



REGULATORY AGENCY ACTION

Riverside and affect roughly 7,500 residents.

The original waste discharge prohibition against the use of subsurface leaching or percolation systems was adopted in September 1982 (Resolution No. 82-267) (see CRLR Vol. 3, No. 2 (Spring 1983) p. 94). This resolution was further amended to require elimination of these systems entirely by July 1, 1987, unless specifically granted an exemption by the regional board (Exemption Criteria in State Board Resolution No. 83-43). To date, 75 exemptions have been granted and five denied.

The need for alternatives to individual septic tank systems was apparent during the "wet" years of 1980-82. Due to the high level of groundwater and a shallow soil mantle (making for low permeability), the failure of septic systems is common, sometimes causing drainage of effluent over public rights of way into the San Jacinto River and Canyon Lake Reservoir. These septic failures will increase with urbanization and displacement of agriculture in the area, which contributes to depletion of historic high groundwater levels.

A local group called Homeowners Action Association (HAA) opposes the prohibition and the requirement of new sewer systems. Contending the new sewer systems are expensive and forced on local residents, HAA would like the Board to consider possible alternatives. The Board has stated that there are no alternatives for treatment and discharge of residential sewage because individual or community subsurface leaching and percolation systems are ineffective due to small lot size and high groundwater levels.

Acceptance of Report on Coastal Lagoons. On October 22, the Board adopted a resolution to accept a final report concerning coastal lagoons, thereby authorizing final payment to San Diego Association of Governments for work performed under Standard Agreement No. 5-135-250-0.

In March 1986, the WRCB allocated funds to conduct a study into southern California coastal lagoons. These funds were provided to the state Board under a grant from the EPA pursuant to the federal Clean Water Act.

The study indicated that water quality in southern California coastal lagoons has been adversely impacted by watershed modifications, including upstream damming of lagoon tributaries and urbanization. Nutrient-enriched runoff, past sewage discharges, and occasional breakdowns in sewage transport systems

have resulted in high concentrations of nutrients entering the lagoons. Reduction in freshwater influence and absence of tidal flushing have degraded water quality in many southern California coastal lagoons.

The objective of this study was to determine the adequacy of existing water quality standards for coastal lagoons. The study was designed to determine the effects of the primary limiting nutrients, nitrogen and phosphorus, on the algal community.

The study recommends that the regional boards characterize the present and future condition goal for each lagoon; adopt measures to reduce nutrient loading from developed and disturbed portions of tributary watersheds; and require buffer strips of riparian and wetland vegetation around the lagoon to reduce the volume of nutrient-enriched water entering the lagoon.

At its November 1987 meeting, the Board accepted the report and directed the staff to transmit the study to the EPA.

LEGISLATION:

AB 260 (Jones), a two-year bill which would have amended Proposition 65, has been dropped. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 97 for details.)

AB 734 (Johnson, Vasconcellos), concerning transfer of water rights, has died in the Assembly. (For more information, see CRLR Vol. 7, No. 3 (Summer 1987) p. 122.)

AB 682 (Kelley). No further action is planned on this measure, which concerned waste discharge requirements. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 97 for details.)

AB 637 (Hauser), which was signed by the Governor, prohibits a person from selling or using tributyltin (TBT)-based marine anti-fouling paint or coating, and from selling any vessel intended to be immersed in water which has been painted with TBT paint. The bill allows the use of TBT-coated vessels until 1993.

The bill also requires the San Diego Regional Water Quality Control Board to conduct a study to determine the impact on divers and the marine environment of underwater cleaning of vessel hulls and bottoms and to report to the legislature by June 30, 1988.

FUTURE MEETINGS:

Workshop meetings are generally held the first Wednesday and Thursday of the month. For exact times and meeting locations, contact Maureen Marche at (916) 445-5240.



INDEPENDENTS

AUCTIONEER COMMISSION

Executive Officer: Karen Wyant (916) 324-5894

The Auctioneer and Auction Licensing Act was enacted in 1982 (AB 1257, Chapter 1499, Statutes of 1982) and established the California Auctioneer Commission to regulate auctioneers and auction businesses in California.

The Act was designed to protect the public from various forms of deceptive and fraudulent sales practices by establishing minimal requirements for the licensure of auctioneers and auction businesses and prohibiting certain types of conduct.

The Auctioneer and Auction Licensing Act provided for the appointment of a seven-member Board of Governors, composed of four public members and three auctioneers, to enforce the provisions of the act and to administer the activities of the Auctioneer Commission. Members of the Board are appointed by

the Governor for four-year terms. Each member must be at least 21 years old and a California resident for at least five years prior to appointment. In addition, the three industry members must have a minimum of five years' experience in auctioneering and be of recognized standing in the trade.

The Act provides assistance to the Board of Governors in the form of a council of advisers appointed by the Board for one-year terms. In September 1987, the Board disbanded the council of advisers and replaced it with a new Advisory Council (see CRLR Vol. 7, No. 4 (Fall 1987) p. 99 for background information).

MAJOR PROJECTS:

Public Hearing on Commission. On December 7, the Senate Business and Professions Committee held a hearing on SB 84 (Boatwright), a two-year bill which would, in its present form, repeal the Auctioneer and Auction Licensing



Act and thus abolish the California Auctioneer Commission. (See CRLR Vol. 7, No. 4 (Fall 1987) pp. 99-100; Vol. 7, No. 3 (Summer 1987) p. 124; and Vol. 7, No. 1 (Winter 1987) p. 90 for background information.)

Commission Executive Officer Karen Wyant testified in defense of the Commission, stating that the Commission's record for revoking licenses in fiscal year 1985-86 "represented more revocations per licensee than all but one of the licensing agencies in the Department of Consumer Affairs." In spite of such statistics, Wyant conceded that some problems exist with regard to unrecovered losses to consignors. Such losses are incurred when auctioneers fail to pay sellers proceeds from the sale of their goods, in spite of current law requiring such payment within thirty working days of the sale transaction.

Although bonding is required of all Commission licensees, it affords only limited protection, as is illustrated in the fact that half of the bond claims processed thus far by the Commission have resulted in unrecovered losses to consignors.

The Commission's concern over such losses was manifested in its recently proposed regulation which would have (1) required that consignment contracts disclose the limited protection afforded by licensee bonding, and (2) encouraged discussion between the licensee and consignor about additional protections over and above that provided by the license bond. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 99.) Subsequent to Wyant's testimony, this proposed regulation was rejected by the Office of Administrative Law (see related discussion, *infra*).

Also reflecting the Commission's concern over unrecovered losses is a budget change proposal for fiscal year 1988-89, recently approved by the Department of Finance, which will provide for increased investigations so that non-payment to consignors may be discovered early, and unethical licensees can be removed from the business before additional monies are lost.

In her testimony, Wyant disagreed with the Legislative Analyst's recommendation to abolish the Commission while retaining the bonding requirement, observing that, "a bonding program without a licensing and enforcement agency, as [SB 84] proposes, would be a purely voluntary process. Once a consignor is defrauded, it's of no help to have a law on the books that says the auctioneer should have had a bond. And those auctioneers and companies most likely

to defraud consignors would certainly not observe a costly, voluntary law."

Wyant concluded, "to abolish an agency simply because it has not recovered all monies for defrauded consumers is not in the best interest of the public. To replace it with a voluntary bonding program would not protect the public at all."

Regulations Rejected by OAL. The Office of Administrative Law has rejected proposed section 3527 in Chapter 35, Title 16 of the California Administrative Code, submitted November 16. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 99 for background information.) The proposed rule would have required that contracts between an auctioneer or auction company and the owner or consignor of goods include a notice that the auctioneer "is licensed and regulated by the California Auctioneer Commission... and all licensed auctioneers and auction companies are bonded to the Commission. Request information from your auctioneer or auction company as to bonding limits and alternatives for security of payment." OAL determined that the last sentence is non-regulatory and imposes no burden on licensees. Executive Officer Wyant stated that without the last sentence the provision is essentially the same as existing statutory language. The Board may amend the language to satisfy OAL's concerns at its next meeting.

LEGISLATION:

SB 84 (Boatwright), as introduced, would abolish the Auctioneer Commission. (See CRLR Vol. 7, No. 4 (Fall 1987) pp. 99-100; Vol. 7, No. 3 (Summer 1987) p. 124; Vol. 7, No. 2 (Spring 1987) p. 98; and Vol. 7, No. 1 (Winter 1987) p. 90 for background information.) As of this writing, SB 84 is pending as a two-year bill.

FUTURE MEETINGS:

To be announced.

BOARD OF CHIROPRACTIC EXAMINERS

Executive Director: Edward Hoefling (916) 445-3244

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners. The Board licenses chiropractors and enforces professional standards. It also approves chiropractic schools, colleges, and continuing education courses.

The Board consists of seven members, including five chiropractors and two public members.

At its January 1988 meeting, the Board selected Dr. Dennis McKown, DC, as Board Chair; Dr. B. Jackie Bartels, DC, as Vice-Chair; and Dr. Bruce A. Reyes, DC, as Secretary.

MAJOR PROJECTS:

Regulation Changes. At its January 7 meeting, the Board adopted proposed changes to its regulations, which appear in Chapter 4, Title 16 of the California Administrative Code. The Board published its notice of intent to amend the regulations in August 1987, and held no public hearing on the changes. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 100 for background information.)

The Board adopted changes to section 321 which include a reference to the required application fee of \$100; the amendments to section 321.1 provide for application processing time periods in accordance with the Permit Reform Act; and changes to section 355 add language specifying a license renewal fee of \$95. The Board is in the process of preparing the rulemaking file for submission to the Office of Administrative Law.

Chiropractic Consultant Position. At its October 29 meeting, the Board discussed and approved in concept the creation of a chiropractic consultant position to participate in disciplinary proceedings. The Board has not decided the precise parameters of responsibility for the position. Several Board members expressed concern that the Board would lose control over disciplinary matters, and suggested that specific guidelines be drawn up by staff for consideration at a future meeting.

LITIGATION:

Two lawsuits challenging the validity of section 302 of the Board's regulations, which defines the scope of chiropractic practice, have been consolidated. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 100 for background information.) A Sacramento Superior Court judge recently joined the suit filed by the California Medical Association with a similar action filed by the California chapter of the American Physical Therapy Association (APTA). The Board of Medical Quality Assurance and the Physical Therapy Examining Committee have joined as plaintiffs in the APTA suit. A case conference was scheduled for late January.