



California Regional Water Quality Control Board

Lahontan Region



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MINUTES
October 13-14, 2004

Regular Meeting

Lahontan Regional Water Quality Control Board
Lancaster City Council Chambers
44933 Fern Avenue
Lancaster, CA

Chair Eric Sandel called the meeting to order at 1:05 p.m.

BOARD MEMBERS PRESENT

William Betterley, Hesperia
John Brissenden, Hope Valley
Jack Clarke, Apple Valley
Amy Horne, Ph.D., Truckee
Eugene Nebeker, Ph.D., Lancaster
Eric Sandel, P.E., Truckee

BOARD MEMBERS ABSENT

None

LEGAL COUNSEL

Steven H. Blum, State Water Resources Control Board
Philip Wyels, State Water Resources Control Board

STAFF PRESENT

Harold J. Singer, Executive Officer
Robert S. Dodds, Assistant Executive Officer
Hisam Baqai, Supervising WRCE, Southern Lahontan Watersheds Division
Lauri Kemper, Supervising WRCE, Northern Lahontan Watersheds Division
Chuck Curtis, Supervising WRCE, Planning and Toxics Division
Mike Plaziak, Senior Engineering Geologist, Mojave Unit
Cindi Mitton, Senior WRCE, Kern County/Mono/Owens Watershed
Jehiel Cass, WRCE, Mojave Unit
Ted Saari, WRCE, Mojave Unit
Kai Dunn, WRCE, Kern County/Mono/Owens Watershed
Christy Hunter, Engineering Geologist, Mojave Unit
Marietta Christoffersen, Office Technician
Pamela Walker, Administrative Officer

ADDRESSING THE BOARD

Joe Baldus, private citizen
Melanie Bostic, Old Town Homeowner's Group
Thomas DiPrima, President BIA/KB Homes
Barbara Firsick, Roosevelt Rural Town Council (RRTC)
Ron Ferrell, RRTC

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Philip Giba, Philip Giba Farms
Nicole Granquist, City Attorney for Lancaster
Marleen Griffin, private citizen
Larry Grooms, representing Assemblywoman Sharon Runner, 36th District
Gretchen Gutierrez, Antelope Valley Building Industry Association
Tom Haag, private citizen
Norm Hickling, representing Los Angeles County Supervisor Michael Antonovich
Donald Kasper, private citizen
Malissa McKeith, private citizen
Steve Maguin, District
Rex Moen, representing former Senator Pete Knight
Dean Paradise, American Premiere Homes
Ross Pistone, Empire Land
Frank Roberts, Mayor of Lancaster
Lyle Talbot, Desert Citizens Against Pollution (DCAP)
Frank Tyman, Quartz Hill Water District
Jim Warden, NBK Homes
James Williams, City of Lancaster Public Works Director

1. **PUBLIC FORUM**

Lyle Talbot, DCAP, questioned the appointment category of William Betterley and Eugene Nebeker and whether he would recuse himself from Items 8 and 9. He also wondered why the Board had three long-standing vacancies. Mr. Talbot then asked the Board to consider postponing Items 8 and 9 until Thursday morning.

Mr. Sandel and Dr. Nebeker responded to Mr. Talbot's questions.

Barbara Firsick, Roosevelt Rural Town Council, asked that a prohibition against discharging treated sewer water on the East side of Antelope Valley be placed on a subsequent agenda.

3. **UNCONTESTED CALENDAR**

Item 12 was removed from the Uncontested Calendar.

- **Motion:** Moved by William Betterley, seconded by Jack Clarke and **unanimously carried** to adopt the Uncontested Calendar as amended.

WORKSHOP

4. **Sewer Connection Ban Workshop**

Harold Singer, Executive Officer, made the presentation and discussed the following:

- California Water Code Authority
- Purpose of a Connection Ban
- Citations that define why a Connection Ban should not be imposed
- Process necessary to hold a hearing on Connection Bans
- Outcomes of imposing/not imposing a Connection Ban

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- Categories for Exclusions
- Considerations if the Board determines a Connection Ban is justified
- Conditions under which the Board could rescind a Ban

Philip Wyels, Legal Counsel, asked the audience to remember that this is only a workshop and as such, comments should be general.

Robert Dodds, Assistant Executive Officer, responded to Board member questions regarding prior connection bans.

Mr. Singer responded to Board member questions. He related that the Regional Board had imposed prohibitions of the use of septic systems in areas where lots had been subdivided and he noted that connection bans had been adopted by other Regional Boards.

Frank Tyman, Quartz Hill Water District, felt the entire problem of water supply for the Antelope Valley needed to be looked at as an overall system.

Mr. Wyels reminded the audience that the workshop discussion should be on the use of connection bans in general, not specific to the Antelope Valley.

Gretchen Gutierrez, Antelope Valley Building Industry Association, requested that the record reflect that a large group of developers, affiliates, sub-contractors and trades people were present and ready to express their concerns over a possible moratorium or severance on connections and that although the opportunity to speak would be available at the evening session, many may be unavailable to attend.

Rex Moen, Senator Pete Knight's office, stated that prior to his death, Senator Knight supported the Regional Board's efforts to protect water quality and he emphasized that connection bans should be a last resort.

Melissa McKeith, land use lawyer, requested that before the Regional Board makes any decision on a ban that a workshop would be held, including all potentially impacted government agencies and the development community, and that a joint solution in the best interests of the valley be reached. Ms. McKeith felt it was shortsighted of the Board not to allow people to talk about how any ban affects their investment and industry.

Steven Blum, Legal Counsel, pointed out that when the Board makes a decision on whether or not to adopt a CDO or to use an enforcement action within the CDO, it must be based on the record from the hearing.

Tom Haag, private citizen, related his past experiences with moratoriums and asked the Board to take into consideration the long-term economic effects of such a decision.

Lyle Talbot, DCAP, emphasized the need for a build out study of the Antelope Valley.

Joe Baldus, private citizen, urged the Board to do the right thing.



Dean Paradise, American Premiere Homes, discussed the economic loss that would result to builders, their employees, vendors, and the citizens of Antelope Valley.

For the Board to have an understanding of the impact a moratorium would have on the building industry, Mr. Singer recommended that an explanation of the process for building a 500 home subdivision be provided, from financing the purchase of the land to receiving a building permit.

Ross Pistone, Empire Land, discussed the process involved to build a subdivision and pointed out that 90% of the developer's capital is invested in a project at the point a building permit (sewer connection is requested at the same time) is issued.

Dr. Nebeker asked the building industry to provide suggestions through Ms. Gutierrez that would help the Board enhance and protect water quality.

Thomas DiPrima, Building Industry Association/KB Homes, outlined the impacts of a connection ban to developers, builders, trades people and the local economy.

Steve Maguin, District, noted that solutions were already being implemented and that schedules are the only thing being debated.

Ron Ferrell, RRTC, pointed out that agencies responsible for issuing permits should be at the meeting answering questions.

Jim Warden, NBK Homes, asked whether fining the entity that is creating the water quality problem would be the more appropriate option rather than a moratorium that would affect not just home builders, home buyers, and construction trades persons, but all the people that live in the Antelope Valley.

Mr. Sandel reiterated that the workshop is useful in assisting the Board to understand the implications of a connection ban. He noted that issuing fines is one of many tools available to the Board.

OTHER BUSINESS

5. Executive Officer's Report

Mr. Singer discussed the following:

Item No. 1-Lake Tahoe Dredging Projects

Mr. Singer pointed out that prior to dredging the Tahoe Keys Property Owners' West Channel pesticides were found in initial samples. Although pesticides were never detected again, carbon filters were added to the project to remove any pesticides in return water so the project could begin, since water containing pesticides cannot be returned to the lake.

Mr. Singer and Ms. Kemper responded to Board member questions.



Item No. 5-Update on Lower Owens River Project, Inyo County

Before the Corps of Engineers can issue a 404 permit for the small dredging area of the re-watering project, the Regional Board must certify that the project will meet all water quality standards. The Basin Plan prohibits certain discharges proposed as part of this project. However, the Board has the ability to grant an exemption to the prohibition.

Item No. 8-Hein Hettinga, A&H Dairies, El Mirage

There is a relatively small, localized nitrate plume. The goal is to stop the on-going discharge and complete any necessary corrective action. Some sampling events indicated elevated levels of chromium in groundwater. USGS has expressed interest in investigating whether the chromium is from Aerochem, a site with a known plume, whether there is another source in the area, or whether it is from naturally occurring chromium possibly reacting with other material in the groundwater as a result of dairy operations.

Other items:

WQCC meeting and travel arrangements were discussed.

Mr. Dodds discussed the Memorandum of Agreement between the State Board and DTSC (to be signed by the Executive Officer) that delineates how newly contaminated properties will be handled between the two agencies.

John Brissenden requested a status update (next month's EO Report) on Big Tree Cleaners in Truckee.

7. **CLOSED SESSION**

Board members met in closed session on October 13, 2004 from 4:35 p.m. until 6:06 p.m. to discuss items e, h, i, k, p, and r. Authority: Government Code 11126(a)(c).

The Board reconvened in open session at 6:07 p.m.

ENFORCEMENT ACTIONS

8. ***Continuation of July 26, 2004 Public Hearing – Consideration of a Cease and Desist Order for the Los Angeles County Sanitation District No. 14 Lancaster Water Reclamation Plant for Violations of Waste Discharge Requirements (Board Order No. R6V-2002-0053)***

Dr. Nebeker recused himself from Items 8 and 9.

Mr. Wyels explained that he and Lauri Kemper were neutral advisors to the Board in this matter.

Mr. Sandel re-opened the public hearing and administered the oath.

Mr. Singer made the presentation and discussed the following:

- Describe Problem
- Review Alternatives



- Describe Recommended Approach
- Result of Recommended Approach
- Recommendation

Mr. Singer responded to questions from Mr. Sandel and Ms. Kemper.

Mr. Singer concluded by stating that the proposed changes to the order are a significant improvement over what was recommended to the Board in July.

Questions for Mr. Singer were postponed in order for Frank Roberts, Mayor of Lancaster, to speak as he had a prior meeting commitment.

Mayor Roberts pointed out the District's accomplishments and asked the Board to consider the progress made in the last few months that underscored the District's commitment to achieving the Board's requirements, making a Cease and Desist Order (CDO) unnecessary.

Board members asked questions of Mayor Roberts.

Mr. Singer responded to questions from Mr. Wyels, Mr. Blum and Board members.

Discussion followed between Mr. Singer, Mr. Wyels, Ms. Kemper, Mr. Blum and Board members.

Mr. Singer read proposed changes to the order and more discussion ensued.

Steve Maguin, District, had detailed comments to submit for the record.

Mr. Wyels noted that the Board might want the opportunity to read the comments unless Mr. Maguin planned to summarize them in his presentation.

Nicole Granquist, City of Lancaster Attorney, said the District wanted fundamental differences preserved for the record but did not believe hours of discussion before the Board was necessary. She pointed out that shorter time frames were objectionable in terms of feasibility, particularly since almost all the required actions are dependant upon someone else doing something (over which the District has no control) in order for the District to accomplish the goal.

Mr. Blum recommended that comments should not be accepted.

Mr. Wyels' recommendation was to postpone the decision until later in the evening after the comments had been reviewed.

Mr. Maguin told the Board that the proposed order is substantially changed from the proposed order in July and expressed the District's concern about the absolute nature of the mandates for maximum performance at all times with minimum schedules provided. Mr. Maguin discussed specifics of the permit and changes the District was requesting. He briefed the Board on recent progress and concluded by discussing why groundwater recharge was not part of the project.

Mr. Maguin responded to questions from Mr. Brissenden and Mr. Baqai.



James Williams, City of Lancaster Public Works Director, discussed some of the hurdles that must be overcome before a groundwater recharge system can be put into place but pointed out that much is being done along those lines. He stated his personal opinion that the modified language proposed for the CDO is in the interest of the community.

Norm Hickling, representing Supervisor Michael Antonovich, told the Board that the 2020 Plan represents many entities working together and that these partnerships are working and beginning to put new things in place, things that will solve the issue without issuing a CDO.

Mr. Wyels explained that even if a CDO was adopted, a missed deadline (by a few days or for a legitimate reason) does not necessarily mean the Board would take enforcement action.

Larry Grooms, representing Assemblywoman Sharon Runner, discussed the cooperative working relationships that exist between various agencies in the Antelope Valley. He asked the Board to consider the impact their decision could have on future development.

After discussion the Board concluded it would not be directing the Executive Officer to issue a notice to consider a connection ban for the District.

Melanie Bostic, Old Town Homeowner's Group, stated her objection to any extension of the 2005 deadline for discharges to Rosamond Dry Lake since it would appear that the Board is siding with the District regardless of the environmental issues raised in her Complaint (Case No. PS091248).

Donald Kasper, private citizen, read from the complaint filed by Melanie Bostic and submitted a copy for the record.

Mr. Wyels informed the Board that although the Complaint included a challenge to the 2020 Facilities Plan, the analysis the District performed would be deemed adequate unless and until the court rules otherwise.

Barbara Firsick, RRTC, was in support of a CDO with more stringent time schedules and specific punishment but felt an interim solution to remove effluent from Rosamond Dry Lake, and a long-range solution that focuses on groundwater re-charge was necessary.

Marleen Griffin, private citizen, stated her opinion that ground water re-charge was the best alternative, given the serious situation that exists in the Antelope Valley.

Philip Giba, Giba Farms, stated his dissatisfaction with the District's progress in cleaning up the contaminated ground water.

Joe Baldus, private citizen, discussed his dealings with local government agencies on this matter and stated his objection to the District's ongoing property acquisition.

Discussion between Board members and staff followed.

Mr. Maguin responded to questions from Board members.



Ms. Granquist asked Mr. Wyels if it had been determined whether the District's comments would be accepted for the record.

Mr. Wyels recommended that staff be given an opportunity to respond to points raised by the District.

Mr. Blum withdrew his earlier recommendation and on behalf of staff concluded that the District's comments be entered into the record.

Mr. Sandel closed the public hearing.

7. **CLOSED SESSION**

Board members met in closed session on October 13, 2004 from 9:34 p.m. until 9:49 p.m. to discuss item d. Authority: Government Code 11126(c)(3).

Mr. Sandel re-opened the public hearing.

Board members, Mr. Singer, Mr. Blum and Mr. Wyels discussed changes/corrections to the proposed CDO.

Mr. Wyels stated the amendments for the record.

- **Motion**: Moved by John Brissenden, seconded by Jack Clarke and **unanimously carried** to adopt the CDO as amended. **Voting "yes"**: William Betterley, John Brissenden, Jack Clarke, Amy Horne, Eric Sandel

9. ***Continuation of July 26, 2004 Public Hearing – Consideration of a Cease and Desist Order for the Los Angeles County Sanitation District No. 20 Palmdale Water Reclamation Plant and the City of Los Angeles World Airports for Violations of Waste Discharge Requirements (Board Order No. 6-00-57)***

Mr. Sandel re-opened the hearing and administered the oath.

Mr. Singer made the presentation and discussed the following:

- Describe Problem
- Review Alternatives
- Describe Recommended Approach
- Result of Recommended Approach
- Recommendation

Discussion between Board members, Mr. Baqai, Mr. Plaziak, Mr. Blum and Mr. Wyels followed.

Mr. Maguin pointed out two problem areas in the proposed CDO and concluded by discussing nitrogen reduction that has occurred thus far.

Discussion between Mr. Maguin, Ms. Granquist, Board members, Mr. Singer, Mr. Wyels, Mr. Blum and Mr. Baqai took place.



Board members, Mr. Blum and Mr. Wyels discussed changes to the proposed CDO.

- **Motion:** Moved by John Brissenden, seconded by Jack Clarke and **unanimously carried** to adopt the CDO as amended. **Voting "yes":** William Betterley, John Brissenden, Jack Clarke, Amy Horne, Eric Sandel

The evening session adjourned at 11:10 p.m.

Regular Meeting, Continued
8:30 a.m., October 14, 2004

Chair Eric Sandel called the meeting to order at 8:34 a.m. Board members present: William Betterley, John Brissenden, Jack Clarke, Amy Horne and Eugene Nebeker

REVISED WASTE DISCHARGE REQUIREMENTS

12. Molycorp, Inc. Closure of North Tailings Pond (P-16), Revision of Waste Discharge Requirements, Board Order No. 6-00-101, Mountain Pass

Since no member of the public was present to speak on the item and at the Board's request, no staff presentation was made.

- **Motion:** Moved by Eugene Nebeker, seconded by Jack Clarke and **unanimously carried** to adopt the revised WDRs as proposed.

6. Reports by Chair and Board Members

Dr. Nebeker asked for Board member comments on the "draft" outline of the publication (on which he worked with the UC cooperative extension) that discusses the use of reclaimed water for agriculture. He mentioned that the National Alfalfa Association was holding a meeting in December where he will discuss his role as a grower using effluent water and as a Board member.

Dr. Nebeker also said an LA Times article on acid mine drainage was interesting reading.

Mr. Brissenden announced that the Sierra Nevada Cascade Conservancy recently had its first planning meeting with legislative and resources staff. He noted that the one million dollar start up gift from several foundations would cover the first two years of operation. He went on to say it would become a one billion dollar program over the next 10-15 years and could fund Regional Board watershed and water quality projects.

Mr. Brissenden, a member of the State Parks OHV Commission, said the commission is exploring ways to work with Regional Boards staff to effectively inventory (in four years with 12 million dollars) and designate OHV routes throughout forests and BLM territories of California. He noted the commission is working on a proposal that would fund staff positions to coordinate with the Forest Service and BLM for a more concerted effort in directing OHV use to reduce water quality impacts. Mr. Brissenden said he would like to talk to Board staff to develop the grant process.



Mr. Brissenden mentioned earlier statements made by Ms. Firsick where she asked the District for information (not yet received) and her concern that the District was not farming properly in Palmdale and that the Regional Board was not providing proper oversight of the operation. As a result, Mr. Brissenden asked for follow-up on next month's Executive Officer's report.

Mr. Singer stated that in addition to Mr. Brissenden's request, he would contact Ms. Firsick and relate the various reporting requirements on discharges in the region relative to oversight of farming management practices.

With no further business to come before the Board, the meeting adjourned at 8:48 a.m.

Prepared by: Pam Walker Adopted: 3/9/05
Pam Walker, Administrative Officer

