



se. DFG has already provided local governments with maps locating critical habitat areas for the winter migration of deer to make them aware, for planning purposes, of the importance of the hardwood issue.

-The University of California Extension Services, Division of Agriculture and Natural Resources, also advised the Board against regulation. Reminding the Board that UC Extension has an office in almost every county, Mr. Staniford related that it plans to use those offices to work hard at the local level to educate landowners and government officials about hardwoods. UC Extension will aggressively seek out smaller groups to educate, such as firewood dealers and small landowners. UC Extension has signed twelve contracts to conduct research on the issue and is planning more projects. Mr. Staniford assured the Board that systematic analysis of the effect of its programs is a part of each program, and the Extension intends to report frequently to the Board on its progress.

After hearing these final comments, industry member Jack Shannon moved that the Board adopt a resolution declaring it premature to set up a system of statewide regulation for hardwoods. The Board unanimously approved the resolution, which includes a proposed intensive education program along the lines suggested by CDF and RMAC. The resolution reserves the Board's right to regulate hardwoods in the future.

California-Oregon Transmission Project. In January, the Board sent to the California Energy Commission its comments regarding the Commission's draft 1986 Electricity Report, specifically addressing the environmental impacts of the proposed California-Oregon transmission lines. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 80.) The project is currently the subject of an environmental review.

The Board addressed two areas of concern: the impact on the state's timberland resources, and its doubts as to the economic efficiency of importing power from the Pacific Northwest. The Board is particularly concerned that the Report does not accurately reflect the net social value of the project to the people of California. The Commission's analysis addressed only the economies of electrical production and project building costs, and does not take into account such associated costs as lost timber production and the impact of the project on wildlife. Board Chair Walt stated in his letter accompanying the Board comments that "[i]f providing less

expensive electricity results in corresponding cost increases in affected goods or services, or in an adverse impact on the productivity of resource lands, there may be less or even no net gain."

Finally, recognizing that Commission's Report serves as the basis for the Governor's energy policy, the Board requested that the Commission look into these questions and consider them in evaluating the need and timing of all power projects.

LEGISLATION:

SB 4 (Presley) would enact the Wildlife and Natural Areas Conservation Act of 1988. If adopted, the bill would authorize the issuance of bonds in the amount of \$85,000,000. The funds generated from the bond sale would be made available to the Wildlife Conservation Board and the Department of Fish and Game for the acquisition, enhancement, restoration, or protection of lands supporting unique, fragile, or endangered plants, animals, or natural communities, and for other wildlife habitat as specified.

Board staff believe it may have an opportunity to include the lack of regeneration in certain hardwood species and associated wildlife habitat as justification for acquisition under the bill. However, the bill as written does not apply to hardwoods.

SB 4 is currently pending in the Appropriations suspense calendar file.

AB 713 (N. Waters) was introduced February 18. Under existing law, CDF (in accordance with a plan approved by the Board) is required to classify areas within the state in which the state has the primary responsibility for preventing and suppressing fires. *AB 713* would also require CDF to provide, when available, rescue, first aid, and other emergency services to the public in state responsibility areas.

RECENT MEETINGS:

At its January 7 meeting in Sacramento, the Board was briefed by CDF on its review of U.S. Forest Service Forest Plans. CDF suggested that any Board recommendations on the Plans be coordinated with the Department of Fish and Game to provide proposals which have the joint support of both entities. Executive Director Cromwell has been working with DFG staff, and suggested three areas of common concern: (1) protection of endangered species; (2) stream management systems; and (3) fire protection, fire management plans, and fire prevention. The Board referred the matter to its Legislation

and Policy Development Committee and RMAC for further study because of objections raised by grazing and timber industry members.

The February 3 Board meeting, held in Sacramento, was largely devoted to the hardwood issue (see MAJOR PROJECTS, *supra*). In addition, the Board heard a suggestion from the California Forest Pest Council that it be named a designated advisory committee to the Board. The Council is an organization of private and public forest managers, foresters, entomologists, pathologists, zoologists, biologists, and others interested in the protection of forests from the damaging effects of animals, insects, diseases, and weeds.

FUTURE MEETINGS:

To be announced.

WATER RESOURCES CONTROL BOARD

Executive Director: James L. Easton
Chairperson: W. Don Maughan
(916) 445-3085

The Water Resources Control Board, established in 1967 by the Porter-Cologne Water Quality Control Act, implements and coordinates regulatory action concerning California water quality and water rights. The Board consists of five full-time members appointed for four-year terms. The statutory appointment categories for the five positions ensure that the Board collectively has experience in fields which include water quality and rights, civil and sanitary engineering, agricultural irrigation and law.

Board activity in California operates at regional and state levels. The state is divided into nine regions, each with a regional board composed of nine members appointed for four-year terms. Each regional board adopts Water Quality Control Plans (Basin Plans) for its area and performs any other function concerning the water resources of its respective region. All regional board action is subject to state Board review or approval.

Water quality regulatory activity includes issuance of waste discharge orders, surveillance and monitoring of discharges and enforcement of effluent limitations. The Board and its staff of approximately 450 provide technical assistance ranging from agricultural pollution control and waste water reclamation to discharge impacts on the



marine environment. Construction grants from state and federal sources are allocated for projects such as waste water treatment facilities.

The Board administers California's water rights laws through licensing appropriative rights and adjudicating disputed rights. The Board may exercise its investigative and enforcement powers to prevent illegal diversions, wasteful use of water and violations of license terms. Furthermore, the Board is authorized to represent state or local agencies in any matters involving the federal government which are within the scope of its power and duties.

MAJOR PROJECTS:

Bay-Delta Hearing Workplan Adopted. The Workplan for the hearing process on the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta) was adopted by the WRCB at a special February 5, 1987 meeting. (See CRLR, Vol. 6, No. 4 (Fall 1986) p. 82 for background information.)

The Board heard public comment in a series of pre-hearing conferences last spring in order to refine the scope of the hearing process. The schedule for the Bay-Delta hearing process was drafted after consideration of comments and recommendations made by individuals, local interest groups, and local, state, and federal agencies at those conferences, as well as the recent decision in *United States v. State Water Resources Control Board*, 182 Cal. App. 3d 82 (1986). (See CRLR Vol. 6, No. 4 (Fall 1986) pp. 83-84.) In that case, a state appellate court held that the Board, in setting standards for water quality protection, must focus on overall beneficial uses as required under Water Code section 13241, rather than defining the scope of its water quality role in terms of what could be enforced through its water rights authority.

The watershed of the Bay-Delta Estuary provides approximately two-thirds of the water used in California, including 40% of its drinking water. Water is reallocated from the Bay-Delta Estuary by two major water projects: the Central Valley Project (CVP), operated by the U.S. Bureau of Reclamation (the Bureau); and the State Water Project (SWP), operated by the California Department of Water Resources (DWR).

In 1976, the Board convened to formulate a water quality control plan for the Delta and to determine whether the water use permits held by the Bureau and the DWR should be amended to

implement the plan. The results were the "Water Quality Control Plan for the Sacramento-San Joaquin Delta and Suisun Marsh" (the Plan), and "Water Rights Decision 1485" (D-1485). The Plan and D-1485 are intended to be reviewed again by 1988. This review is one objective of the hearing process. Additionally, the Workplan states: "In the forthcoming proceeding, the Board will review, broaden and refine the water quality standards of the Bay-Delta Estuary to provide reasonable levels of protection for beneficial uses insofar as they are affected by conditions of flow, salinity, and pollutants." After the water quality and salinity standards have been reviewed and (if necessary) adjusted, the Board will evaluate the necessity of amending water rights to achieve, or progress toward achievement of, those standards. In this function the Board will evaluate and balance the beneficial uses within and outside the Bay-Delta Estuary.

The Workplan divides the hearing process into three distinct phases, with Phase I scheduled to commence in July 1987; Phase II will begin in July 1988; and Phase III is slated for April 1989.

During Phase I, the state and regional Boards (San Francisco and Central Valley regions) will receive evidence on beneficial uses of the Bay-Delta waters; reasonable levels of protection; and the reasonableness of use of the water. The investigation will focus on hydrologic conditions; agricultural, municipal/industrial, wildlife, and other uses; impacts of freshwater inflow on the San Francisco Bay; pollutants in the Bay-Delta Estuary; and a program for implementation.

Prior to Phase II the Board will prepare a salinity control plan and a pollutant policy document for consideration by the hearing participants. Phase II is intended to consider the draft salinity plan and the pollutant policy document and to accept public comment regarding them. Phase II will be a quasi-legislative hearing, with witnesses neither sworn nor cross-examined. Following Phase II the Board expects to prepare and adopt a final salinity control plan and pollutant policy document.

Before Phase III the Board staff will prepare for review a set of alternatives for implementing the objectives in the salinity control plan through a new water rights decision. Evidence considered relevant in Phase III will include hydrologic studies of the relationships between flow and salinity; reasonableness of alternatives for protecting uses

of Bay-Delta waters; the protection of rights to Bay-Delta waters; the effects of the CVP and SWP on the Southern Delta; and any other evidence relevant to the reasonable attainment of the water quality objectives in the salinity control plan.

At the conclusion of the Phase III hearing, a draft Environmental Impact Report (EIR) will be promulgated by the Board. The draft EIR will be circulated and a hearing may be held. The entire process will conclude with the certification of the final EIR at a public Board meeting, and the adoption of a water rights decision in approximately July 1990.

A hearing notice specifying locations, dates, and times for the topics to be addressed during Phase I of the hearing process was mailed in March 1987.

Ex Parte Communications Questioned. The City of Sacramento has alleged that certain members of the Central Valley Regional Water Quality Control Board acted improperly in allowing themselves to be lobbied by legislators opposing rice herbicide regulations. Sacramento city officials believe that the ex parte contacts with certain regional board members led the board to reverse its stance on the issue in January 1987.

The city filed a petition for review of the regional board's decision with the state Board in February 1987. In addition to a review of the decision itself, the petition requests that the Board require the regional board to adopt stricter standards regarding ex parte contacts with its members. Currently, no published regulations or formal policies exist proscribing contacts between regional board members and people affected by their decisions.

The Public Utilities Commission has similarly been the recent target of allegations that its members are often influenced by ex parte contacts. In response, Assemblymember Areias recently introduced a bill (AB 227) which, if passed, would restrict ex parte communications between commissioners and parties relating to pending actions before the Commission.

The State Board tentatively scheduled the City of Sacramento's appeal for workshop discussion on April 1 or 2.

LEGISLATION:

AB 260 (Jones) would amend the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), which was approved by California voters last November. (See CRLR Vol. 6, No.



4 (Fall 1986) p. 83.) The bill would exclude from the present discharge and exposure prohibitions any discharges or releases of a chemical which is at a concentration not in excess of any tolerance, standard, or permit level for that chemical set by a federal or state agency.

AB 67 (O'Connell) would prohibit the state Department of Health Services from issuing permits to hazardous waste facilities to be used in connection with the incineration of hazardous waste at sea. The bill stems from the Governor's veto message of AB 2904 last year. AB 2904 would have prohibited the issuance of such permits pending further research of ocean-based incineration technology. The Governor's veto message stated simply that ocean-based incineration will not be utilized to treat California's hazardous waste, and thus it is unnecessary to complete a study of the issue.

AB 262 (Peace) would establish the International Border Pollution Control Authority, which would be vested with powers and duties relating to the mitigation of sources of pollution, contamination, and nuisance which originate across the international border. Last year, the Assembly tried to establish the Authority through AB 4309 (Peace), but the bill was vetoed by the Governor on September 30, 1986.

AB 313 (Hayden) would make it a misdemeanor to apply any antifouling paint containing tributyltin on any marine or freshwater vessel, dock, pier, or other structure within navigable waters. Additionally, the bill would require the WRCB to study the use of tributyltin and other organotin compounds and to report to the legislature by January 1, 1989.

Existing law contains no express prohibition on the use of tributyltin in antifouling paint. Tributyltin, an extremely toxic compound also known as TBT, is used as a wood preservative in pesticides and in protective paints. TBT has been banned in several states, as well as in England and France.

AB 190 (Bradley) would prohibit a city, county, or district from imposing any additional fees upon an owner or operator of an underground storage tank for any services connected with its operation. Current law already requires each person submitting an application for a permit to operate an underground storage tank containing hazardous substances, or renewing or amending the permit, to pay a fee to the designated department, office, or other agency of the county or city. The governing body

of the local agency is required to set the fee at a level sufficient to pay the costs of the local agency in administering the provisions regulating underground storage tanks.

AB 525 (Stirling) would, in part, require the WRCB to carry out studies necessary to collect data and establish objectives for the protection of reasonable and beneficial uses of water in San Francisco Bay and to protect the Bay from pollution, and would require the Board to report to the legislature no later than January 31, 1990.

AB 734 (Johnston) would require any sale or exchange of water involving a change in the point of diversion, place of use, or purpose of use to be approved by the WRCB subject to specified findings. The bill would declare legislative intent, and would require the Board to review the sale or exchange at least once every four years.

AB 645 (Costa) would require the Department of Water Resources to con-

duct surveys and investigations relating to the reclamation of water on the request of the WRCB or of any California regional water quality control board.

AB 682 (Kelley) would add section 13160.5 to the Water Code. Under existing law, waste discharge requirements are required to be prescribed for any discharge of waste that could affect the quality of the waters of the state other than into a community sewer system. AB 682 would require the WRCB and the California regional water quality control boards to consider topographical and climatological variations in annual precipitation when imposing construction and prescriptive standards for class III landfills.

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 Officers: Paula Higashi
and 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.

One public member position on the Board of Governors is currently vacant. Charles Westlund recently resigned in order to become a commissioner on the Athletic Commission.

The Board of Governors is assisted by a council of advisors appointed by the Board for one-year terms. The council's functions are: (1) to assist the Board in carrying out its duties, such as accepting/denying applications, preparing and grading examinations, and receiving or designating complaints involving misconduct or issues of professional competence; (2) to act as a liaison between the Board and the industry/public by providing the latter with assistance and information; and (3) to provide input to the Board based on contact with the public and industry.

MAJOR PROJECTS:

Disciplinary Review Committees. The Board recently approved proposed criteria for selecting new members to its two Disciplinary Review Committees. These committees hear appeals from licensees who have been administrative-