

Lahontan Regional Water Quality Control Board

MINUTES
March 14-16, 2012

Regular Meeting

<u>Open Session</u>	<u>Closed Session</u>
Hampton Inn Suites Barstow 2710 Lenwood Road Barstow, CA 92311	Holiday Inn Express Barstow 2700 Lenwood Road Barstow, CA 92311

Chairman Jardine called the meeting to order at 8:32 a.m. on March 14, 2012, and with a Subcommittee of the Board present (Mr. Dyas was not present for Closed Session), along with Staff Counsel, Kimberly Niemeyer, recessed into Closed Session. Closed Session adjourned at 2:48 p.m. and with a quorum present (Mr. Dyas was present for open session), reconvened into Open Session at 3:33 p.m.

Board Members Present

Don Jardine, Chair, Markleeville
Amy Horne, Ph.D., Truckee
Peter C. Pumphrey, Vice Chair, Bishop
Eric Sandel, Truckee
Keith Dyas, Rosamond

Board Member Absent

Jack Clarke, Apple Valley

Legal Counsel

Kimberly Niemeyer, Office of Chief Counsel, State Water Resources Control Board
Laura Drabandt, Office of Enforcement, State Water Resources Control Board
Ellen Howard, Office of Enforcement, State Water Resources Control Board

Special Guests

James Potter, Deputy Attorney General, California Attorney General's Office
Michael Zarro, Deputy Attorney General, Attorney General's Office

Staff Present

Harold Singer, Executive Officer
Lauri Kemper, Assistant Executive Officer
Charles Curtis, Supervising WRCE
Cindi Mitton, Senior WRCE
Brianna Bergen, Engineering Geologist
Lisa Dernbach, Senior Engineering Geologist
Anne Holden, Engineering Geologist

Chris White, Student Assistant
Randall Morlan, Student Assistant
Mike Plaziak, Sup. Engineering Geologist
Jehiel Cass, Senior WRCE
Sue Genera, Executive Assistant
Patrice Copeland, Senior Engineering Geologist

Addressing the Board

James Dodd, **Hinkley Resident**
Jon Quass, **Vice President, Hinkley Community Advisory Committee**
Victoria Harper, **Hinkley Resident**
Joel Valenzuela, **Hinkley Resident**
Lester White, **Hinkley Community Advisory Committee**
Julie Clemmer, **Barstow Unified Board Member, Hinkley Community Advisory Committee**
Roberta Walker, **Hinkley Resident**
Louie Aviles, **Hinkley Resident**
Jackie Jones, **Hinkley Resident**
Scott Haislip, **Hinkley Resident**
Kevin Sullivan, **Project Manager, Hinkley Remediation Project, PG&E**
Tracy Egoscue, **Legal Counsel, Pacific Gas & Electric Company**

INTRODUCTIONS

Chairman Jardine called the meeting to order at 3:33 p.m. on March 14, 2012, and introduced Board members.

Mr. Singer introduced Legal Counsel and Water Board staff.

1. CLOSED SESSION

Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).

A Subcommittee of the Board recessed into Closed Session at 8:32 a.m. to discuss matters related to personnel. The Board reconvened at 3:33 p.m. at which time the Chair announced that the Board had nothing to report.

Note: The Board took a break for lunch from noon-1:00 p.m.

2. MINUTES

Minutes of the Regular Meetings of January 11-12, 2012 in Apple Valley, CA, and February 9, 2012 via teleconference in Bishop, South Lake Tahoe, and Victorville, CA.

- **Motion:** Moved by Mr. Dyas, seconded by Dr. Horne, and **unanimously carried** to adopt the January 11-12, 2012 and February 9, 2012 minutes as written.

3. ADOPTION OF THE UNCONTESTED CALENDAR

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

- **Motion:** Moved by Mr. Sandel, seconded by Dr. Horne and **unanimously carried** to adopt Item 4 and Item 5 on the uncontested calendar.

PERMITS - REVISIONS, UPDATES, AMENDMENTS OR RESCISSIONS

4. ***San Bernardino County Solid Waste Management Division, Heaps Peak Class III Landfill Leachate Treatment and Disposal System, San Bernardino County, WDID No. 6B361105007.**

To view the approved Order (Board Order No. RV6-2012-0011) go to:

http://www.waterboards.ca.gov/lahontan/board_decisions/adopted_orders/2012/by_number.shtml

5. ***Victorville Water District and High Desert Power Project Limited Liability Company; High Desert Power Plant – Groundwater Banking Operation, San Bernardino County, Board Order No. R6V-2007-0014 – WDID No. 6B360105004.**

To view the approved Order (Board Order No. RV6-2012-0012) go to:

http://www.waterboards.ca.gov/lahontan/board_decisions/adopted_orders/2012/by_number.shtml

*See Item No. 3 for Board Action.

OTHER BUSINESS

6. **Executive Officer's Report**

Mr. Harold Singer addressed the Board and discussed items from the February and March written Reports and answered Water Board Member questions. During his report, Mr. Singer provided a news article by UC DAVIS News and Information, entitled, "Nitrate in drinking water raises health concerns for rural Californians". In addition, Mr. Singer presented the Lahontan Water Board's response to PG&E's Petition of Cleanup and Abatement Order (Order No. R6V-2011-0005A1) for Whole House Replacement Water. This response may be found on the Lahontan website at:

http://www.waterboards.ca.gov/lahontan/water_issues/projects/pge/docs/Lahontan%20Water%20Board%20022112%20petition%20response.pdf

Ms. Lauri Kemper addressed the Board and presented the 4th Quarter Violations Report.

7. **Reports by Water Board Chair and Board Members**

Dr. Horne presented a map depicting the Bureau of Land Management's – Administered Lands in California available for application for Solar Energy right-of-way authorizations. Dr. Horne requested information on the subject of solar and wind projects and the impact they may have on water quality. Staff will provide a report or presentation at a future Board Meeting.

Note: The Board recessed for dinner at 4:31 p.m.

Regular Meeting, continued
March 14, 2012

INTRODUCTIONS

Chairman Jardine called the meeting to order at 7:02 p.m. on March 14, 2012, and introduced Board members.

Mr. Singer introduced Legal Counsel and Water Board staff.

8. PUBLIC COMMENT

The Chair asked if anyone from the public would like to address the Board on a matter not on the Agenda

- Ms. Roberta Walker, Hinkley resident, addressed the board and raised concern over the number of abandoned animals in the Hinkley community as a result of people leaving the Hinkley area. Ms. Walker also expressed disappointment in not receiving bottled water from PG&E that is being provided to other Hinkley residence.

Note: The Board took a break from 8:40 p.m. to 8:48 p.m.

9. ENFORCEMENT ACTIONS

Public Hearing - Consideration of a Settlement Agreement and Stipulation for Entry of Order and Order, in the matter of an Administrative Civil Liability against Pacific Gas and Electric Company for failure to comply with a requirement of Cleanup and Abatement Order No. R6V-2008-0002; and Consideration of Adoption of an Amended Cleanup and Abatement Order No. R6V-2008-0002A1, Hinkley, San Bernardino County.

Ms. Lauri Kemper addressed the Board and expressed her gratitude to the following people for their time and dedication in negotiating the Settlement Agreement: Laura Drabandt, Ellen Howard, Chuck Curtis, Lisa Dernbach, Anne Holden, James Potter, and Michael Zarro. Ms. Kemper then gave a power point presentation outlining the Settlement Agreement and Amended Cleanup and Abatement Order.

Ms. Laura Drabandt addressed the Board and gave an overview of the Settlement Agreement's Supplemental Environmental Project (SEP) targeted for the Hinkley School and of the administrative civil liability payment to be paid to the State Water Resources Waste Discharge Permit Fund. Ms. Drabandt also reviewed California Water Code and SEP Policies. Ms. Drabandt answered questions by the Board encouraged the Board to accept the Settlement Agreement.

Ms. Drabandt introduce and welcomed representative of PG&E; Kevin Sullivan, Tracy Egoscue, Drew Page, Juan Jayo, and Sheryl Bilbrey.

Mr. Kevin Sillivan addressed the Board and gave a power point presentation highlighting PG&E's SEP project. At the conclusion of his presentation, Mr. Sullivan and Ms. Tracy Egoscue answered questions by the Board and Legal Council regarding specific aspects of the Settlement Agreement.

Public Comment

- Ms. Victoria "Penny" Harper addressed the Board and urged them to accept the Settlement Agreement.
- Mr. Jon Quass addressed the Board and expressed concerns for the future of the Hinkley community. Mr. Quass stated that he would like to see all of the funds from the Settlement Agreement go to the Hinkley community.

- Mr. James Dodd addressed the Board and expressed disagreement over the term “alleged violations” being used in the Settlement Agreement. Mr. Dodd urged the Board to reject the Settlement Agreement.
- Mr. Joel Valenzuela addressed the Board and urged the Board to reject the Settlement Agreement. Mr. Valenzuela felt that the community did not have a voice in the Settlement Agreement negotiations.
- Mr. Lester White addressed the Board and expressed concerns over the boundaries of the plume containment being expanded. Mr. White would like to see the Settlement postponed until the Hinkley Community Advisory Committee’s Independent Review Manager has had time to review the Agreement.
- Ms. Julie Clemmer addressed the Board and spoke in favor of the Settlement Agreement.

The Board asked questions of PG&E, Legal Council and Staff, to clarify the terms of the Settlement Agreement and then began deliberations. Dr. Horne expressed concerns that the Settlement Agreement may be premature and that it may not bring justice to the Hinkley community. Dr. Horne stated that she would like to see a project that reduces the overall risk of public health impact to Hinkley. Mr. Pumphrey stated that the Settlement Agreement is an incremental step to a greater solution. Mr. Sandel stated that the Settlement Agreement does not go far enough and that a Settlement Agreement for the same total amount with the division of funds being greater to the community and less to the state could be attained. Mr. Dyas stated that he was not completely satisfied with the SEP however he did not feel it was advantageous to wait on another Settlement Agreement that may or may not be better than the proposed Settlement Agreement. Chairman Jardine stated that he was not completely satisfied with the Settlement Agreement; he too felt that the Settlement Agreement is an incremental step to a greater solution.

Motion: Moved by Mr. Dyas, seconded by Chairman Jardine. The Chair called for a roll call vote:

AYE: Dyas, Pumphrey, Jardine

NAY: Horne, Sandel

and the **motion carried** to adopt the Settlement Agreement and Amended Cleanup and Abatement Order.

Mr. Singer asked that a correction be made to the Cleanup and Abatement Order, Attachment B, Appendix A, Page 11, Table 1-A Hydraulic Capture Monitoring Plan, Well Triplets, “MW-82S” be moved to Outer Well column, and “new piezometer³ near EX-29/-30” be moved to Inner Well column. This was needed to conform to the Water Board Prosecution Team’s response to comments yet was not made prior to presenting the Amended Cleanup and Abatement Order to the Water Board for consideration. Ms. Kemper stated that the correction would be made.

The adopted settlement agreement ([Order No. R6V-2012-0013](#)) and amended cleanup and abatement order ([Order No. R6V-2008-0002A3](#)) can be found on the Lahontan Water Board website at:

http://www.waterboards.ca.gov/lahontan/board_decisions/adopted_orders/

Note: The meeting adjourned at 9:49 p.m.

10. CLOSED SESSION - CONTINUED** (see item 1)

Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).

Chairman Jardine called the meeting to order at 8:32 a.m. on March 15, 2012, and with a Subcommittee of the Board present (Mr. Dyas was not present for Closed Session), along with Staff Counsel, Kimberly Niemeyer, recessed into Closed Session. Closed Session adjourned at 6:50 p.m. and with a quorum present (Mr. Dyas was present for Open Session), reconvened into Open Session at 7:01 p.m. at which time the Chair announced that the Board had nothing to report.

Note: The Board took a break for lunch from 11:30 a.m.-1:15 p.m. and again for dinner from 4:45-6:00 p.m.

Regular Meeting, continued
March 15, 2012

Chairman Jardine called the meeting to order at 7:01 p.m.

Board members present: Don Jardine, Amy Horne, Peter C. Pumphrey, Eric Sandel, and Keith Dyas. Board members absent: Jack Clarke.

OTHER BUSINESS**11. PUBLIC FORUM**

The Chair asked if anyone from the public would like to address the Board on a matter not on the Agenda.

- Mr. Joel Valenzuela addressed the Board and expressed opposition to the Board's acceptance of the Settlement Agreement. Ms. Kim Niemeyer, Board Council, notified Mr. Valenzuela of his right to petition an action of the California Regional Water Quality Control Board and stated that she would direct him to the resources to do so.

REPORTS**12. [Peer Review of Pacific Gas and Electric Company's 2007 Groundwater Chromium Background Study Report, Hinkley Compressor Station, San Bernardino County.](#)**

Ms. Lauri Kemper, accompanied by Ms. Anne Holden, addressed the Board and presented a power point overview of the Chromium Background Study Report. Mr. Kevin Sullivan addressed the Board and gave a brief power point presentation outlining PG&E's proposed Background Study and gave PG&E's support of Staff Option 3 which would retain the adopted values until values from a new sampling plan can be determined. All parties were available to answer Board questions.

Public Comment

- Mr. Lester White addressed the Board and expressed concern with chemicals that may have been mixed with hexavalent chromium that may now be present in the groundwater.
- Mr. Joel Valenzuela addressed the Board in support of Staff Option 3.
- Mr. Scott Haislip addressed the Board and expressed concern over his well being tested by PG&E and the results were non detect, while in an independent test the results came back 1.4 µg/L.
- Ms. Jackie Jones addressed the Board and expressed concerned that the plume may be heading for her home. Ms. Jones also disagreed with having to wait until her well detected 3.1 µg/L before receiving replacement water.
- Mr. Louie Aviles addressed the Board and asked why his residence was not identified on the new PG&E Study grid. Mr. Sullivan stated that the area already contained extensive data but that PG&E was always open to public input.

The Chair thanked the public for their comments and opened the floor to Board deliberation. Water Board members expressed support for Staff Options 3, retain the adopted values until values from a new sampling plan can be determined; and Staff Option 4, Retain the adopted values while re-evaluating data subsets from the 2007 Background Study Report. Additionally, the Water Board members provided guidance to its staff that they want the Hinkley Community Advisory Committee to be involved in every step of the process.

CLOSED SESSION- CONTINUED** (see item 1)

Discussion of Personnel Matters. Authority: Government Code section 11126, subdivision (a).

The Board recessed into Closed Session at 8:24 p.m. and reconvened into Open Session at 8:43 p.m. at which time the Chair announced that the Board had nothing to report.

ADJOURNMENT

The Chair announced that the meeting of March 16, 2012 was canceled. With no further business to come before the Board, the meeting adjourned at 8:44 p.m. on March 15, 2012.

Prepared by: _____

Sue Genera, Executive Assistant

Adopted: _____

April 11, 2012