

SPECIAL BOARD MEETING MINUTES
BOARD OF WATER SUPPLY
Tuesday, August 28, 2012

The Board of Water, County of Kaua'i, met in a special meeting at the Board Conference Room in Lihue on Tuesday, August 28, 2012. Chairperson Daryl Kaneshiro called the meeting to order at 8:25 a.m. On roll call, the following answered present:

BOARD: Mr. Daryl Kaneshiro, Chairperson
Mr. Clyde Nakaya
Mr. Randall Nishimura
Mr. Larry Dill
Mr. Roy Oyama (*entered meeting at 8:34 a.m.*)

Quorum was achieved with 4 members present at roll call.

ABSENT/EXCUSED: Mr. Michael Dahilig
Mr. Raymond McCormick

STAFF: Mr. David Craddick
Mr. William Eddy
Mr. Andy Canavan
Mr. Keith Aoki
Deputy County Attorney Andrea Suzuki

GUESTS: Mr. Laurent Canalejas, The Garden Island Newspaper

ACCEPTANCE OF THE AGENDA:

Mr. Dill moved to accept the agenda as circulated, seconded by Mr. Nakaya; with no objections, motion was carried.

NEW BUSINESS

Re: Board Approval to join as class member in the class action case: City of Greenville v. Syngenta Crop Protection, Inc., and Syngenta AG, Case No. 3:10-cv-00188- JPG-PMF regarding Atrazine in the water

BACKGROUND:

Mr. Craddick gave a brief overview for the Board to recommend submitting a claim against the City of Greenville v. Syngenta Crop Projection, Inc., and Syngenta AG, Case No. 3:10-cv-00188- JPG-PMF regarding Atrazine in the water to accept settlement funds. No funding is required and approval to submit funds range from \$5,000 to \$10,000. A list of Atrazine hits from 1996 to 2004 was distributed to the Board. 2004 was the last time the DOW had traces of Atrazine. This is an on-going case which Syngenta settled. The Board would receive a portion of the money to cover the DOW's expenses for testing Atrazine.

SPECIAL BOARD MEETING MINUTES
BOARD OF WATER SUPPLY
Tuesday, August 28, 2012

Deputy County Attorney, Andrea Suzuki clarified that the Board would become a "class member" in this class action law suit. The time limit to qualify for a settlement is any time from the past up until August 28, 2012.

Deputy County Attorney, Andrea Suzuki read the three options to the Board:

- 1) The Board can become a class member in the case. The Board would be releasing all things that could have been brought in the case against Syngenta and other entities identified in the law suit. All orders are issued by the court, once the Board becomes a member will apply to the Board and legally bind the Board. The Board will be barred from suing or becoming a party to any other law suit regarding the presence of Atrazine in the drinking water or water substance for the next 10 years. This does not bar the Board from bringing any future source point and source contamination. The Board would receive an amount of money based on the detections that the Board will decide.
- 2) The Board can choose to do nothing. The Board will receive no payment and will not be able to start, continue to be a part of any other law suit against Syngenta and other entities about the legal issues of this case.
- 3) The Board could opt out and exclude itself from the class action. The Board would not receive payment but maintain the ability to bring a law suit against Syngenta or any entities related to the law suit.

Deputy County Attorney, Andrea Suzuki recommended the Board to join the case as a class member because the DOW has not detected any Atrazine since 2004. All levels of Atrazine were far below the actionable EPA level of 3 parts per billion.

Mr. Canavan, Chemist for the DOW stated 3 parts per billion would be considered a safe level using the EPA's best information. People could drink the water with Atrazine below this level and not experience any negative health effects. Based on the DOW's historic records; Chair Kaneshiro explained that records don't show anything close to this level. Mr. Canavan added the closest level the DOW has received was 10 times lower or 0.190 parts per billion.

Mr. Canavan indicated Atrazine is used for corn on Kauai. The seed companies are still using this herbicide and are using it throughout the mid-west in corn production.

Mr. Dill inquired if this would exclude the DOW from suits or future use of Atrazine. Deputy County Attorney, Andrea Suzuki stated the DOW cannot be a part of a point source (a spill). The Board would be barred from suing the next 10 years. It does not bar the DOW from bringing in any claim from a future point source. Deputy County Attorney, Andrea Suzuki clarified that the law suit is against the manufacturer of the product; however, bars the Board from suing Syngenta and other defendants in the party in the future.

At 8:34 a.m. Mr. Oyama enters meeting.

SPECIAL BOARD MEETING MINUTES
BOARD OF WATER SUPPLY
Tuesday, August 28, 2012

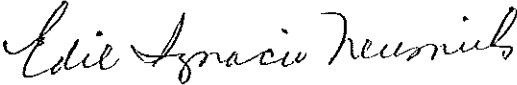
The DOW Chemist, Mr. Canavan, added Atrazine was made 50 years ago and has been widely studied. New information on Atrazine in the future is unlikely which concerned Board Member Mr. Nishimura. The DOW is concerned about Hexacrome and TCP.

Deputy County Attorney, Andrea Suzuki stated Syngenta is asking for court approval. Depending on how many water companies submit and how many hits there are, a formula has been developed to divide this in proportion. Information on the settlement is available on the web site Atrazine.com which is able to notify all possible companies.


Mr. Dill moved to submit a claim for the settlement funds to apply and accept settlement funds in the class action case: City of Greenville v. Syngenta Crop Protection, Inc., and Syngenta AG, Case No. 3:10-cv-00188- JPG-PMF regarding Atrazine in the water; seconded by Mr. Nakaya; by a unanimous vote; motion was carried with 5 ayes.

There being no further business, Chair Kaneshiro adjourned the Special meeting at 8:39 a.m.; with no objections, motion was carried.

Respectfully Submitted,


Edie Ignacio Neumiller
Commission Support Clerk

Approved,


Randall Nishimura
Secretary – Board of Water Supply