



# California Regional Water Quality Control Board Lahontan Region



Linda S. Adams  
Secretary of  
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Arnold Schwarzenegger  
Governor

## MINUTES May 12-13, 2010

### Regular Meeting

Hesperia City Council Chambers  
9700 Seventh Avenue  
Hesperia, CA 92345

Chairman Clarke called the meeting to order at 3:15 p.m. on May 12, 2010.

#### Board Members Present

Jack Clarke, Apple Valley  
Keith Dyas, Rosamond  
Amy Horne, Ph.D., Truckee  
Don Jardine, Markleeville  
Eric Sandel, Truckee

#### Board Member Absent

Mike Dispenza, Palmdale

#### Legal Counsel

David Coupe, Office of Chief Counsel, State Water Resources Control Board  
Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board  
Anne Marie Ore, Office of Enforcement, State Water Resources Control Board

#### Staff Present

Harold Singer, Executive Officer	Sergio Alonso, Student Assistant
Lauri Kemper, Assistant Executive Officer	Laurie Applegate, Executive Assistant
Charles Curtis, Supervising WRCE	James Brathovde, Eng. Geologist
Mike Plaziak, Supervising Eng. Geologist	Brianna Bergen, Eng. Geologist
Patrice Copeland, Senior Eng. Geologist	Ghasem Pour-Ghasemi, WRCE
Scott Ferguson, Senior WRCE	John Steude, Eng. Geologist
Cindi Mitton, Senior WRCE	Christina Velasquez, Student Assistant
	Jan Zimmerman, Eng. Geologist

#### Addressing the Board

Chuck Bell, Mojave Desert Resource Conservation District  
Norman Diaz  
Robert Hines, United Water  
Paul H. Johnson, Mojave Desert Resource Conservation District  
Cindy Montepagano, USDA/NRCS  
Gregory Newmark, Meyers Nave Professional Law Corp.  
Luis Romero

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**Addressing the Board, continued**

Richard Rowe, City of Barstow  
Chris Seney, Nursery Products  
John Stanford, Driscoll and Associates  
Eldert Van Dam, B&E Dairy

**1. CLOSED SESSION**

The Board met in closed session from 3:20 p.m. to 4:05 p.m. to discuss Item 1k. **Authority:** Government Code section 11126(a). The Board reconvened in open session at 4:06 p.m.

**OTHER BUSINESS**

Mike Podegracz, City Manager, welcomed the Board to Hesperia. Chairman Clarke thanked Mr. Podegracz for allowing the Board to meet in their Council Chambers.

**2. Executive Officer's Report**

Mr. Singer discussed items from the May 2010 written report and answered questions from the Board.

Mr. Singer handed out and discussed the following:

- Article published by The Sacramento Bee on Sunday, April 25, 2010 entitled "*Bee exclusive: Livestock waste found to foul Sierra waters*" by Tom Knudson.
- Editorial published by The Sacramento Bee on Saturday, May 1, 2010 entitled "*Protect Sierra water from cattle grazing*".
- Article published by The Sacramento Bee on Sunday, May 9, 2010 entitled "*Another View: Forest Service using science to safeguard Sierra water quality*".
- 2009 Accomplishments Report of the State Water Resource Control Board and the Regional Water Resource Control Boards.

Ms. Kemper answered questions from the Board regarding grazing issues in the Bridgeport area. Mr. Singer noted staff is currently developing work plans for the 2010-11 fiscal year. He will advise Board members of staff's future plans to address grazing activities in the Executive Officer's Report.

Mr. Singer handed out an Administrative Civil Liability (ACL) Report for the Lahontan Water Board covering the period from January 1, 2008 to April 30, 2010. He asked the Board if they would be willing to consider adopting a resolution at a future meeting delegating authority to the Executive Officer to settle non-controversial, uncontested ACL complaints issued by staff, where smaller, cash-only liability is involved (no supplemental environmental projects). Following discussion, the Board agreed to consider the matter at a future



meeting and asked Mr. Singer to research and report to the Board how other Regional Water Board's are handling these matters.

Scott Ferguson discussed the makeup and role of Water Board staff's enforcement committee and discussed the Quarterly Violations Report for the 3<sup>rd</sup> and 4<sup>th</sup> Quarters of 2009. Dr. Horne commented that additional information was needed for the Board to evaluate the information.

Mr. Singer discussed an issue recently brought to staff's attention involving the settlement agreement between the Lahontan Water Board and the Los Angeles County Sanitation District. He explained there is a potential for a proponent of the supplemental environmental project to obtain federal stimulus funding. Following discussion, the Board asked Mr. Singer to work with the District within the context of the settlement to obtain federal funding.

The Board recessed for dinner at 5:17 p.m.

**Regular Meeting, continued**  
**7:00 p.m., May 12, 2010**

Chairman Clarke called the meeting to order at 7:20 p.m.

Board members present: Jack Clarke, Keith Dyas, Amy Horne, Don Jardine, and Eric Sandel. Board member absent: Mike Dispenza.

**INTRODUCTIONS**

**3. PUBLIC FORUM**

No one addressed the Board during the Public Forum.

**4. MINUTES**

**Minutes of the Regular Meeting of April 14-15, 2010 in South Lake Tahoe**

- **Motion:** Moved by Mr. Dyas, seconded by Mr. Jardine and **unanimously carried** to adopt the April 14-15, 2010 minutes as written.

**5. ADOPTION OF THE UNCONTESTED CALENDAR**

Note: An (\*\*\*) appears next to items adopted by the Board on the uncontested calendar.

Mr. Singer recommended the Board adopt Item 6 on the uncontested calendar with a minor revision to the date of adoption.



- **Motion:** Moved by Dr. Horne, seconded by Mr. Sandel and **unanimously carried** to adopt Item 6 on the uncontested calendar with the minor revision to the date of adoption suggested by Mr. Singer.

### **OTHER BUSINESS**

**\*\*6. Resolution Authorizing the Executive Officer to Sign the Record of Decision for the Building 210 Area, Sierra Army Depot, Herlong, Lassen County**

See Item 5 for Board action.

**7. Staff Report – Evaluation of Potential Water Quality Impacts from Dairy Operations and Development of Regulatory Strategy**

Mr. Singer gave introductory remarks. Ghasem Pour-Ghasemi gave the staff presentation outlining the dairy regulatory strategy and recommended implementation of the strategy. Mr. Pour-Ghasemi, Mr. Plaziak, Mr. Singer and Mr. Coupe answered questions from the Board.

**Addressing the Board:** Eldert Van Dam, B&E Dairy; Chuck Bell, Mojave Desert Resource Conservation District; Paul H. Johnson, Mojave Desert Resource Conservation District; Cindy Montepagano, USDA/NRCS; and Luis Romero.

Mr. Singer noted that each dairy will be asked to prepare a nutrient management plan and that staff will look at each individual dairy's site specific information.

Note: The meeting recessed at 8:40 p.m.

**Regular Meeting, continued  
May 13, 2010 – 8:30 a.m.**

Chairman Clarke called the meeting to order at 8:30 a.m.

Board members present: Jack Clarke, Keith Dyas, Amy Horne, Don Jardine, and Eric Sandel. Board member absent: Mike Dispenza.

**3. PUBLIC FORUM**

Norman Diaz discussed an incident involving a company called Environmental Recovery Corporation contracting with Big Bear Area Regional Wastewater Agency to haul sludge to an enclosed facility in Apple Valley. Mr. Diaz stated that the company operated for about six weeks without any permits. Mr. Diaz commented that once the company was found to be operating illegally, the operation shut down, phones were



disconnected and the owner could not be reached. Mr. Diaz commented that Big Bear Area Regional Wastewater Agency is not responsible for the cleanup.

Chris Seney, Environmental Engineer for Nursery Products, responded to comments made by Mr. Diaz. Mr. Seney commented that the accusations made by Mr. Diaz were false and that the Big Bear Area Regional Wastewater Agency is completely liable and is in the process of cleaning up the facility that was operating illegally in Apple Valley. He noted that Nursery Products will have 11 permits from 11 different agencies. He stated that Nursery Products looks forward to being an asset to the community and that the Nursery Product's facility is needed.

### **ENFORCEMENT**

#### **8. Consideration of a Settlement Agreement and Stipulation for Administrative Civil Liability for the City of Barstow, Barstow Wastewater Treatment Plant**

Scott Ferguson gave the staff presentation. He discussed changes outlined in the prosecution team's late revision sheet and noted that all references to the enhanced compliance action had been removed with a single cash liability payment of \$143,900 being recommended for violations from March 14, 2003 through July 31, 2009. Mr. Ferguson recommended the Board adopt the Order with the late revisions recommended by the prosecution team. Chuck Curtis drew the Board's attention to additional changes to No. 6 of the Addendum to Proposed Order No. R6V-2010-Proposed Settlement Agreement and Stipulations for Administrative Civil Liability. Mr. Ferguson answered questions from the Board.

**Addressing the Board:** Richard Rowe, Barstow City Manager; Gregory Newmark, Meyers Nave; Robert Hines, United Water; and Norman Diaz.

Mr. Singer drew the Board's attention to a late revision proposed by the advisory team adding a finding that Water Board adoption of the proposed Order would be conditioned on the Barstow City Council approving the Stipulation and Order and providing written confirmation of approval to the Executive Officer by May 26, 2010. Mr. Singer noted that should the Barstow City Council not approve the settlement agreement, the Water Board's Order would be null and void. Mr. Singer recommended the Board approve the settlement agreement. Mr. Rowe, Barstow City Manager, confirmed that the Barstow City Council was scheduled to consider the terms and conditions of the settlement agreement in closed session on May 17.

**Board Discussion:** Dr. Horne noted the importance of obtaining accurate monitoring data to protect water quality in the State of California. She commented that with the removal of the enhanced compliance action and change to a cash-only liability, she was able to support the proposal.



- **Motion:** Moved by Dr. Horne, seconded by Mr. Dyas and **unanimously carried** to accept the settlement agreement with the late revisions.

### **WASTE DISCHARGE REQUIREMENTS**

#### **9. Green Valley Foods, Cheese Processing Facility Class II Surface Impoundment, San Bernardino County**

Brianna Bergen gave the staff presentation, discussed changes outlined in a late revision sheet, and recommended two additional changes to the Order. Ms. Bergen noted Table 3 on page 9 of the Order mistakenly listed the MCL for arsenic as 50 and should be changed to 10, and Finding 38 on page 16 of the Order, should note that the CEQA document was certified by the County of San Bernardino on May 11, 2010. Ms. Bergen recommended the Board adopt the waste discharge requirements with the late revisions, including the two additional changes. Ms. Bergen, Mr. Plaziak, Mr. Curtis, Mr. Singer and Mr. Coupe answered questions from the Board.

**Addressing the Board:** John Stanford, Driscoll and Associates, representing Hector Huerta and Green Valley Foods; and Norman Diaz.

Mr. Plaziak explained that the action before the Board was to contain the discharge. He noted the Water Board's enforcement committee is evaluating the groundwater problem.

**Board Discussion:** Mr. Dyas noted Board action would begin the process of terminating the release of contaminants and protecting water quality. Dr. Horne agreed and commented that by adopting the permit, the Board would begin to control the source of the contamination.

- **Motion:** Moved by Dr. Horne, seconded by Mr. Sandel and **unanimously carried** to adopt the Order with the late revisions.

#### **10. Reports by Chair and Board Members**

Mr. Sandel asked if the update of the Lahontan Basin Plan would include a rotenone update. Ms. Kemper noted the rotenone provisions in the Lahontan Basin Plan will be updated as part of the Basin Plan amendment for pesticides.

Mr. Jardine noted he will be giving a presentation to the Alpine County Historical Society about the history of mining in Alpine County.

Mr. Clarke gave a report about issues discussed at the Chair's conference call on May 3. Mr. Clarke asked Mr. Singer if the June meeting could be scheduled as a one-day meeting. Mr. Singer noted the June Board meeting in Kings Beach would include a TMDL workshop with one or two additional items and could be

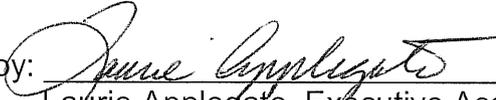


arranged as a one-day meeting. The July meeting in the south will have one or two time-sensitive items and might be held as a teleconference to avoid conflicts with the budget and travel.

Dr. Horne asked Norm Diaz if he could provide Water Board staff with a list of meeting places in Barstow. She noted the Board attempts to meet in areas where the issues are. Mr. Diaz agreed to do so. Mr. Singer clarified that staff has been directed not to use private facilities for meetings but to use public facilities.

### ADJOURNMENT

With no further business to come before the Board, the meeting adjourned at 10:15 a.m. on May 13, 2010.

Prepared by:  Adopted: June 9, 2010  
Laurie Applegate, Executive Assistant

