

**Minutes of the May 21, 1999
SubCommittee Meeting
California Tower
Highgrove Conference Room
3737 Main Street
Riverside**

1. ***Board Chair Stein called the meeting to order at 9:10 a.m.***

Board Members Present

Karen Stein, Chair
John Withers, Vice Chair
Evelyn Hart
Melody Henriques

Board Members Absent

Rodger Siems

Staff Members Present

Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Joanne E. Schneider, Environmental Program Manager
Karen White, Executive Assistant
Hope Smythe, Chief, Planning Section
Ken Theisen, Sanitary Engineering Associate, Planning Section
Robert L. Holub, Chief, SLIC and Dairies Section
Mark G. Adelson, Chief, Surveillance Section
Gary D. Stewart, Chief, Regulations Section

Legal Counsel

Ted Cobb

Public in Attendance

Rod Cruz, City of Riverside
Pat Kilroy, City of Lake Elsinore
John Borges, Western United Dairymen
Robert Vander Eyk, Vander Eyk Dairy
Norm Abbott, Feed
Bob Feenstra, Milk Producers Council
Jim Colston, Orange County Sanitation District
Anne Thomas, Best, Best, and Krieger
Tom England, LWV
Marge England, LWV
David Silberstein, MCA

Franklin J. Chong, Global Vermiculture Systems
Katherine O'Connor, Orange County Water District

2. Public Forum

Bob Feenstra, Executive Director of Milk Producers Council, thanked the Regional Board for holding the public workshops to receive public comments on the proposed general dairy permit. Mr. Feenstra expressed his concern with rumors he received that the Regional Board had directed staff to call the United States Environmental Protection Agency (USEPA) to assist Regional Board staff with the ongoing dairy pollution problem in the Chino Basin. Mr. Feenstra stated that the Regional Board is the lead agency and Milk Producers Council requests that the Regional Board continue to oversee regulatory activities related to the dairies. However, Mr. Feenstra emphasized that the Milk Producers Council wishes to work directly with the Regional Board.

9. Santa Ana Watershed Project Authority (SAWPA)

Joe Grindstaff, General Manager of SAWPA, presented an overview of the SAWPA organization, its future goals and strategies to achieve these goals. Mr. Grindstaff stated that SAWPA was organized in 1967 to plan and orchestrate projects related to the Santa Ana Watershed. Mr. Grindstaff reviewed the various projects initiated and completed by SAWPA staff and local stakeholders. Mr. Grindstaff stated that SAWPA is proposing a regional program to assure a sustainable water supply for the future and to enhance the environment. He reviewed the components of a number of proposed projects, which include habitat enhancement, contamination removal, and groundwater storage. Mr. Grindstaff reviewed the costs associated with the proposed projects. He stated that funding will be provided via federal water bonds and revenues received from local water agencies. Mr. Grindstaff thanked the Regional Board for providing him the opportunity to present future goals of SAWPA and answered questions from the Regional Board.

3. Approval of minutes of the Special Board Meeting of March 30, 1999.

Board Chair Stein announced that this item will be considered by the Regional Board at the June 25, 1999, regular meeting.

4. Approval of minutes of the Regular Meeting of April 9, 1999.

Board Chair Stein announced that this item will be considered by the Regional Board at the June 25, 1999, regular meeting.

6. Renewal of Waste Discharge Requirements for Fontana Wood Preserving, Inc., Fontana, San Bernardino County, NPDES No. CA8000343 – Order No. 99-51

Board Chair Stein announced that this item will be considered by the Regional Board at the June 25, 1999, regular meeting.

7. Renewal of Waste Discharge Requirements for Inland Empire Utilities Agency's Carbon Canyon Water Reclamation Facility, San Bernardino County, NPDES No. CA8000073 – Order No. 99-36

Board Chair Stein announced that this item will be considered by the Regional Board at the June 25, 1999, regular meeting.

8. Request for an Extension to Comply with the Homeland/Green Acres Waste Discharge Prohibition

Joanne E. Schneider, Environmental Program Manager, stated that Mr. Hostetler's temporary extension from the Homeland/Green Acres prohibition expires as of May 21, 1999. However, Ms. Schneider stated that Mr. Hostetler is making significant progress to connect to the sewer and he anticipates a completion date of August 1, 1999. Therefore, based on the progress of the sewer connection, staff does not intend to pursue enforcement action against Mr. Hostetler at this time. Ms. Schneider indicated that staff will continue to apprise the Regional Board of Mr. Hostetler's progress.

9. Status Report on the Implementation of the Total Maximum Daily Load (TMDL) for Sediment in the Newport Bay Watershed.

Kenneth Theisen, Sanitary Engineering Associate, presented this item. He began with an overview of the development of the TMDL for sediment in Newport Bay, that was adopted by the Regional Board on October 9, 1998. The State Water Resources Control Board, the Office of Administrative Law, and the United States Environmental Protection Agency have all approved the TMDL. The TMDL for sediment in Newport Bay includes requirements to reduce sediment discharges into the bay by 50% within 10 years. The TMDL also established numeric targets for sediment control requiring reductions in sediment discharges from urban,

agriculture, open space, and construction site land uses, minimize dredging in Newport Bay, and a special area management plan (SAMP) to address cumulative impacts to wetlands resulting from sediment control projects. Mr. Theisen stated that the purpose of the presentation is to provide a status report on the implementation of the TMDL.

Mr. Theisen summarized the sediment modeling efforts being completed by the U.S. Army Corps of Engineers, to evaluate the effects of sediment discharges to Newport Bay. This modeling effort essentially corroborates the TMDL for sediment in Newport Bay, and like the TMDL report prepared by staff, concludes that there are approximately 125,000 tons per year of sediment being deposited in Newport Bay. The modeling report prepared by the Corps of Engineers shows that this sediment deposition will cause significant changes to the depth of the Bay in some areas, which in turn, will significantly affect the beneficial uses of the Bay. The first phase of the TMDL requires a reduction in sediment discharges from the current level of approximately 250,000 tons per year to 125,000 tons per year, to address these impacts.

Mr. Theisen advised the Board that the TMDL includes a requirement for the completion of a SAMP or a comprehensive delineation of the wetlands in the watershed to enable staff to evaluate the cumulative impacts of sediment control projects on wetlands in the watershed. The TMDL requires that either a plan for completion of the SAMP be submitted by January 1, 1999, or the wetland delineation be completed by June 1, 1999. Neither the plan for the SAMP, nor the wetland delineation has been completed as required. However, the Corps of Engineers has started the preparation of a SAMP that will be completed in three years and include a planning level delineation of the wetlands in the watershed by February 2000, approximately 8 months after the required deadline. Due to the need to evaluate the cumulative impacts on wetlands resulting from sediment control projects, staff recommended that water quality certification for projects that impact wetlands be denied without prejudice, until the wetland delineation is completed.

The TMDL also includes monitoring requirements to assess compliance with the TMDL and to determine the effectiveness of best management practices implemented to control sediment.

On January 13, 1999, the Executive Officer sent a letter to the County of Orange and the Cities in the watershed, which are responsible for implementing and complying with the TMDL, requesting a plan and schedule for compliance with the requirements of the TMDL. The Cities and the County of Orange submitted a response to this request in early

March 1999. The staff report summarizes this response, and notes that the response provides an acceptable plan for compliance with many of the requirements of the TMDL for sediment. However, the response did not address all the monitoring and reporting requirements of the TMDL. Therefore, staff recommended that the Board direct the Executive Officer to issue a monitoring and reporting program fully implementing the requirements of the TMDL.

Joanne Schneider, Environmental Program Manager, reiterated that staff's proposal is to deny certification for projects that impact wetlands until the wetland delineation is complete. She noted that concerns had been expressed by representatives of the County of Orange and others that this proposal was untenable since it would prevent timely action on urgently needed flood control projects and would likely result in a counterproductive legal challenge. Ms. Schneider reiterated the rationale for staff's proposal (to assure that cumulative impacts and mitigation are addressed in a comprehensive way) but acknowledged that the staff report language was overly broad. Ms. Schneider stated that staff would continue to process applications for certification of projects that did not impact wetlands and where public safety is concerned.

Comments were provided by the following:

Chris Crompton, Orange County, expressed concern about staff's response to the Newport Bay Watershed Executive Committee's submittal: given that the Board and staff are participants on the committee and that the submittal was discussed by the committee, he believed that all parties had agreed to it. He urged the Regional Board to maintain flexibility in dates for compliance with the TMDL requirements and noted that the SAMP schedule was not under the Newport Bay Watershed Executive Committee's control and discussed some needed projects that would be affected by staff's proposal regarding 401 certifications. He also discussed the monitoring requirements of the TMDL and actions that have been and will be taken.

Pat Shanks, counsel to OC, expressed her opposition to staff's proposal to deny certification for projects that impact wetlands. She emphasized that there may be legal issues imposed on the Regional Board for taking this action, since the individual merits of certification requests must be considered. Therefore, she urged the Regional Board not to support staff's proposal and to continue consideration of the 401 Certifications on a case by case basis. Additionally, she requested that the Regional Board staff work with local agencies to find a more positive approach.

Anne Thomas, Best, Best, and Krieger, representing the Irvine Company, stated her opposition to staff's proposal and urged the Regional Board to continue consideration of the 401 Certifications on a case by case basis.

Ms. Schneider emphasized that it is not Board staff's intent to create an adversarial relationship and that staff's recommendations are intended solely to assure that the Bay and watershed's water quality and beneficial uses are protected with respect to the certification issue. Ms. Schneider indicated that staff would continue to consider applications on a case-by-case basis but also noted that one of the options available to staff was a denial without prejudice.

Chair Stein called for a 5 minute break at 10:25 a.m.

Chair Stein reconvened the meeting at 10:35 a.m.

11. *Nitrogen/TDS Task Force Update*

Tim Moore, Risk Sciences, Inc., presented this item. Mr. Moore began by a review of the proposed outline for the Reclamation Guidance document developed by the Task Force. He then reviewed contents of the first two chapters that include the purpose of the document, regulatory requirements, and state groundwater issues. Mr. Moore requested that the Regional Board review the chapter information as background information for the next meeting on June 25, 1999. Mr. Moore stated that the Task Force anticipates preparation of the final version of the Reclamation Guidance document at the November meeting. Mr. Moore answered questions from the Regional Board.

12. *Orange County Sanitation District's Sewage Spill*

Board Chair Stein announced that this item will be considered by the Board at the June 25, 1999, regular meeting.

14. *Dairy General Permit Workshop*

Robert L. Holub, Chief, SLIC and Dairies, presented this item. Mr. Holub stated that this is the second workshop provided by Regional Board staff to receive public comments related to the proposed general dairy permit for dairy related animals. He indicated that a separate permit will be prepared for horses, etc. Mr. Holub reviewed the public comments received at the April 9, 1999 meeting. He also reviewed the proposed primary revisions to the dairy permit. He then presented additional information related to the proposed prohibition of manure application in

the Chino Basin II, and III areas, and showed slides of stockpiling activities. He indicated that since Chino I area is tributary to areas II, and III, staff is proposing that the prohibition include all three areas. He also presented additional information on the proposed changes of the general dairy permit related to hauling of manure and development of an Engineered Waste Management Plan for all facilities.

Executive Officer Thibeault commented on issues related to the average herd size and the ability of dairymen to contain wastewater during the rainy season. Mr. Holub reiterated comments of Executive Thibeault and stated that most of these dairy problems are attributed to the small land area and the large amount of cows or animals that are on the dairy property.

Mr. Holub continued the presentation by reviewing written comments received by United States Environmental Protection Agency (USEPA) Orange County Water District, and Western Valley Municipal Vector Control District. He emphasized that all agencies were supportive of the proposed dairy permit. However, suggestions were raised related to the definition of chronic and catastrophic rainfall events and developing a density limitation of six cows per acre. Mr. Holub stated that this density limitation is currently in effect in several areas of California for new dairy facilities. Mr. Holub noted that the Regional Board is not a planning agency and has not considered a density limitation. He stated that Regional Board staff is willing to work with the dairy industry to address its concerns with the proposed permit. In conclusion, Mr. Holub addressed Mr. Feenstra's comments presented during the public forum. Mr. Holub answered questions from the Regional Board.

Comments were provided by the following:

William R. Mills, Jr., General Manager of the Orange County Water District (OCWD), commended Mr. Holub on his presentation. He stated that the current dairy strategy fails to protect water quality and allows degradation to the groundwater that reaches the Orange County area. He emphasized that the dairy industry needs to comply with state and federal regulations to protect water quality and public health. He gave examples of water quality degradation that were attributed to the dairy runoff and costly corrective measures taken by OCWD.

Mr. Mills responded to comments received from Mr. Feenstra during the public forum of the allegation that the Regional Board had called the USEPA. He stated that on behalf of OCWD he called USEPA to request their assistance in implementation of corrective and preventive measures

for the dairy industry. He stated that OCWD supports the proposed general dairy permit and urges the Regional Board to adopt the permit on August 20, 1999. He further suggested that the Regional Board consider a revision to the 25-year, 24 hour storm, and to determine a density limitation for dairies. In conclusion, Mr. Mills urged the dairy industry to contribute a salt offset program and assist OCWD in handling costs associated with preventive and corrective measures.

Comments were provided by the following:

John Borges, Western United Dairymen, requested a change to the proposed language regarding submittal of an engineered waste management plan for all facilities. He suggested that the Regional Board not require submittal of a plan each time there is a new operator at a facility. He also stated that the Western United Dairymen association is working on alternatives to the manure application prohibition and hauling requirement.

Executive Officer Thibeault asked Mr. Borges to inform the Regional Board of alternative options for the dairy industry.

Dr. John Flemming, Consulting Engineer for Western United Dairymen, commented on the requirement of an Engineered Waste Management Plan (EWMP) for all facilities and costs associated with development of the EWMP. He urged the Regional Board to not only focus on remediation plans, but also preventive measures. Mr. Flemming answered questions from the Regional Board.

Pat Kilroy, City of Lake Elsinore, expressed the City's concerns with the degradation to Lake Elsinore caused by the action of upstream discharges. Mr. Kilroy stated that this degradation to the Lake has caused swamp odors, massive fish kills and algae problems for the City. Mr. Kilroy stated that the City would like to restore the Lake. Therefore, the City urges the Regional Board to adopt the proposed general dairy permit, and take additional preventive measures on the manure application and stockpiling issues. Mr. Kilroy informed the Regional Board that the City will submit additional comments in writing within the next week.

Glenn Durrington, farmer, expressed his concerns and interests in development of the proposed general dairy permit. He also requested that the Regional Board consider placing agriculture concerns higher on the priority list.

Nathan de Boom, Milk Producers Council (MPC), read into the record a letter that expressed concerns with the adoption of the proposed general dairy permit. He focused on potential economic problems posed by the manure application and manure removal requirement. Mr. de Boom stated that MPC is working with McCarthy Farms to find alternatives to address the manure problem. Mr. de Boom answered questions from the Regional Board.

Randy Mouw, dairyman, expressed his concerns with the manure application and manure removal requirement proposed in the general dairy permit. He urged the Regional Board to consider additional research on the salt loads in manure. He also expressed concerns about the Engineering Waste Management Plan, the costs associated with developing the plan, and the effectiveness of the plan.

David Silberstein, MCA Recycling USA, Inc., described a mechanical treatment process to address the manure problems in the Chino Basin.

Sid Sybrandy, dairyman in San Jacinto area, stated that the San Jacinto is unique and different from the Chino Basin. Therefore, he requested that the Regional Board exclude the San Jacinto area from the manure application prohibition. He further requested that the Regional Board extend the 90 day manure removal requirement to 180 days to give the dairymen and haulers sufficient time for the removal process. Mr. Sybrandy emphasized that the San Jacinto area shares the goals of the Regional Board and urged the Regional Board to consider the proposed requests.

Franklin Chong, Global Vermiculture Systems, described the potential use of vermiculture to eliminate manure problems in the Chino Basin and dairy area.

13. *Hazardous Waste and Sewage Spill Incident Report*

The Regional Board accepted the report as submitted.

15. *Proposed Litigation Involving the Rohr Industries Facility, Riverside*

Board Chair Stein announced that this item has been postponed until further notice.

16. *Hazardous Waste and Sewage Spill Incident Report*

The Regional Board accepted the report as submitted.

17. Executive Officer's Report (information item).

Executive Officer Thibeault informed the Regional Board that there have been two administrative civil liability settlements. The first settlement is for the DeVries Dairy in the amount of \$25,000, and the second for Orange County Frank Bowerman Landfill in the amount of \$116,800.

19. ADJOURNMENT

Chair Stein adjourned the subcommittee meeting at 1:10 p.m., to the regular meeting of June 25, 1999, at 9:00 a.m., at the City Council Chambers of Loma Linda.

Respectfully submitted:

GERARD J. THIBEAULT
Executive Officer

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