento County – Resolution 62-21
- b. Aerojet-General Corporation, WNN Bioremediation Project, Inactive Rancho Cordova Test Site, Sacramento County – Waste Discharge Requirements Order R5-2003-0026
- c. Big Valley Power Sawmill and Cogeneration Facility, Lassen County – Waste Discharge Requirements/Monitoring & Reporting Program Order R5-2007-0060
- d. Golden State YMCA; YMCA Camp Tulequoia at Sequoia Lake Wastewater Treatment Facility; Fresno County – Waste Discharge Requirements Order 87-046
- e. Kimura Farms, Inc., Butte County – Waste Discharge Requirements Order 09-226

- f. Mariposa County Public Works Department; Mariposa Pines Wastewater Treatment Facility; Mariposa County – Waste Discharge Requirements Order 97-134
- g. United Auburn Indian Community, Thunder Valley Casino Wastewater Treatment Plant, Placer County – Waste Discharge Requirements Order R5-2015-0077 (NPDES Permit CA0084697)
- h. United States Department of the Interior, National Park Service, Yosemite National Park; Glacier Point Wastewater Treatment Facility; Mariposa County – Waste Discharge Requirements Order 96-215
- i. West Valley Sand and Gravel, Cottonwood, Shasta County – Waste Discharge Requirements Order R5-2007-0121

**CHANGE OF NAME AND/OR OWNERSHIP (AGENDA ITEM 13.)**

- a. Imerys Talc Vermont, Inc., Red Hill Mine, Calaveras County – Waste Discharge Requirements Order R5-2014-0085
- b. Jake Weststeyn, Weststeyn Dairy Farms, Glenn County – Waste Discharge Requirements Order R5-2009-0082

**Late Revisions**

Assistant Executive Officer (AEO) Laputz informed the Board there were late revisions:

- Item 10 b. City of Manteca, Wastewater Quality Control Facility, San Joaquin County – Consideration of Renewal (NPDES Permit CA0081558). Typographical errors and clarifications.
- Item 10 d. City of Turlock, Regional Water Quality Control Facility, Stanislaus County – Consideration of Renewal (NPDES Permit CA0078948). Typographical errors and clarifications.

AEO Laputz indicated staff spoke with both discharger representatives for City of Manteca and City of Turlock and both concurred with the revisions.

**MOTION TO ADOPT AGENDA ITEM 7 (UNCONTESTED CALENDAR ITEMS 10 THROUGH 13 WITH LATE REVISIONS)**

Motioned: Vice-Chair Ramirez  
 Seconded: Member Bradford

Roll Call Vote:

Member Bradford Yes  
 Member Brar Yes  
 Member Kadara Yes

Member Yang Yes  
Member Avdis Yes  
Vice-Chair Ramirez Yes  
Chair Longley Yes

Approved by Roll Call Vote of 7-0-0

## **ENFORCEMENT**

### **8 – CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION MULE CREEK STATE PRISON FACILITY, AMADOR COUNTY – SUMMARY OF MICROBIAL SOURCE TRACKING STUDY CONDUCTED BY SOUTHERN CALIFORNIA COASTAL RESEARCH PROJECT AND BOARD CONSIDERATION OF A SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF AN ADMINISTRATIVE CIVIL LIABILITY ORDER**

EO Pulupa described recent compliance history at Mule Creek State Prison since the discharges that were documented in January 2018. Enforcement staff engaged in extensive settlement negotiations and discussed the path forward with representatives from the California Department of Corrections and Rehabilitation (CDCR). EO Pulupa expressed support for the \$2.5M settlement, stating that it represented a significant step forward in bringing the facility into compliance. CDCR, while not present at the hearing, submitted a letter in support of the settlement.

AEO John “JJ” Baum introduced staff, who made a presentation of the recent compliance history of the facility, as well as the issues surrounding the administrative civil liability. Kari Holmes (Program Manager for the Compliance and Enforcement Program, and Supervising Engineer in the Board’s Rancho Cordova Office) and Kenny Croyle (Water Resources Control Engineer in the Board’s Compliance and Enforcement Program) gave a presentation on Mule Creek State Prison’s water quality compliance history since 2018. Kari Holmes described the CDCR-identified infrastructure deficiencies discovered through subsequent monitoring directives and indicated that Compliance and Enforcement staff are continuing to address identified additional issues with CDCR’s Mule Creek facility. Ms. Holmes further clarified the proposed settlement covers January 2018 (when the illegal discharges were discovered) through April 2019 when the facility was enrolled in the Municipal Separate Storm Sewer System (MS4) Program. The proposed settlement covered 19 spills occurring over 79 days for a total of 1,119,746 gallons spilled. The stipulated civil liability in this case is \$2.5M, with \$1.6M being paid to the State Water Board’s Cleanup and Abatement Account and \$894,189 being invested at the facility for enhanced compliance actions. The settlement agreement does not resolve additional ongoing issues with CDCR.

Dr. Amy Zimmer-Faust and Dr. Stephen B. Weisberg with the Southern California Coastal Water Research Project Authority (SCCWRP) then gave a presentation on a bacterial source identification study conducted in the Mule Creek watershed. SCCWRP was engaged as a neutral party to assess bacterial sources and to help determine the source of bacterial objective exceedances in Mule Creek. The SCCWRP study indicated



that birds, (likely) deer, and cow are primary sources of fecal contamination in the watershed. The SCCWRP study found that the prison was only a very minor contributor of human fecal contamination, assuaging concerns that the prison's wastewater system was the primary source of E.coli detections.

### **Comments Received from Interested Persons**

- Sally Barren accused the Board of failing to protect the public and its citizens. Ms. Barren further stated that she felt that there was collusion between the Board and CDCR. Ms. Barren contended that the work done by SCCWRP was “experimental” and that CDCR has been running the Central Valley Water Board for the last 27 years.
- David Anderson commented that it was his belief that CDCR has done nothing in the three years since the Water Board staff identified the discharges. In Mr. Anderson's opinion, CDCR has propagated a false narrative that high groundwater is transporting contaminants from non-specific sources. Mr. Anderson further stated that regulation under the MS4 Permit has not been sufficient to resolve issues at the Mule Creek facility and accused CDCR of failing to comply with other Board-issued orders and directives. Mr. Anderson then brought the Board's attention to domestic well sampling requirements that CDCR failed to comply with, including a separate investigation involving the detection of dry-cleaning chemicals in several wells near Mule Creek.
- Andrew Packard indicated he was an attorney representing the California Sport Fishing Protection Alliance (CSPA) in a Federal court action. CSPA submitted comments contending that there were many shortcomings in the proposed settlement, including violations of the State Water Board's Enforcement Policy. CSPA's position is that indirect cross contamination in the subsurface conveyances at the facility is what is causing the problem and accused the Board of not treating CDCR as it would a similarly situated private entity. Mr. Packard then commented that subsequent modifications to the proposed settlement could be characterized as the Board “cooking the books.”

Ms. Holmes and EO Pulupa responded to the comments from the Interested Persons, responding to the domestic well sampling concerns, and contending that the proposed Settlement was consistent with the State Water Board's Enforcement Policy.

### **Comments Received from Board Members**

- Member Bradford requested clarification on the issue of cross-contamination based on the fecal genetic marker analysis. He further stated he read through the report that indicated there is some trenching that incorporates both industrial and sanitary sewer pipes with storm water pipes. EO Pulupa indicated the study definitively showed there is no direct cross contamination between the piping as initially alleged in January 2018. There are trace amounts of human fecal coliform indicators in a couple of the many samples collected at the facility, however that is

not indicative of a direct cross-contamination issue. While there may be indirect cross-contamination, it does not appear to be the driver of the contaminants in the non-stormwater flows. The Board is continuing to require CDCR to investigate and eliminate those non-stormwater flows under the MS4 program.

- Member Kadara referenced a public comment regarding discharges into the public or private wells and questioned staff as to the validity of that statement. EO Pulupa indicated there are no impacts to domestic wells due to these discharges. Member Kadara requested additional explanation of the 11 million-gallon discharge mentioned by one of the commenters. EO Pulupa explained the 11 million gallons was a comingled number recently reported to the Office of Emergency Services, which represents enhanced reporting the Board directed CDCR to make, and that is was not 11 million gallons of sewage. Board staff is continuing to monitor the situation and this discharge could possibly be brought before the Board at a later time.
- Member Avdis asked if it was common practice to segment potential enforcement actions. EO Pulupa indicated this approach was relatively common and described that the Board's enforcement action timeline was influenced by the fact that CDCR became permitted under a new permit. EO Pulupa indicated that exceedances in the upstream water does not resolve CDCR of its responsibility to eliminate non-stormwater discharges from its system to the maximum extent practicable. This is something staff will continue to monitor.
- Vice Chair Ramirez commented the SCCWRP presentation was easy to follow and understand.
- Chair Longley appreciated the work performed by SCCWRP and the subsequent presentation and felt it helped to make the Board's decision much clearer than it would have been otherwise.

EO Pulupa reiterated his support for the proposed settlement. EO Pulupa clarified there are additional potential enforcement actions against CDCR that do not fall within the scope of this settlement action. EO Pulupa expressed his gratitude to the commenters and their focus on these issues at Mule Creek State Prison.

- Vice Chair Ramirez commented CDCR is invisible no longer and that while this action does not solve everything, she does think it is a reasonable step today and expects the issues not covered in the period within the settlement agreement will continue to be investigated.
- Member Bradford commented this is the largest penalty he has seen imposed during his tenure on the Board and felt it was not fair to state the Board is treating a state entity any different than a private entity. He further stated he hoped a penalty of this size would get the attention of the prison as it relates to other on-going enforcement actions and indicated his support of the enforcement action.

- Member Kadara indicated she was appreciative of staff’s work in bringing this to the Board and encouraged the residents to continue to keep the pressure on the prison and bring issues before the Board.
- Member Avdis indicated his concurrence with the Board’s comments.

**MOTION TO ADOPT AGENDA ITEM 8 – CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION MULE CREEK STATE PRISON FACILITY SETTLEMENT AGREEMENT AS PRESENTED**

Motioned: Vice-Chair Ramirez  
 Seconded: Member Brar

Roll Call Vote:

Member Bradford	Yes
Member Brar	Yes
Member Kadara	Yes
Member Yang	Yes
Member Avdis	Yes
Vice-Chair Ramirez	Yes
Chair Longley	Yes

Approved by Roll Call Vote of 7-0-0

**OTHER BUSINESS**

**9 – Presentation of the Food Safety Project White Paper and Expert Panel Recommendations – Informational Item Only**

Rebecca Asami (Engineering Geologist, Fresno, and Joshua Mahoney, Water Resources Control Engineer, Fresno) provided a presentation on the Food Safety Project and White Paper.

The purpose of the presentation is to provide the Board an overview of the Food Safety Project and the White Paper on the reuse of field produced water for field irrigation of food crops in Kern County. Ms. Asami discussed the water being reused and the land where related discharges are taking place. Foods coming out of oil production wells generally include crude oil and water. The water is often referred to as “produced water.” Produced water is a biproduct that usually comprises the majority of the fluids that come up during production. Typical produced water is too high in boron and salt for agricultural use. The discharge and re-use of produced water is regulated by the Central Valley Water Board via waste discharge requirements (WDRs). The produced water comes from oil fields North of the Kern River. The water used for these projects is not typical produced water. It is much lower in salinity and boron, which is key to the produced water being used for irrigation purposes. Currently, there are approximately 94,000 acres of cropland being irrigated. Major foods include citrus, almonds, grapes, pistachios. Minor foods include apples, tomatoes, cherries, and root crops. The Food Safety Project initiated in 2015 in response to growing concerns of irrigating food crops

with water from oil production wells. Since many of the topics germane to this study, such as public health, fall out of the scope of Water Board expertise, hence the reason the expert Food Safety Panel (Panel) was convened. Three separate comprehensive studies (referred to as tasks 1 through 3) were performed to evaluate this practice. Task 1 was an overview of chemicals that may be found in produced water. Task 2 was a literature review, and Task 3 was a crop study initiated after independent crop studies were conducted on behalf of the Cawelo Water District. Waterboard staff helped to facilitate working meeting and communications between interested parties and stakeholders. Updates during regular Board Meetings were performed by Board Staff. The food safety panel consisted of:

- Andrew Gordus, Ph.D., Staff Toxicologist, CA Dept. of Fish and Wildlife
- Barbara Petersen, Ph.D., Principal Scientist, Exponent, Inc.
- Bruce Macler, Ph.D., Regional Toxicologist, US EPA, Region 9
- David Mazzera, Ph.D., Chief of Division of Food, Drug, and Cannabis Safety, CA Dept. of Public Health
- Patrick Kennelly, Branch Chief of Food Safety, CA Dept. of Public Health
- Gabriele Ludwig, Ph.D., Director, Sustainability and Environmental Affairs, Almond Board of California
- Kenneth Kloc, Ph.D., Staff Toxicologist, CA Office of Environmental Health Hazard and Assessment
- Mark Jones, M.S., Staff Toxicologist, US Army Corp of Engineers
- Seth Shonkoff, Ph.D., MPH, Executive Director, PSE Healthy Energy
- Stephen Beam, Ph.D., Branch Chief, CA Dept. of Food and Agriculture
- William Stringfellow, Science Advisor, Ph.D., Research Engineer, Berkeley National Laboratory

As part of the project, the Board entered into a Memorandum of Understanding (MOU) with dischargers of produced water. Under the MOU, tasks were managed by Board Staff and funded by the dischargers. The dischargers were not allowed to give the panel feedback or direction on any of the technical issues related to the work. GSI Incorporated (GSI) was the third-party consultant chosen to complete tasks 1 through 3. In order to update the public and provide transparency during the project, public meetings were held once per quarter, recorded, and placed online. Members of the public could view the meetings and submit questions via email. These meetings included crop sampling updates, presentations, updates of the task work and White Paper, presentations by external researchers, and public comments. Working meetings were also conducted and organized as needed to receive panel input on specific food safety items. The White Paper was prepared by staff and the Science Advisor and reviewed by the Panel and GSI. The most current version of the White Paper has been provided to the public and is currently out for public comment. Ms. Asami reviewed the tasks in specific detail and the chemicals identified in two categories. There were 399

identified chemicals associated with produced water. The first category is naturally occurring chemicals. GSI researched known naturally occurring chemicals in produced water based on published and peer reviewed literature. The second category is oil filled additives. Central Valley Water Board staff issued orders under California Water Code 13267 that require the disclosure of the chemical make-up of oil field additives. The chemicals of interest list identified 143 chemicals for further study. Task 2 was a comprehensive review of the chemicals of interest, which included peer review of technical documents and government databases. The goal of Task 2 was to investigate potential hazards from ingestion, persistence in agricultural eco systems, and the potential for plant uptake of the 143 chemicals of interest. Literature review included other potential sources, review of local surface water and produced water, environmental fate and transport information, potential degradation and reaction products, and a review of known plant uptake properties with attention paid to the anticipated uptake of organic and inorganic chemicals of interest. The available data and literature review for Task 2 did not indicate concerns related to the presence of chemicals of interest at elevated levels in the blended irrigation water. While some of the chemicals of interest have the potential for plant uptake, the available evidence does not indicate that this has or will occur at higher rates than when using conventional irrigation water. The goal of Task 3 was to conduct an in-depth analysis of crops irrigated with this produced water. This effort was initiated after similar crop sampling studies were conducted by Envirotex on behalf of Cawelo Water District. Crop samples for Task 3 were collected from 2017 through 2019. There were two main sample groups. The treated samples (crops irrigated with produced water) and control sample (crops not irrigated with produced water) and irrigated instead with conventional sources such as pumped groundwater and canal source surface water. Analytical results compiled for Task 3 showed the majority of the analytes were non-detect in all crops sampled. Of the detectable results, GSI determined their presence could not be directly attributed to irrigation water source. This was similar to the findings of independent crop studies conducted on behalf of Cawelo Water District by Envirotex. The results of Task 3 also found the overall chemical profiles are similar for treated and controlled crop groups. Also, levels of constituents detected in crop studies are within ranges expected for food supplies in the United States. Finally, based on the results of this and other tasks, GSI determined there was no evidence of elevated risks to human health as a result of consuming crops grown with this water. In addition, the findings from the tasks are similar to the findings published by researchers from Duke University and RTI in collaboration with others. This study was published in 2020 and reached similar conclusions to those presented in the White Paper.

Josh Mahoney indicated while the work under the Food Safety Project consists of a comprehensive review using the best available science, GSI and the panel identified the following data gaps related to the Food Safety Project. The gaps include mass data of chemicals was unavailable, limited plant uptake data, potential long-term impacts to soil and plants, chemicals with no toxicity data or analytical methods, and transformation/degradation products of chemicals. Despite the identified data gaps, the findings are consistent between the literature review in Task 2 and the crop sampling analysis in Task 3. Recommendations developed by the Panel based on the findings of the Food Safety Project, independent studies presented during the food safety

meetings, and the Panel's collective education and experience, a total of 12 recommendations were developed and approved by the Panel. The recommendations are broken into 3 categories related to different parts of the Food Safety Project.

The first of the three categories are related to the current produced water reuse program:

- 1) Discontinue crop sampling. Evidence was not found from crop sampling to indicate a food safety or public health concern related to the reuse of produced water for irrigation in this region. However, crop analysis for crude oil constituents and associated additives is complicated by many factors that introduce uncertainty. Given these uncertainties and limitations, crop sampling is less productive and informative than soil water sampling, controlled uptake studies, and other data collection efforts.
- 2) Continue produced water quality monitoring. The Panel found the monitoring and reporting programs adopted by the Central Valley Water Board should continue to require sampling using approved analytical methods. In addition to the current program, the Panel suggests the Board use an adaptive management approach in which it continuously and systematically incorporates new information for risk-based decision making to maintain a current analytical program for monitoring of produced water.
- 3) Continue disclosure of additives. The Panel found the disclosure of additives used during petroleum exploration and production enabled the review completed under the Food Safety Project. The continued disclosure of additives will support risk management as it relates to oil and gas changing practices.
- 4) Consider new information developed by the Food Safety Project when evaluating WDRs for produced water reuse projects.

Concerning management of potential hazards from additives, the Panel recommends:

- 5) Continuing evaluation of new additives used in oil operations that provide produced water for irrigation. Additives not previously evaluated prior to this report should be subject to a similar level of review conducted by experts in the evaluation of chemical impacts to food safety and human health.
- 6) Consider requiring the disclosure of mass data for additives. The disclosure of oil field additives enabled the panel to evaluate the hazard characteristics of these substances and develop the chemicals of interest list. However, the chemicals of interest list contain many chemicals that may be used in small or large amounts or frequently or infrequently during oil operations. In addition to toxicity and other factors, the hazards associated with the chemical is related to the mass of the chemical used. As such, the Panel suggests that the disclosure of the mass amount and frequency of chemicals used would allow a more contact specific evaluation of potential hazards. Because disclosure of mass data for chemicals is a trade secret

and therefore could not be released to Board staff or GSI, staff required the chemical manufacturers to provide a list of the chemicals that make up each oil field additive that has the potential to be present in produced water reused for irrigation in this region. GSI used a conservative approach under Task 1 and 2 that assumed each of the chemicals were present. This conservative approach required a hazard evaluation of each chemical, even if a chemical was not likely to be in produced water due to the limited volume used during petroleum operations. This approach provided a comprehensive review of the complete list of the 399 chemicals identified in Task 1.

- 7) Develop a list of additives designated as low hazard. The Task 1 and 2 report could be used as the basis for the development of the list of additives designated as low human and environmental hazard in the context of produced water reused for irrigation. The Panel suggests that compounds that exhibit low chronic toxicity and/or found to be easily biodegradable could be considered candidates for this list. Oil producers would subsequently be encouraged to use additives from the low hazard list, which would reduce the uncertainty regarding the quality of produced water used for irrigation.
- 8) Work to close data gaps concerning oil field additives. The Panel notes that the Task 1 and 2 reports identified 91 chemicals that cannot be measured in produced water and 74 chemicals that have insufficient toxicity information from which to carry out an initial hazard assessment. The Panel has further noted that environmental fate and transformation product information is lacking for many chemical additives. The Panel suggests the Central Valley Water Board should work with other agencies to close data gaps. This could include identifying or developing new analytical methods and a continued effort to identify or develop new toxicity and environmental fate information on data-poor chemicals.

Concerning studies or actions needed to close data gaps. The Panel suggests the Central Valley Water Board coordinate efforts with other state or federal agencies, or private entities as appropriate, as the required experience may lay outside of the Board's purview.

- 9) Conduct environmental studies on produced water reused for irrigation. The Panel identified data gaps in the available information on the persistence of oil production chemicals and their transformation products in irrigation water and the fate of these chemicals in agriculture. The Panel suggests the Board promote the development of a coherent scientific program to examine outstanding issues concerning the reuse of produced water for irrigation of food crops.
- 10) Conduct soil study. A poor understanding of the effects of long term produced water reuse on soil condition was identified as a data gap by the Panel. The Panel suggests the Board sponsor a study to investigate the potential accumulation of produced water constituents in the soil or changes in soil characteristics.

- 11) Evaluate the variability of produced water reused for irrigation. The Panel identified a data gap concerning the temporal and special variability, and the quality of produced water being reused for irrigation. The Panel notes water quality variability is important to understand when conducting water management oversight activities and suggests an evaluation of the variability of produced water reused for irrigation.
- 12) Examine the utility of emerging water quality monitoring needs. The Panel notes the current monitoring plans include the majority of constituents known to be associated with oil production. The lack of validated analytical methods for some additives and potential transformation products has been identified as a data gap. The Panel suggests the Board evaluate bio-analytical screening tools and other non-target analyses as an approach to measure the hazard of transformation products and other compounds. As a note to this recommendation and the corresponding data gap, Board staff is in communication with the United States Environmental Protection Agency (US EPA) regarding a potential study that would look at the toxicity of produced water in this region. Specifically, this will pertain to cell biology and acute toxicity. In response to this recommendation, Board staff is interested in closing this data gap and will continue to work with the US EPA. To date, Board staff has put the US EPA in touch with potential dischargers that would likely participate in a study. Any additional questions can be answered by AEO Clay Rodgers after this presentation.

Based on the findings presented throughout the Food Safety Project, the Science Advisor and Board staff generated conclusions of the Food Safety Project. These conclusions have been reviewed by the Panel and GSI.

- No evidence was found that the reuse of produced water for irrigation in this region poses a threat to human health or crop safety.
- Many of the chemicals of interest are naturally occurring or used in agriculture, as well as oil and gas production.
- Sample analysis indicate that chemicals of interest are within the normal range for food consumed in the United States.
- The majority of chemicals analyzed in produced water reused for irrigation purposes in this region are below drinking water standards where established. Drinking water standards are a conservative value for irrigation water and were only used for comparative purposes.

On 29 January 2021, Board staff made the Food Safety Project White Paper available to the public by posting the document on the Food Safety Webpage. The White Paper is a draft and has been reviewed by the Panel and GSI. Public comments have been extended and will be accepted through 5 March 2021. Comments can be sent to [WaterBoardFoodSafety@waterboards.ca.gov](mailto:WaterBoardFoodSafety@waterboards.ca.gov).



AEO Clay Rodgers indicated he was recently informed the irrigators will cooperate with the US EPA. It will be important in addressing recommendations from the Panel. The issues Board staff does not have complete analytical methods for all constituents or issues with what the potential daughter products and interaction of different chemicals is will help to address this data gap in that the US EPA will be able to look at this information and they can potentially identify specific chemicals if there is a toxicological cell biology reaction. This is being done as part of the EPA regional offices, and the Office of Research and Development. It is a regional applied research effort and to evaluate beneficial uses of recycled water. It is one of the efforts the US EPA. Mr. Rodgers indicated this is very positive news and will help to address the data gaps.

### **Comments Received from Board Members**

Vice Chair Ramirez indicated that although she was previously skeptical about the Project, she now feels confident and indicated her concerns had been addressed. She further indicated the expertise and background of the Panel made a big difference in her acceptance of the findings. She thanked staff for their efforts.

Chair Longley indicated he shared the same concerns and felt it is important for this work to continue, including the study indicated by AEO Clay Rodgers. Chair Longley underscored we still need more data, there will be other areas wishing to use produced water, and the decisions can only be based on science.

Member Kadara questioned if trade secret information was obtained, would it have made any difference in the outcome of the study or the analysis? AEO Clay Rodgers indicated had staff obtained the complete list of chemicals for each compound and the mass that was present in each one, there would have been a trade secret claim that staff would not have been able to overcome. If the Board had the trade secret claim, Board staff could get the information, but legally could not have devolved the information to the public, panel members, or the scientific advisor. Therefore, the decision was made that staff use available information, and negotiate with the suppliers to obtain the complete list of constituents without the mass. AEO Rodgers further explained if staff had the mass, there is such a little mass being used that it would have been diluted beyond any potential to be problematic under this scenario. Therefore, staff took the approach of assuming it would be present in larger concentrations to try and minimize the potential impact. While not perfect, it was more important to have the constituents than the mass and continue to be transparent with the work being performed and have the experts review it.

EO Pulupa indicated considerable dialogue occurred internally between staff and consensus was it was analogous to having the ingredients in Coke, rather than knowing how to make the recipe. If you have an allergy, you need a list of ingredients not the whole recipe. Member Kadara thanked EO Pulupa for the analogy.

## Comments Received from the Expert Panel

Seth Shonkoff thanked the Central Valley Water Board and staff for their efforts for this important Project. Mr. Shonkoff specially thanked AEO Clay Rogers for providing tremendous organizational prowess. He felt very pleased the EPA Office of Research and Development Study is moving forward because emerging analytical methods that look at the water as a whole from a toxicological perspective as opposed to individual chemicals is critical for filling some very significant data gaps that that the Panel came across. With that Mr. Shonkoff thanked the Panel and congratulated them for their important work.

David Ansolabehere, (General Manager, Cawelo Water District) indicated the Water District has been using recycled produced water for irrigation of food crops since 1995 under a Regional Board permit and the District has a long history of compliance. Cawelo Water District voluntarily began crop testing and hired a toxicologist to interpret the data in order to verify that the practice was safe. In 2016, the Water District began collaborations with other permit holders and the Regional Board's Food Safety Panel under a voluntary MOU. He further stated the additional studies performed to provide needed data to develop the recommendations to the Regional Board, have been funded by the permit holders. Mr. Ansolabehere confirmed there is no evidence of elevated risk to human health from consuming crops irrigated with this recycled produced water as compared to traditional water sources. He indicated the permit holders are voluntarily working with Regional Board staff and the US EPA in performing additional studies to try to fill these data gaps. Mr. Ansolabehere thanked the Board for working with them to answer these questions and assist in verifying this is a safe practice. Chair Longley thanked him for his comments.

AEO Clay Rodgers indicated he received an email from Mr. Justin Bass asking his question to be read to the Board because he was unable to participate in the meeting. Mr. Rodgers indicated he would read the email and then let the Board Members respond. Mr. Bass asked the Board how we can drill for oil and irrigate food crops with the same water and not expect to have a health emergency down the line? Mr. Rodgers responded by saying that is precisely the reason the Board convened this panel. To have experts look at this issue in depth so as to follow the science. Based upon what the Board knows about the science and the history of this practice, it does not appear there is a health safety issue. Mr. Rodgers further indicated he will make the same commitment that he made to this Board back when this issue began. If an issue arose and there was a health issue associated with the use of this water, staff would bring that issue to the Board and move to immediately to cease this activity. The Board takes human health and the environment very seriously and would not jeopardize either of those. The second question posed by Mr. Bass related to concern over the lack of knowledge of the base of chemicals derived from oil field activities and questioned whether it is still a potential threat to crop safety and human health. Mr. Rodgers indicated staff addressed that question when the trade secret issue was discussed and felt staff took a very conservative approach when the list of constituents and the mass both were unavailable for expert review. Dr. Stringfellow commented that as a person who lives in California, he is really impressed by the science driven policy that's done

here. The fact that the Board organized a scientific study seen in other instances with other issues with California, he believes this is the proper approach to handling complex problems like this. Putting together panels, getting the experts, gathering the data, and making appropriate decisions in a public forum making appropriate decisions how to proceed is the correct course of business. We cannot reduce risk to zero for everything but placing the scientific knowledge into the hands of the Board that make the decisions is the best possible route. This information was based on science and not conjecture, and we certainly do the best we can with that information.

**Additional Questions/Comments from Board Members**

Member Avdis commented he felt this was an extremely detailed and thought-provoking white paper. The breadth and scope were something he was really impressed with. Member Avdis further commented as a new Member walking into this Board and to have sort of the type of scientific working group gives him comfort that based on the science, the conclusions are defensible and utilizing this produced water is in fact not creating any issues beyond those discussed in the paper.

Chair Longley thanked Member Avdis and stated those were very valued remarks.

Member Kadara thanked the Panel for doing a tremendous job and noted behind the scenes was the staff, specifically the Fresno staff and AEO Clay Rodgers. It was definitely a worthwhile project for the Board to pursue and Member Kadara stated the Board received some great results and thanked the staff for the hard work in getting this finalized.

AEO Clay Rodgers indicated he received an email from Environmental Working Group that written comments on the White Paper would be forthcoming.

The meeting recessed until Friday 19 February 2021 at 9:00 a.m.

**FRIDAY, 19 FEBRUARY 2021, 9:00 a.m.**

**BOARD MEETING LOCATION: ZOOM TELECONFERENCE AND WEBCAST**

**BOARD MEMBERS PRESENT:**

Longley, Dr. Karl	Kadara, Denise	Brar, Raji	Avdis, Nick
Ramirez, Carmen	Bradford, Mark	Yang, Sean	

**BOARD MEMBERS ABSENT:**

None

**STATE WATER BOARD MEMBERS PRESENT:**

Doduc, Tam



- Ms. Doduc welcomed the two new Board Members (Member Avdis and Member Yang), thanked them for their service to one of the most complicated Boards given the breadth of issues, geography, and communities in the Region.
- Ms. Doduc indicated the new Board Members will be provided with a great deal of tremendous support from the staff. She further indicated the State Water Board was taking efforts to improve the service and collaboration between State Water Board and the Regional Boards. Meredith Thompson is a new staff member at State Water Boards working with Chair Esquivel and will be engaging with Regional Board staff on ways to provide good service to Board Members across the state. The goal is to introduce Board Members to efforts of the State Water Board and ways to improve communication and integration amongst Board Members. The State Water Board wants to be as supportive as possible.
- The last State Water Board Meeting included discussions on a possible drought. They received a hydrology report from the various water agencies and official agencies. As a result, the State Water Board is starting to coordinate and have discussions in the event this is a dry year. Staff is discussing water curtailment and other issues and beginning discussions with stakeholders on how State Water Board Staff might better communicate going forward if this indeed turns out to be a dry year.
- Other on-going discussions continue on the issue of climate change and how to address this issue going forward.
- In December a draft Safe Drinking Water Plan was released. Public workshops (via zoom) will be held beginning in March to present the findings and recommendations in the plan, as well as to gather input and public comment. It is a very comprehensive plan that addresses the issue of drinking water in California and includes evaluations of data, identification of research needs, identification of technology, the feasibility of technology in treating water, among other components. The State Water Board is seeking engagement from the public as well as other interested stakeholders in making sure the plan is implementable in the next five years.
- Ms. Doduc thanked the Regional Board and staff, especially EO Pulupa for working with Restore the Delta on the issue of harmful algal bloom. She indicated she is heartened by the fact the staff is so engaged and reaching out to impacted communities and developing partnerships. EO Pulupa thanked Ms. Doduc for her own personal commitment to that issue and indicated his gratitude for being a liaison to the Regional Board.
- Chair Longley echoed EO Pulupa's thanks to Tam Doduc for her work and support of the Regional Board and understanding the Board's issues and advocating for it.

## **16 – PUBLIC FORUM**

- Laura Rosenberger wishes to address Agenda Item 9 - Presentation of the Food Safety Project White Paper and Expert Panel Recommendations

Laura Rosenberger questioned if there is any fracking being done in Bakersfield. EO Pulupa indicated this question relates to oilfield produced water used to irrigate food crops and indicated there is no fracking involved with any of those practices covered by the scope of the Food Safety Expert Panel in Bakersfield. Ms. Rosenberger questioned if the same type of study could be performed on the West side of Kern County and Mr. Rodgers explained the water on that side of Kern County is too high in boron and salinity and cannot be used for irrigation purposes.

AEO Clay Rodgers indicated he would follow-up with Ms. Rosenberg directly regarding this and any other questions she may have.

## **17 – EXECUTIVE OFFICER’S REPORT**

EO Pulupa updated the Board on recent strategic planning efforts. Despite efforts being delayed by COVID-19, significant progress has been made. EO Pulupa explained there were approximately 450 responses to the stakeholder survey, and he looked forward to sharing the data with the Board during the upcoming April 2021 Board Meeting. EO Pulupa also shared the strategic planning timeline with the Board and indicated Chair Longley and Member Bradford were instrumental in developing the mission and vision statement. EO Pulupa further explained the Strategic Planning Committee’s next steps are to work with a facilitator for stakeholder outreach purposes. As staff works to finalize the facilitator contract, the Board will be kept apprised via a separate outreach forum. The Committee intends to engage with leaders within the stakeholder community, provide an update to the Board in April 2021, develop program priorities in June 2021, and finalize the plan in August 2021. Chair Longley commented the Board was looking forward to both the April and June 2021 meetings. Member Kadara commented the strategic plan was well laid out and felt the plan is beneficial for the role of the Board moving forward. Vice Chair Ramirez asked if there was adequate regional coverage in the survey responses and EO Pulupa indicated there had been very targeted outreach for these efforts. Responses included community members, environmental advocates, environmental justice groups, and other state/federal agencies. EO Pulupa felt there was ample representation on survey responses and indicated if the Board wished to have further targeted outreach, that could be addressed during the April 2021 Board Meeting. Member Kadara questioned if the environmental justice groups were representing disadvantaged and otherwise impacted communities. EO Pulupa explained that approximately 50% of respondents indicated they were representing disadvantaged communities. EO Pulupa also indicated there is a Spanish version of the survey to further reach as many individuals as possible.

## **WASTE DISCHARGE REQUIREMENTS**

### **18 – Coastal Partners, LLC, Vehicle Inspection Center, Placer County – Consideration of Waste Discharge Requirements**

Chair Longley asked if there were any legal issues to address prior to the hearing.

Jessica Jahr, Senior Attorney for the Board, questioned Member Avdis regarding his prior professional relationship with the discharger's legal counsel. Member Avdis was law partners with the discharger's legal counsel previously, but the two had parted ways in 2013 and neither has maintained a relationship since that time. Member Avdis confirmed that the past affiliation would have no bearing on his participation in the hearing or his ability to remain fair and impartial.

Lynn Coster (Senior Environmental Scientist – Storm Water and Water Quality Certifications Unit, Redding) provided a staff presentation on Proposed Waste Discharge Requirements for the Vehicle Inspection Center Project in Placer County. The proposed order will impose requirements on the fill of wetlands and other aquatic resources that will occur as part of the Project. Regulation of wetlands impact falls to the Dredge and Fill Program (also known as the Water Quality Certifications Program). The Program's purpose is to implement the state's No Net Loss Policy for wetlands and ensure that projects will not violate applicable Basin Plan provisions. In this case, the matter was being heard by the Board due to public interest and due to the fact that the Corps determined that the affected waterways were not subject to federal jurisdiction, which means the permit must be considered by the full Board in a public meeting.

The Project site is on a 111.5-acre parcel in an unincorporated area of Western Placer County zoned for industrial use. Development of the site will require the fill of 7.725 acres of wetlands and other aquatic resources. Key items evaluated by Board staff in response to the permit request included an aquatic resource delineation of the Project site, the type and quantity of aquatic resources impacted, a biological evaluation to determine any impacts to special status species, actions taken to avoid and minimize impacts, a compensatory mitigation plan to offset any unavoidable adverse impacts, and the California Environmental Quality Act (CEQA) document prepared by the lead agency. Comments on the project were submitted by the Alliance for Environmental Leadership, California Native Plant Society, Defend Granite Bay, Placer County Tomorrow, and concerned Placer County residents. In response to the comments, several revisions to the tentative order were made. Revisions were circulated to interested persons and posted on the Board's website. The order to require that wetlands impacts be mitigated through high quality compensatory mitigation. Board staff recommends adoption of the proposed waste discharge requirements.

### **Testimony from County Representatives**

Cally Kettinger-Cecil (Senior Planner, Placer County) speaking on behalf of the Coastal Partners project, along with Phil Frantz (Senior Civil Engineer, Placer County), and Greg McKenzie (Executive Director, Placer County) testified. Placer County Board of Supervisors approved the Carvana project on 3 November 2020. The Environment Impact Report (EIR) was adopted, finalized, and certified by Placer County Board of Supervisors on 10 December 2019. The Project proponents were required to prepare

and submit several site-specific studies including, but not limited to, a biological resources report, traffic memorandum, and preliminary drainage report. These studies were required to determine if the Project was consistent with the Sunset Area Plan (SAP) Environmental Impact Report (EIR). Placer County representatives then described other measures to ensure CEQA compliance.

Todd Wood (Biologist, ECorp Consulting), speaking on behalf of Coastal Partners, wished to expand on the site-specific biological surveys. There were comments submitted indicating there were no site-specific surveys and Mr. Wood indicated there were full US Fish and Wildlife service protocol surveys for federally listed fairy shrimp and tadpole shrimp and for Western Spadefoot. None were found. US Fish and Wildlife Service, California Department of Fish and Wildlife, and California Native Plant Society protocols were performed in 2019 and 2020. These were early and late season surveys and no special status plant species were found. Lastly, Mr. Wood clarified the wetland delineation studies that have been done and three parameter Corp of Engineers methods were used.

Mr. Garabedian (Placer County Tomorrow) requested to continue the hearing to a later Board Meeting to allow additional input, as well as to allow additional evidence to be submitted into the record today. The Board rejected Mr. Garabedian's request to continue the hearing to a later meeting and denied re-opening the comment deadlines to facilitate the submittal of additional evidence into the record. After the recess, the Board will allow Mr. Garabedian to have additional time for his presentation, for a total of 30 minutes.

## **LUNCH AND CLOSED SESSION**

The Board recessed for lunch at 12:10 to discuss personnel and to receive advice from legal counsel regarding ongoing litigation.

### **Report-Out on Closed Session Items**

The Board discussed the current litigation cases below:

#### **LITIGATION FILED AGAINST THE CENTRAL VALLEY WATER BOARD AND/OR THE STATE WATER BOARD:**

- a. Malaga County Water District Litigation (various proceedings)
- g. Valley Water Management Company v. Central Valley Reg'l Water Quality Control Bd., (Kern County Superior Court Case No. BCV-19-101750).

#### **LITIGATION FILED BY THE CENTRAL VALLEY WATER BOARD AGAINST OTHER PARTIES:**

- I. Original Sixteen-to-One Mine Mandatory Minimum Penalties – Central Valley Water Board et al. v. Original Sixteen-to-One Mine, Inc. et al. (Sierra County. Sup.Ct., Case No. 7019).



## **CLOSED SESSION**

The Board may meet in closed session to consider personnel matters (Gov. Code, section 11126 subd. (a)); to deliberate on a decision to be reached based upon evidence introduced in a hearing (id., section 11126, subd. (c)(3)); or to discuss matters in litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation (id., section 11126, subd. (e)). Current litigation involving the Board is listed below.

### **Litigation filed against the Central Valley Water Board and/or the State Water Board:**

- a. Malaga County Water District Litigation (various proceedings)
  - i. 2013 ACLO to Malaga County Water Dist. for Mandatory Minimum Penalties – Malaga Cnty. Water Dist. v. Central Valley Water Bd. et al. (5DCA Case No. F075868; Madera Superior Court Case No. MCV071280 [originally filed in Fresno Superior as Case No. 14-CECG-03576]).
  - ii. 2014 NPDES Permit and CDO to Malaga County Water Dist. – Malaga Cnty. Water Dist. v. State Water Res. Control Bd., et al. (5DCA Case No. F075851; Madera Superior Court Case No. MCV071279 [originally filed in Fresno Superior Court as Case No. 14-CECG-03919]).
  - iii. 2016 ACLO to Malaga County Water Dist. – Malaga Cnty. Water Dist. v. Central Valley Reg'l Water Quality Bd., et al. (5DCA Case No. F078327; Fresno Superior Court Case No. 16-CECG-03036).
- b. Existing Milk Cow Dairy WDRs General Orders R5-2007-0037, R5-2013-0122 – Asociación de Gente Unida por el Agua et al. v. Central Valley Water Bd. (3DCA Case No. C066410; Sacramento Superior Court Case No. 34-2008-00003604).
- c. 2014 Walker Mine CAO – Atlantic Richfield Co. v. Central Valley Water Bd. (3DCA Case No. C086745; Sacramento Superior Court Case No. 34-2014-80001875).
- d. Eastern San Joaquin/Irrigated Lands Regulatory Program – State Water Board Order No. WQ 2018-0002, modifying Central Valley Water Board WDRs General Order No. R5-2012-0116 (Growers within Eastern San Joaquin River Watershed that are Members of Third-Party Group) [State Water Board File Nos. A-2239(a)-(c)]:
  - i. Monterey Coastkeeper, et al. v. Central Coast Reg'l Water Quality Control Bd., et al. (Sacramento Superior Court Case No. 34-2017-80002655);
  - ii. Environmental Law Found. v. State Water Res. Control Bd., et al. (Sacramento Superior Court Case No. 34-2018-80002851);
  - iii. Protectores del Agua Subterránea v. State Water Res. Control Bd., et al. (Sacramento Superior Court Case No. 34-2018-80002852); and

- iv. Monterey Coastkeeper, et al. v. Central Valley Reg'l Water Quality Control Bd., et al. (Sacramento Superior Court Case No. 34-2018-80002853).
- e. Center for Biological Diversity v. Central Valley Reg'l Water Quality Control Bd. and Valley Water Mgmt. Co. (Kern Superior Court Case No. BCV-18-102201).
- f. Valley Water Management Company v. Central Valley Reg'l Water Quality Control Bd., (Kern County Superior Court Case No. BCV-19-101750).
- g. 2019 ACLO to Kongkeo Khamvongsa and Alexandra Kensavath – Kongkeo Khamvongsa et al. v. Central Valley Reg'l Water Quality Control Bd. (Shasta Superior Court Case No. 193748).
- h. Winnemem Wintu Tribe, et. al. v. State Water Res. Control Board., et. al. (San Francisco County Superior Court Case No. CPF-20-517115).

**Litigation filed by the Central Valley Water Board against other parties:**

- i. Aerojet Cleanup – Central Valley Water Bd., et al. v. Aerojet-General Corp., et al. (Sacramento Superior Court Case No. 286073, consolidated w/ Case Nos. 288302 and 291981); Central Valley Water Bd., et al. v. Aerojet-General Corp., et al. (EDCA Case No. CIV-S-86-0064-EJG), consolidated w/ U.S. v. Aerojet-General Corp. et al. (EDCA Case No. CIV-S-86-0063-EJG).
- j. Orland Sand and Gravel Facility – People ex rel. Central Valley Water Bd., et al. v. Orland Sand and Gravel Corp., et al. (Glenn Superior Court Case No. 15CV01436).
- k. Iron Mountain Mine Cleanup – Central Valley Water Board et al. v. Iron Mountain Mines, Inc. et al. (EDCal, Case No. CIV-S-91-1167-DFL-PAN) and U.S. v. Iron Mountain Mines, Inc. et al., (EDCal, Case No. S-91-0768 DFL/JFM).
- l. Original Sixteen-to-One Mine Mandatory Minimum Penalties – Central Valley Water Board et al. v. Original Sixteen-to-One Mine, Inc. et al. (Sierra County Sup.Ct., Case No. 7019).

**Petitions for Review of Central Valley Water Board Actions filed with State Water Board:**

- m. Irrigated Lands General WDRs for Indiv. Growers, Order R5-2013-0100 – Petition by Kern River Watershed Coalition Auth. and Paramount Farming Co., LLC (State Water Board File No. A-2269).
- n. Tulare Lake Basin Area Irrigated Lands General WDRs, Order R5-2013-0120 – Petitions by Southern San Joaquin Valley Water Quality Coalition, et al., Michael and Yvonne LaSalle, and Asociación de Gente Unida por el Agua (AGUA), et al. (State Water Board File Nos. A-2278(a)-(c)).
- o. Sacramento River Watershed Irrigated Lands General WDRs Order R5-2014-0030 – Petition by California Sportfishing Alliance et al. (State Water Board File No. A-2302).

- p. San Joaquin Cnty. and Delta Area Irrigated Lands General WDRs Order R5-2014-0029 – Petition by California Sportfishing Alliance, et al. (State Water Board File No. A-2301).
- q. West San Joaquin River Watershed Irrigated Lands General WDRs, Order R5-2014-0002 – Petition by California Sportfishing Alliance et al. (State Water Board File No. A-2292).
- r. CDO R5-2015-0093 to Valley Water Mgmt. Co. – Petitions by Valley Water Mgmt. Co., Clean Water Action, and the Central California Environmental Justice Network (State Water Board File Nos. A-2148(a), A-2148(b), and A-2148(c)).
- s. Original Sixteen to One Mine, Inc., ACLO R5-2017-0115 – Petition filed by Original Sixteen to One Mine, Inc. (State Water Board File No. A-2586).
- t. Reissued WDRs General Order for Existing Dairies, Order R5-2013-0122 – Petition filed by Asociación de Gente Unida por el Agua and Environmental Law Foundation (State Water Board File No. A-2283(b)).
- u. 28 August 2020 Section 13267 Order – Petition filed by Aera Energy LLC (State Water Board File No. -not yet assigned-).

**Acronym Key**

<b>3DCA</b>	3rd District Court of Appeal
<b>5DCA</b>	5th District Court of Appeal
<b>ACLO</b>	Administrative Civil Liability Order
<b>CAO</b>	Cleanup and Abatement Order
<b>CDO</b>	Cease and Desist Order
<b>EDCA</b>	U.S. District Court for the Eastern District of California
<b>MRP</b>	Monitoring and Reporting Program
<b>WDRs</b>	Waste Discharge Requirements

The Board Meeting resumed at 1:20 P.M.

**REPORT OUT ON CLOSED SESSION ITEMS**

Senior Attorney Jahr indicated there were no action items to report on.

**CONTINUATION OF AGENDA ITEM 18 – Coastal Partners, LLC, Vehicle Inspection Center, Placer County – Consideration of Waste Discharge Requirements**

**Testimony from Interested Parties (Continued)**

Mr. Garabedian stated there had been no antidegradation analysis that he was aware of for the permit. Mr. Garabedian felt the following needed to occur:

- An expert witness in the area of botany;
- An expert witness on the subject of the loss of California wetlands vernal pool habitat;

- A carbon analysis for the protection of grasslands;
- An independent scientific review and testimony on the issue of fires in the area;
- An analysis of steelhead and the Coho salmon subspecies in the affected streams; and
- Public training and workshops on WDRs.

Todd Ward (Manager of Development, Carvana) provided an overview of the project and indicated this project is not a junkyard or pick-apart yard. It is a place where Carvana brings purchased wholesale cars for a 150-point inspection to ensure the vehicle meets established criteria. If the vehicle has any major engine rebuild or body work needs, the car is simply rejected. Carvana will not have storage of old material sitting on site. Carvana complies with all EPA and California environmental regulations and is looking forward to bringing 700 new jobs to Placer County (70% of which are skilled workforce). Mr. Ward further indicated Carvana looks forward to being a new member of the community.

Leslie Warren (concerned citizen) thanked the Board for their time and staff for the conscientious way in which they reached out to interested citizens. Ms. Warren stated the vehicle inspection center's name is a misrepresentation of an "Amazon-sized" auto repair facility. Ms. Warren further stated paving over precious carbon sequestering wetlands for a parking lot when there is already so much paved over surface that is underutilized and abandoned in Placer County is suicidal and indicated the Project will be an intensive water user due to the washing of vehicles and washing down the parking lot. Ms. Warren felt as if additional studies should be done to better understand potential groundwater impacts. She concluded by stating she wished the Board would explain how the Governor's orders for agricultural lands conservation, preservation of wetlands, preservation of open space, and protection of species is reflected in this recommended Project.

Jeanne Wilson (President, Red Bud Chapter, California Native Plant Society) indicated the order should be revised so that it is consistent with the last-minute changes reflected in the Amoruso Order. (The late revisions to the Amoruso Order made several positive alterations and Ms. Wilson believes this vehicle inspection center Order should incorporate similar revisions, including the requirement that prior to earth moving on each phase of the proposed Project, the applicant should purchase fee credits and pay other relevant PCCP fees before construction begins. The Amoruso Order also makes clear that the applicant is required to purchase ILF credits for the Western Placer Plan consistent with the requirements of the PCCP. Additionally, the Order requires the applicant purchase ILF credits at a 2:1 ratio, which she believes is more accurate and appropriate.) She further stated she agreed with Mr. Garabedian in that it's not always easy to find the information needed for an interested person to participate in the hearing. She stated the Board staff does a good job disseminating information. However, she was not able to find any publicly available copies of the biological surveys mentioned. They were not part of CEQA that she was aware of. She requested staff to provide the location of where the biological surveys could be obtained,

Chairman Longley requested Board staff to reply to the comments made by the presenters.

Isabella Langon (California Native Plant Society) thanked the Board for the opportunity to comment. However, the previous speaker Jeanne Wilson summed her comments and she had nothing further to add.

Cheryl Berkema (concerned citizen) provided a late submittal of slides and Chair Longley allowed them into the record. Ms. Berkema stated she would like to speak to Lynn Coster's adequacy of CEQA documents. Ms. Berkema expressed concern over the intensity and growth of this Project and the potential growth indicated in Carvana's financial records. Ms. Berkema stated an economic analysis was not performed on growth predictions and indicated concern over the 70,000 vehicles indicated in the EIR. She further indicated concern over the tires going into the shared Placer County landfill. Ms. Berkema further expressed concern over trash, odor, and traffic mitigation. Lastly, Ms. Berkema expressed concern over resulting emissions from the Project and their effect on the Placer County approved residential age-restricted housing that will be next to the Project.

Mr. Michael Garabedian (Placer County Tomorrow) provided a closing statement. Mr. Garabedian felt the Board needs to pay close attention to both the CEQA standards and its own responsibility to assure this is not going to contribute to major downstream water quality problems. Mr. Garabedian felt the storm water issue was not specifically mentioned or given attention to and indicated concern over drainage of storm water in the City of Rocklin. He further stated of utmost importance was the question of the mitigation by in-lieu fees. He stated water quality was at stake and expressed concern over the water directly affected by this development. Mr. Garabedian requested a copy of the agenda package and stated this is the first of many projects that will be coming along, and he looks forward to presenting to this Board on other issues in the future.

Todd Ward (Coastal Partners) provided a closing statement to the Board indicating the map that was shown of existing facilities is existing markets and none of those will be closing. Carvana is currently already in the Sacramento market so the number of cars that would be sold in the greater Central Valley Region would be the same. The difference being the cars meeting criteria and obtained either wholesale, purchased from customers, or obtained via trade-in that would be re-sold currently have to be shipped to the Phoenix, Arizona inspection center and then shipped back to Northern California. Mr. Ward indicated this new facility will not only lower vehicle miles traveled and costs but will also provide a benefit to the overall infrastructure of California. Mr. Ward reiterated they have satisfied CEQA requirements.

Chair Longley stated the Board would now hear closing remarks and recommendations from staff. EO Pulupa requested staff clarify the mitigation issue raised in comparison to Amoruso Ranch. EO Pulupa then asked Counsel Bayley Toft-Dupuy to comment on the issues around antidegradation and indicated the Order had findings with respect to "no net loss" in the antidegradation portion. Lastly, EO Pulupa requested clarification as to

the Board's role as a CEQA responsible agency. Vice Chair Ramirez also requested clarification as to the timing of the purchased offsets.

Stephanie Tadlock (Senior Environmental Scientist) clarified mitigation required of the Coastal Partners and Amoruso projects. Counsel Toft-Dupuy (Office of Chief Council) addressed the antidegradation analysis. As noted during staff's presentation, the Order was clarified starting at finding 24 through 26, which now describe how the Order is consistent with both the Antidegradation and No Net Loss Policies. This is consistent with the 404(b)(1) guidelines under the Clean Water Act. As far as the CEQA component, Ms. Toft-Dupuy believes that was adequately addressed and noted that the Board, as a responsible agency, has limited jurisdiction to mitigate the impacts. AEO Adam Laputz indicated that the Order required purchase agreements to be in place under the In-Lieu Fee Program prior to doing any in-water work.

EO Pulupa indicated he was ready to make a recommendation but prior to doing so, Brian Plant, who was working with Amoruso wished to address the Board.

Brian Plant (Counsel representing Brookfield Sunset LLC) indicated he wished to clarify that the original plan was to have 2:1 mitigation, but after 404 consultation and the biological opinion, it was determined that the purchase of credits from the ILF Program at a ratio of 1.5:1 would be sufficient.

EO Pulupa clarified that the mitigation ratio for the Amoruso Project is 1.5:1, not 2:1 as suggested by the speaker for the California Native Plant Society. EO Pulupa recommended the approval of the WDRs since they contain adequate mitigation to preserve and protect the water quality of the State of California and species that depend on those watersheds. EO Pulupa noted that the decision of where to site these types of facilities and what type of growth is going to happen in the County is ultimately a local land use decision, and the Board is not a land use agency.

Vice Chair Ramirez stated she appreciated the comments and can sympathize with many of the comments received today but clarified that the Board's role is to ensure the laws have been met and that the Board must rely on the certified EIR in making its decision.

Member Bradford commented he also appreciated the comments heard today from residents and advocates, primarily on the CEQA issues of traffic, air quality, and landfill issues. Member Bradford stated those types of matters are certainly significant and he hoped the EIR fully addressed those issues. However, the Board's purview is limited to the WDR and he trusted staff's recommendation on that basis.

Member Kadara commented that her background is in city planning and she has dealt with many projects. Based on comments heard today, she feels the opportunity is there for preserving the integrity of the area and the lead agency has moved the Project to this level. She concurred with EO Pulupa's comments and the Board's main concern is to protect the water quality and that is what staff put forth today. Member Kadara felt

staff did an excellent job and stated public participation in this process is key. Member Kadara indicated she would move forward supporting the Project.

**MOTION TO ADOPT AGENDA ITEM 18 - Coastal Partners, LLC, Vehicle Inspection Center, Placer County Waste Discharge Requirements AS PRESENTED**

Motioned: Vice-Chair Ramirez  
Seconded: Member Bradford/Member Kadara

Roll Call Vote:  
Member Bradford Yes  
Member Brar Yes  
Member Kadara Yes  
Member Yang Yes  
Member Avdis Yes  
Vice-Chair Ramirez Yes  
Chair Longley Yes

Approved by Roll Call Vote of 7-0-0

**19 – BROOKFIELD SUNSET LLC, AMORUSO PROJECT, PLACER COUNTY – CONSIDERATION OF WASTE DISCHARGE REQUIREMENTS**

Chair Longley asked if there were any legal issues to address prior to the hearing.

Jessica Jahr, Senior Attorney for the Board, questioned Member Avdis regarding his prior professional relationship with the discharger's legal counsel. Member Avdis was law partners with the discharger's legal counsel previously, but the two had parted ways in 2013 and neither has maintained a relationship since that time. Member Avdis confirmed that the past affiliation would have no bearing on his participation in the hearing or his ability to remain fair and impartial.

Greg Hendricks (Environmental Scientist) provided an overview of the Amoruso Ranch Project. Mr. Hendrick's overview included a description of aquatic features avoided and preserved, and mitigation requirements. Additionally, he discussed communications that had taken place with local citizens, concerned groups, and staff.

Mr. Hendricks explained the Water Quality Certification Program is responsible for regulating discharges of dredged or fill material to waters in the State, ensuring no net loss of wetlands or other aquatic features through permitting requirements, and addressing avoidance minimization and mitigation measures. Typically, these 401 Certifications are reviewed and signed by the Board's Executive Officer. However, in this case, the ability to permit the Project through the 401 process was waived by the United States Army Corps of Engineers prior to the completion of the CEQA document. Due to this procedural action by the Army Corps, the Project is proposed to be permitted under the Board's Porter-Cologne authority.

The 674-acre Project is located in Placer County along the Northwestern edge of the City of Roseville. The purpose of the Project is to construct a large mixed-use mixed-

density master plan development to include commercial office, residential, and public use in Placer County. Future development includes 51 acres of commercial and office facilities, 328 acres of residential housing, 17 acres of public uses (including a new school and parks) with approximately 157 acres of preserved open space. The total impacts to aquatic features are 13.98 acres consisting of predominantly wetland and vernal pool habitat. The proposed WDRs require that within the 157 acres of open space, a 108-acre preserve be established prior to the initiation of construction activities. This preserve protects approximately 17.28 acres of waters of the State and the permittee will place the avoided and preserved aquatic resources (and any vegetative buffer) into a preserved parcel prior to the initiation of construction activities. The City of Roseville is the lead agency and certified an EIR for this project on 7 July 2016. The EIR included mitigation measures to protect environmental resources and best management practices required through multiple permits issued by multiple agencies. Furthermore, the applicant worked with the Army Corps of Engineers to further avoid and minimize impacts by reducing the overall size of the project. These WDRs ensure no net loss of aquatic features with mitigation through the Placer County Habitat Conservation Plan or an approved mitigation bank. They require the Project to mitigate for the 13.98 acres of impacts at a minimum of a 1.5:1 ratio, which is consistent with the State's No Net Loss Policy. The Project has been approved by the Army Corps of Engineers in the Western Placer In-Lieu Fee Program. Mr. Hendricks explained the component of the PCCP that creates the large contiguous preserve system and reviewed the written comments received during the public comment period. Mr. Hendricks then reviewed the concerns raised and the subsequent changes made to the WDRs. Mr. Hendricks indicated staff has implemented additional public review and comment opportunities at the advisement of the Board during the October 2020 Board Meeting. Outreach activities included the development of a Lyris email contact list of interested persons. Mr. Hendricks reviewed major comments for CEQA and the City of Roseville's response as lead agency. The Placer County Habitat Conservation Plan is capable of providing mitigation through the In-Lieu Fee Program and these WDRs are conditioned that proof of purchase of this mitigation must be provided prior to construction. In response to comments that the mitigation sections were unclear, these sections have been revised for greater clarity.

Mr. Hendricks further explained that, separate from these WDRs, the Project will be enrolled in a number of different permits that protect water quality from stormwater impacts, including the Construction General Stormwater Permit and the Small Municipal Stormwater Permit. A late revision to the WDRs (Attachment C) was revised to correct minor errors and inconsistencies regarding the final CEQA documentation. Mr. Hendricks stated that staff recommended adoption of the WDRs with late revisions and requested his presentation be entered into the agenda package.

### **Testimony from Discharger and Interested Persons**

John Norman (Vice President, Brookfield Sunset LLC) thanked the Board and particularly staff members Stephanie Tadlock and Greg Hendricks. Mr. Norman further indicated that this Project had been contemplated for more than 20 years, 16 of which



have been under his guidance. With the housing crisis in California, Brookfield and the City of Roseville feel this is a very necessary Project and accommodates one of the comments received on the other Project relating to lack of attainable housing. Mr. Norman indicated much work has been completed regarding various studies including biological assessment, air quality, stormwater management, low impact development features, and traffic. The mixed-use areas have undergone site-specific acoustic studies, water availability studies, and sewer studies just to name a few.

Derek Ogden (Senior Planner, City of Roseville) thanked the Board for their time and indicated that Project was adopted by the City Council in 2016 and formal annexation was approved by Placer County in early 2019. He explained these actions were the combination of over 12 years of effort by the developer and the City. After 1.5 years of consultations with the US Army Corps of Engineers, US Fish and Wildlife Service, US Environmental Protection Agency, and the Central Valley Regional Water Quality Control Board, the applicant began processing entitlements with the City. The development of the Project will be in keeping with the goals and policies found in the City's General Plan. This Project furthers the City's housing element requirements and goals and objectives related to growth management. The City's housing element requires state mandated affordable housing requirements. After a 2016 public hearing, the City Council acted as lead agency and adopted a resolution certifying the original Project- specific plan final EIR as being adequate in compliance with CEQA. They made findings relating to the mitigation measures and project alternatives and adopted a Statement of Overriding Considerations. The City has rigorously examined the Project and is confident they have allowed for ample public scrutiny and input.

Mr. Michael Garabedian (Placer County Tomorrow) indicated his intent to ask questions of the other parties following his presentation to the Board. Mr. Garabedian stated at issue are two major concerns involving this development and the major water quality issues not addressed by CEQA. He further raised concern over the antidegradation analysis and the highway running through the Project in Placer County. He felt that the highway is a potential major source of runoff, potentially affecting the survival of protected species and the entire water system – from the invertebrates to other mammals. He stated that the Board and City should be looking at the totality of the Project and not make decisions independent of each other, including the highway. Chair Longley responded the highway was not a project that has not come before the Board and expressed concern about receiving testimony on projects not before the Board. EO Pulupa explained there are ex-parte limitations on pending or impending matters and indicated this issue was raised during the comment period and was considered as part of the larger CEQA analysis. Mr. Garabedian continued by stating the Carvana Project previously addressed a number of issues that also applied to this Project. Mr. Garabedian stressed the importance of using the PCCP land disturbance figures rather than the figures proposed for both projects.

Mr. Garabedian then called Mr. Ogden as a witness. Mr. Garabedian stated his questions related to how the proposed Order dealt with the differences between short- and long-term construction impacts. Mr. Ogden felt this question was more

appropriately directed to the Board, as he had not reviewed the specific waste discharge requirements in detail. Mr. Garabedian asked Mr. Ogden if the issue of water quality was in the purview of the City's discretionary decision making. Mr. Ogden replied the City contemplated the impacts via the environmental review process performed in 2016 and that the EIR had been certified. Mr. Ogden further indicated that these issues fell within the purview of the Board and not the City. However, the City did review this Project in terms of water quality impacts. The water quality impacts would be analyzed by the Placer County Transportation Authority in the future.

Mr. Garabedian continued by stating the importance of water quality impact review within the PCCP. Mr. Garabedian stated the Project was missing antidegradation analysis and felt the Board could not decide without that analysis Mr. Garabedian closed his testimony by thanking the Board for the opportunity to speak. He further stated the workshops offered by staff were essential to this process. He felt the Board should be working closely with those making wildlife decisions about this Project and the ways in which Board decisions had an impact on climate change, transportation, housing, and air quality. He stated it was time to take a new look and decision making and not unintentionally leave water quality issues and decisions up to the City of Roseville.

Leslie Warren addressed the Board and stated this Project violates a number of the Governor's executive orders for farmland conservation, open space conservation, and species conservation. She stated that 10% of all new housing constructed will be designated as affordable. However, 87% of Roseville's population required affordable housing so the housing ratio of affordability to market housing should be flipped (90% affordable and 10% elite) because that would provide housing to the demographic that lives and works in Roseville. Ms. Warren stated the cumulative impacts of the many projects transforming grasslands into sprawl should be addressed by the Board as a whole rather than piece by piece and felt this was an oversight. Lastly, Ms. Warren stated there was a wildlife corridor that's critical to the survival of numerous species under the Project and if the purchase of open space and paying into the PCCP, the wildlife corridors would be lost and questioned if the Board should consider whether an EIR specific to wildlife impacts should be performed. Ms. Warren also expressed concerns over pumping water in the event of drought and indicated Placer County had not completed an analysis of groundwater levels and therefore did not understand how the Board could approve water projects with high water demand. Ms. Warren then thanked the Board for the opportunity to speak.

Jeanne Wilson (President – Red Bud Chapter, California Native Plant Society) indicated her address and that she had taken the Oath. Ms. Wilson inquired about the 2:1 vs the 1:5:1 ratio. She indicated she understood both Projects before the Board were a 1:5:1 ratio and looked again at the revised order for the Amoruso Project and page 2 indicated a 2:1 ratio in the context of the fairy shrimp and wanted to know why there was a discrepancy. Stephanie Tadlock (Senior Environmental Specialist) indicated she had it backwards and that had been brought to her attention by Mr. Brian Plant (Counsel for Amoruso). Ms. Tadlock further indicated the reason the mitigation is 1.5:1 is due to

the fact that is a minimum ratio because Amoruso Ranch is considered a special designated party as part of the PCCP and was being held to the standards that are set forth within the PCCP (which sets a 1.5:1 ratio on water quality impacts). Additionally, page 2 of the late revisions' states PCCP ratios will apply to Amoruso when it is affected. Despite that it had not been implemented yet allowed for the ability to be under the PCCP standards at 1.5:1 ratio when it was implemented at a later date. Ms. Wilson also asked about the Governor's Executive Orders pertaining to farmland in the review of this WDR. EO Pulupa provided some background on the October 2020 Executive Order directing state agencies to preserve biodiversity and increase the carbon sequestration capacity of natural working lands, wetlands, etc. EO Pulupa explained this was deferred to the California Biodiversity Collaborative which is coming up with a plan to address the agriculture and working lands conservation proposal. That proposal is going to be done February of 2022. EO Pulupa indicated these types of projects that enhance or preserve additional wetlands are consistent with some of the initial discussions.

Cheryl Berkema (concerned citizen) expressed concern over the highway running through Placer Parkway in the upper portion of this Project and her concern from a CEQA perspective was that mitigations must be feasible and funded. She indicated Placer Parkway is not funded and questioned why these Projects were allowed to be separated given there is no mitigation feasible or funded. She stated the mitigation is worse than the actual project. EO Pulupa explained those issues had to be addressed the planning agencies as they were not in this Board's purview.

### **Questions from Board Members**

Related to housing, Member Kadara asked about the breakdown between single-family and multiple-family housing. Specifically, she asked if the housing included veterans, senior, and low-income housing. Mr. Ogden replied he did not have the specific breakdown for this Project, he indicated the City has several projects in the downtown area, one of which was specifically constructed for veterans. Additionally, the City's General Plan provides 10% of all new housing be designated as affordable for very low, low, and moderate-income levels.

Chair Longley requested closing remarks and recommendations from staff. EO Pulupa stated the Projects presented to the Board today represented the culmination of collaboration between consultants and local and regional planners. EO Pulupa recommended approval of the permit and indicated this was a Project that made him grateful to be a part of California where extensive environmental review commenced. He further stated this Project ensured as little environmental impact as possible from a wetlands perspective and concurred the features in this Order ensured that there will be no net loss of wetlands within the State and preservation at a 1.5:1 ratio.

Mr. Pulupa underscored that many of the objections were to issues decided by local planning agencies, who are similarly tasked with tough decisions to make about the strategies for growth and the economic well-being of their communities. It is not this Board's role to supplant their judgment in place of local judgment for those particular

Projects. The role of this Board is water quality and ensuring discharges of waste adequately comply with State policies (No Net Loss and Antidegradation Policies).

### **Additional Comments Received from Board Members**

Member Kadara stated she felt comfortable with this Project and concurred it is not the Board's role to tell local governments what to do. Member Kadara thanked the commenters for coming before the Board to represent their communities and express their concerns. Member Avdis thanked EO Pulupa for his description of the Board's role in these Projects and concurred the Board should remain mindful of its role. Chair Longley thanked EO Pulupa, Member Kadara, and Member Avdis for their comments.

EO Pulupa addressed the comments made from interested parties regarding public education for these permits. AEO Laputz staged a listening session for the public and staff had expanded the reach of the 401 Certification Notifications and WDR Notifications. Additionally, staff is currently working with the Office of Public Participation to ensure broader access to trainings and other mechanisms to better inform the public about how they can participate in these actions. EO Pulupa stated as these processes continue to evolve staff will remain vigilant with the public, including the commenters that appeared today. Additionally, outreach would ensure tribal and disadvantaged communities had a full voice in participating in hearings.

### **MOTION TO ADOPT AGENDA ITEM 19 BROOKFIELD SUNSET LLC, AMORUSO PROJECT, PLACER COUNTY WASTE DISCHARGE REQUIREMENTS AS PRESENTED WITH LATE REVISIONS**

Motioned: Member Kadara  
Seconded: Member Bradford

Roll Call Vote:  
Member Bradford Yes  
Member Brar Yes  
Member Kadara Yes  
Member Yang Yes  
Member Avdis Yes  
Vice-Chair Ramirez Absent  
Chair Longley Yes

Approved by Roll Call Vote of 6-0-0

### **20 – EAST SAN JOAQUIN SURFACE WATER FRAMEWORK EXPERT REVIEW PANEL RECOMMENDATIONS – INFORMATION ITEM ONLY**

Susan Fregien (Senior Environmental Scientist, Irrigated Lands Regulatory Program) provided a three-part presentation and panel review of the East San Joaquin Water Quality Coalition Surface Water Monitoring Framework. Expert testimony was also provided by Dr. Steve Weisberg (SCCWRP) and Dr. John Hunt (U.C. Davis Department of Environmental Toxicology).

Ms. Fregien provided an overview of the Irrigated Lands Program and indicated the main goal of the Program is to prevent discharge of agricultural pollutants that can impair the beneficial uses of waters of the State. Dr. Weisberg described the Panel review process and Dr. Hunt presented the Panel's findings and recommendations for the Central Valley.

Dr. Hunt indicated the Panel's focus was on the General Order establishing Program goals and objectives, the Program monitoring design and implementation, charge questions given to the Panel, specific concerns raised in the State Board Order, and other documents and presentations shared with the Panel. Dr. Hunt noted the findings and recommendations of the Panel report should not automatically be considered appropriate for other regions as this particular region has many unique characteristics. In general, the Program is adequate and appropriate to achieve the Program's overarching goals. Panel recommendations include strengthening and improving the Program to modify its approach to monitoring current-use pesticides, adjusting the assessment of dissolved oxygen, revising the approach to developing management plans, expanding focus outreach to growers, and making minor modifications to some data displays.

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

Member Bradford asked relating to the lower detection limits recommended and identified biologically active concentrations. Is that constrained by just laboratory procedures and abilities or is it they're trying to get down to the lowest detection levels possible. Dr. Hunt responded it is a somewhat difficult answer in that the chemical analysis procedures have been selected with a rigorous process and there's a tradeoff between having the most sensitive techniques and having ones that have a history of quality assurance and traditional use to support confidence in the results. So, to get lower detection limits, he explained frequently newer methods must be used. However, there is a tradeoff between the amount of time it takes to demonstrate the reliability of the methods with the detection limits they provide. He stated the program is currently in a state of transition to newer methods. Member Bradford also questioned if biologically active translates directly to toxicity or if there were any biological effects. Dr. Hunt indicated they considered other measures of biological effects such as bio-assessment and other ecological indicators. Most of the water quality standards are based on toxicity tests and in some cases bioaccumulation. For the overwhelming majority of pesticides, there are no promulgated EPA water quality criteria.

Member Kadara was impressed with the efforts the Coalition put forth to work with the growers and engage them in the understanding and addressing surface water issues. Member Kadara further indicated she continued to be impressed with the efforts of the Coalition and is aware the costs to address the issues they face or enormous. However, the willingness to continue to work through this process is very important and she appreciates the presentations from staff and all those that presented today. She further indicated she felt we are moving in the right direction and expressed her thanks to staff for their work.

Vice Chair Ramirez commented she attended the tour and the expert panel made a big difference in ensuring they considered the responsibilities and the weight this Program

has on the growers. She further stated the Program also provides benefits and she is grateful for the quality of people who participated on the Panel.

Chair Longley commented the Panel did great work and expressed his thanks for staff's efforts.

### **Comments from Interested Persons**

Parry Klassen (East San Joaquin Water Quality Coalition) and Michael Johnson (MLJ Environmental) indicated the Panel did an excellent job. He felt the collaboration was very useful and was pleased with the results and recommendations of the expert Panel. Mr. Johnson indicated this process worked very well and Steve Weisberg did a great job in keeping the Panel engaged and moving forward. He felt the recommendations were clear and largely well-received but expressed some concerns over some of the recommendations. He further indicated some of the recommendations created questions around policy and felt the cost of some recommendations were significant, which were driving the dues and fees upward for growers. Mr. Johnson concluded with rationale for keeping the status quo.

Mr. Klassen commented that if Board Members wished to see the drone footage of the watershed and sample sites visited for this Program, it is posted on ESJCoalition.org.

### **Comments from Staff**

EO Pulupa extended his thanks to Steve Weisberg, the team at SCCWRP, Susan Freigen, Sue McConnell, and the team members who helped pick the members of the Panel that ultimately came up with the paper. Additionally, EO Pulupa thanked counterparts from the environmental community, agricultural community, as well as team members from State Board. This work represents a big step forward in understanding the issues before the Board. EO Pulupa further stated it is mandatory to get out into the field and understand what the discharge issues are and expressed gratitude to everyone involved.

## **21 – SELECTION OF A CHAIRPERSON AND VICE CHAIRPERSON FOR 2021**

Chair Longley indicated the election of the Chairperson and Vice Chairperson for the Central Valley Water Board is required at the first meeting every year and was part of the Water Code.

### **Comments from Interested Persons**

Bruce Houdsheldt (Northern California water Association) representing the Sacramento Valley Water Quality Coalition thanked EO Pulupa for participating in the Coalition Management Advisory Committee and the leadership discussion surrounding the strategic plan for the Board. He appreciated the opportunity to collaborate on those efforts. Bruce welcomed the two new Board Members (Member Yang and Member Avdis). He then invited the Board to the Northern California Water Association Annual Meeting behind held virtually on March 5.

Dr. Longley announced his desire to remain as Chair.

**MOTION TO SELECT DR. KARL LONGLEY AS THE 2021 BOARD CHAIR FOR THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD**

Motioned: Member Kadara  
Seconded: Member Bradford

Roll Call Vote:  
Member Bradford Yes  
Member Brar Yes  
Member Kadara Yes  
Member Yang Yes  
Member Avdis Yes  
Vice-Chair Ramirez Absent  
Chair Longley Yes

Approved by Roll Call Vote of 6-0-0

The Board agreed to defer the selection of the Vice Chair for 2021 to the 22-23 April 2021 meeting. Both Vice Chair Ramirez and Chair Kadara expressed interest in the Vice Chair position. Due to Vice Chair Ramirez' absence, the selection is deferred.

EO Pulupa noted on behalf of staff and the Executive Management Team, we were there support the Board.

Chair Longley nominated Member Kadara and Vice Chair Ramirez for the position of Vice Chair.

**MOTION TO DEFER SELECTION OF 2021 VICE CHAIR OF THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD TO THE 22/23 APRIL 2021 BOARD MEETING**

Motioned: Member Kadara  
Seconded: Member Bradford

Roll Call Vote:  
Member Bradford Yes  
Member Brar Yes  
Member Kadara Yes  
Member Yang Yes  
Member Avdis Yes  
Vice-Chair Ramirez Absent  
Chair Longley Yes

Approved by Roll Call Vote of 6-0-0

Before concluding the Meeting, the following working groups and related participants were discussed:

### **Board Working Groups:**

1. Agriculture: Nick Avdis and Sean Yang
2. Climate Change: Dormant
3. CV-SALTS: Karl Longley and Denise Kadara
4. Wetlands: Nick Avdis and Carmen Ramirez
5. Disadvantaged Communities: Denise Kadara and Raji Brar
6. Forest Activities: Karl Longley and Mark Bradford
7. Mining Issues: Karl Longley and Mark Bradford
8. Mercury Issues: Karl Longley and Mark Bradford
9. Oil Fields (Including Food Safety): Karl Longley and Raji Brar
10. PG&E Stewardship Council: Soapy Mulholland (Former Member)
11. Clear Lake Blue Ribbon Panel: Bob Schneider (Former Member)
12. Delta/Delta RMP/Subsistence: Nick Avdis and Sean Yang
13. Strategic Planning: Karl Longley and Mark Bradford
14. Outreach & Communications: Sean Yang and Raji Brar

Member Kadara suggested a briefing for Member Avdis and Sean Yang from staff for the Delta/Delta RMP working group. EO Pulupa suggested a report-out be added to the Executive Officers Report on the various working groups. Member Yang thanked the Board Members and staff and stated he was honored to be a member of this Board and is looking forward to working with everyone.

### **Meeting Adjourned**

Board meeting adjourned at 4:46 P.M. to the 22-23 April 2021 Board Meeting.