



County of Santa Cruz

PLANNING DEPARTMENT

701 OCEAN STREET - 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

Agenda Date: August 17, 1999

Date: August 10, 1999

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Subject: Consideration of Options for Reducing Water Quality Impacts Associated with Santa Cruz Biotechnology Biomedical Livestock Operation, Including a Request for Issuance of an Emergency Coastal Zone Approval

Members of the Board:

As you are aware, Santa Cruz Biotechnology, Inc. (SCB) is responsible for biomedical livestock operations on property owned by the corporation located on Back Ranch Road off Highway 1 on the north coast. The herd of goats on this property is contributing to a water quality problem which has been documented over the past two winters in three watercourses draining the ranch. The purpose of this letter is to apprise your Board of a permit application by SCB to remedy this problem, discuss various issues pertinent to that application, evaluate other options which might be available to address the problem, and request authorization from your Board to issue an emergency permit to allow the necessary work to proceed.

BACKGROUND

On June 16, 1999, SCB submitted an application for an Emergency Coastal Zone Approval to implement a number of "best management practices" for the purpose of addressing water quality impacts associated with ranch operations. This application includes a proposal to: 1) construct "roof extensions" to cover open areas between existing barns in two locations, 2) construct two concrete bunkers for the storage and composting of manure and 3) to repair an eroding gully. The roof extensions are 1,240 square feet and 4,000 square feet in size, and 19 feet and 21 ½ feet in height, respectively. The manure bunkers are 717 square feet and 1,275 square feet in size, respectively, and were initially intended to be covered with tarps during the winter period to prevent saturation of the manure with rain water. These structures, as originally proposed, would be 8 feet in height.

On July 12, 1999, SCB submitted a revision to application 99-0419 by proposing that each manure bunker be enclosed under a solid roof. This revision was made because, in SCB's opinion, the newly proposed roof structures will provide greater storm water separation than the former tarp design, thereby increasing water quality protection. The height of the two structures would increase from 8 feet, as cited above, to 16 feet, 9 inches and 19 feet, 2 inches in height, respectively.

On August 6, 1999, at the suggestion of the Planning Department, SCB submitted an additional revision to application 99-0419 requesting authorization to construct a concrete secondary containment facility for existing above ground fuel storage tanks on the property and proposing that 3 temporary tents be allowed on the site to provide shelter for the livestock. The need to install the secondary containment structure was identified by Environmental Health Services earlier this year, and is a standard requirement for above ground fuel storage facilities for protection of water quality in the event of a fuel spill. While temporary tents currently exist on the site, they were erected without a coastal approval and were the subject of a recent red tag issued by the Planning Department. While this component of application 99-0419 is needed to resolve a violation on the property, it is directly related to the protection of water quality, as are the other elements of this application for an Emergency Coastal Zone Approval. A site plan indicating the location of the proposed improvements described above is included for your review as Attachment 1.

As your Board may be aware, a Master Plan application for a biomedical livestock operation was filed by SCB on September 17, 1998, as required by County Code Section 13.10.647. The application was deemed incomplete by the project planner on October 15, 1998. There were three subsequent submittals by the applicant- on December 15, 1998, March 15, and again on June 1, 1999- in response to the planners' incompleteness letters and requests from various reviewing agencies. There has been extensive interagency coordination with various County and State agencies during the initial review period. This application was deemed complete on July 1, 1999. The Initial Study, which is now being prepared, will be considered by the Environmental Coordinator in late September.

Once the CEQA documents are prepared, and following review by APAC, the project will be ready for consideration by the Zoning Administrator, or the Planning Commission if the project is referred. Their decision is appealable to the next highest level, and ultimately to your Board. Since the project is in the Coastal Zone, any final approval is also appealable to the California Coastal Commission. Given the complexity and the controversial nature of this project, the remaining reviews and public hearings which are required for the master plan application, and the possibility of appeals, it is extremely unlikely that a final decision will be made on this application prior to the onset of winter rains. Deferral of the "Best Management Practices" until final action on the master plan does not appear to be a viable option.

DISCUSSION AND ANALYSIS

As you may recall, on September 23, 1997, your Board voted to "restrict growth at Santa Cruz

Biotechnology, Inc.'s north coast facility, pending approval of its Master Plan, to the development of structures for which Planning. has current applications and to limit the goat population to a 10% increase over the current number"(Attachment 2). Following submission of the Emergency Coastal Development Permit application, SCB representatives were reminded of this prohibition and were informed that the Planning Department could not act on the permit request without authorization by your Board. Planning staff further informed SCB that the proposal would be reviewed expeditiously and that it was our intent to seek authorization from your Board following the July recess to allow for implementation of measures to address water quality problems on the property.

According to Section 13.20.090 of the County Code , "Emergency Coastal Zone Approvals may be granted at the discretion of the Planning Director for projects normally requiring a Coastal Zone Approval which must be undertaken as emergency measures to prevent loss of or damage to life, health, or property..." The work authorized under such an emergency approval must be exercised within 15 days of issuance, and the approval expires 60 days after issuance. At the time of application for an emergency approval, the applicant is required to submit a completed application, including appropriate fees, for a regular Coastal Zone Approval. SCB has, as indicated above, requested the issuance of an Emergency Coastal Zone, and this request was accompanied by an application for a regular Coastal Zone Approval for subsequent consideration by the Zoning Administrator. We believe that the water quality impacts which have been documented on and adjacent to the SCB property constitute a situation requiring emergency action, such as that allowed under County Code Section 13.20.090.

On June. 22, 1999, staff from the Planning Department, Environmental Health Services, and the Regional Board met with a SCB representative at their north coast facility for the purpose of evaluating the proposals contained in the Emergency Coastal Development application. Following that site visit, staff of the Planning Department and Environmental Health Services prepared a letter summarizing our observations and comments. That correspondence, dated July 2, 1999, is included with this report as Attachment 3.

The most recent development related to water quality protection on this property has been the release of Draft Waste Discharge Requirements by the Regional Board. A copy of these draft requirements, dated July 20, 1999, is included for your review as Attachment 4. This document has been released for a public comment period which ends August 27th. These waste discharge requirements are scheduled to be considered by the Regional Board on October 22nd.

Planning Department staff have evaluated four different alternatives for addressing water quality problems on the SCB property in advance of approval of a Master Plan. These options include construction of the permanent, structural measures proposed by SCB in application 99-0419, implementation of a series of interim, non-structural measures described in Attachment 3, implementation of a manure haul-away program, and a reduction in the number of goats on the property. These options, along with a discussion of their associated benefits and potential drawbacks, are presented below.

EVALUATION OF ALTERNATIVES

Option #1: Permanent, Structural Measures Proposed Under Emergency Coastal Permit 99-0419

Approval of this permit would authorize SCB to construct two roof extensions, two manure bunkers, and a concrete secondary fuel containment structure; to maintain 2 temporary tents on the property and erect a third tent for livestock shelter; and, to undertake repair of an actively eroding gully. The benefit of approving this option is that this is work proposed by the applicant to remedy a significant water quality problem. As such, the applicant retains sole responsibility for ensuring that the measures succeed and that the water quality problem is abated. Finally, while the Waste Discharge Requirements proposed by the Regional Board do not specifically order SCB to undertake the work proposed under application 99-0419, Regional Board staff have endorsed that work both verbally and in prior written correspondence.

Application 99-04 19 is consistent with the proposal previously made by SCB to the Regional Water Quality Control Board (Regional Board) to remedy the water quality problem and which the Regional Board staff has encouraged them to implement. While the Regional Board's Draft Waste Discharge Requirements does not include an order to construct the permanent concrete manure bunkers or roof extensions at the two barn complexes, it requires SCB to implement "best management practices," with a reference to construction the roof extensions and manure bunkers, prior to November 15th of this year.

As indicated earlier in this report, application 99-0419, as amended, includes a proposal for the erection of temporary tents on the property for the purpose of sheltering goats during the winter months. Planning Department Code Compliance staff previously issued a red tag to SCB for erecting such tents on the property without benefit of a Coastal Permit. SCB appealed this matter to the Planning Director, asserting that the tents had been placed on the property prior to the adoption of the Minute Order. The Planning Director has determined that the evidence submitted by SCB was insufficient to document when the tents were erected and informed them that the issuance of a Coastal permit to resolve the violation would, in fact, be required. These tents help protect water quality and are included in Regional Board correspondence discussing "Best Management Practices".

Perhaps the biggest drawback to this option is that Planning Department and Environmental Health Services staff are not convinced that the measures, as proposed, go far enough to reduce water quality impacts from the ranch operations. Staff continues to believe that reducing or eliminating animal access to the steeper slopes draining to watercourses during the winter period is an essential element to implementing "best management practices" on the property. This issue can be addressed by placing conditions to address it on an Emergency Coastal Permit. In addition, we would recommend that the County request that Regional Board include language restricting animal access

to these slopes in their Waste Discharge Requirements.

The other drawback, which was originally of concern to staff, involves the issue of project segmentation under CEQA. Because the improvements proposed under the Emergency Coastal Development application are also included in the Master Plan application, which is subject to the requirements of the California Environmental Quality Act (CEQA), staff cautioned SCB, in the July 2, 1999 correspondence, that approval of the proposal could arguably constitute “segmenting” the Master Plan project, a practice which the courts have ruled to be in violation of CEQA. Since staff sent the letter to SCB following the field visit to review their application, we have evaluated the extent of overlap between the Master Plan proposal and application 99-0419.

In order for your Board to evaluate the applicant’s proposal in light of the improvements proposed under the Master Plan application, staff has prepared a “Summary of the Master Plan Proposal and It’s Relationship to Emergency Coastal Permit Application 99-04 19.” This comparison, included for your review as Attachment 5, depicts the square footage of permanent livestock shelters proposed under application 99-0419 and the Master Plan. As can be seen from this attachment, the square footage of the permanent livestock shelters proposed under application 99-0419 comprises approximately 12% of this type of new construction proposed by the Master Plan. We have also discussed this issue with County Counsel. County Counsel has advised that, given the seriousness of the water quality impacts involved, the approval of application 99-04 19 would not constitute an impermissible segmentation of a project under CEQA. The structural improvements would be located in areas that are already subject to concentrated animal use and would serve substantially, if not exclusively, to resolve the water quality problems associated with their presence.

Should your Board elect to authorize the Planning Director to approve application 99-0419, we would recommend that this approval, as well as subsequent approval of the regular Coastal Permit, contain language indicating that the proposed work is being undertaken at the applicant’s own risk solely for the purpose of abating water quality problems, and that the Master Plan permit process could result in relocation or elimination of those improvements. In addition, we would recommend that the approval be contingent upon receipt of a Waiver and Indemnification Agreement approved by County Counsel and signed by the applicant.

Option #2: Interim, Non-structural Measures

This approach would follow that outlined in the letter sent to SCB by the Planning Department and Environmental Health Services dated July 2, 1999 (Attachment 3). Avoiding the construction of new “permanent” structures associated with the biomedical livestock operations was the primary objective of this approach. This approach is consistent with your Board’s prior directive restricting growth, avoids a potential CEQA segmentation argument, limits what can be done under an emergency permit for which there is no public hearing or review, and minimizes the potential future enforcement issues if the County does not ultimately approve these improvements under the Master Plan. Additionally, in the opinion of staff, this option goes beyond the proposal made by SCB by attempting to address the impacts associated with the presence of goats on steep slopes adjacent to

watercourses during the winter period. The use of temporary tents, in addition to those which have now been included in application 99-0419, would likely be required under this option.

Several of the interim nonstructural measures, such as tarping manure piles and barn perimeters, would require relative greater diligence on the part of the SCB and would be more susceptible to failure during storm periods than use of the structural measures proposed in application 99-0419. Regional Board staff has stated both in writing and verbally that they endorse those structural measures and prefer them to the alternative involving interim, non-structural measures proposed by County staff. Finally, SCB representatives have indicated that the proposed nonstructural measures would negatively affect the biomedical livestock operation.

SCB concerns are discussed in an August 2, 1999, letter from Paul Bruno, Counsel for SCB(Attachment 6). The merits of the various options available to remedy water quality problems at the SCB are certainly open to serious discussion and debate. The interim measures developed by County staff represent a sincere effort to solve this problem within a complex legal and policy framework. Constructive dialog is an important element in resolving problems, and we are committed to working with SCB in order to achieve our shared objective: the improvement of water quality at this north coast facility.

Option #3: Implementation of a Manure Haul-Away Program

This approach would provide for the regular collection and haul-away of manure to an offsite location where it could be utilized for compost or a direct soil amendment. This could greatly reduce the size of any manure stockpiles or manure storage bunkers, although there would need to be some provisions for manure storage between the periods it is hauled away. It should be noted that finding interested haulers or users of the un-composted manure can be problematic, particularly during the winter months. In addition, in the opinion of staff, water quality impacts associated with properly located and stored manure are not as severe as those associated with runoff from holding pens where manure is not generally collected. Both County staff and representatives from the Regional Board have reviewed the location of manure piles and believe that, with implementation of proper drainage control or construction of bunkers, impacts from stored manure can be reduced to an acceptable level or eliminated.

Option #4: Reduction in the Number of Goats Allowed on the Property

On September 23, 1997, your Board authorized SCB to keep, up to 1,677 goats (the number on the site at the time, 1,525, plus a 10% increase), on the ranch in advance of approval of the Master Plan. The Master Plan application states that, currently, there are approximately 1,675 goats on the property.

Because the impacts to water quality largely appear to be due to the concentration of animals in exposed locations during the winter period, providing adequate shelter for the herd, and thereby preventing the deposition of fresh manure in areas where it can be transported to watercourses, is

essential. At present, approximately 15, 560 square feet of covered barn area exists on the property.

Section 6.04.130 of the County Animal Control Ordinance pertains to “biomedical livestock animal treatment standards.” This section of the County Code states that “No person shall use any procedure for animal care or treatment unless it is consistent with the most recently enacted or published provisions of the Federal Animal Welfare Act, the National Research Council’s “Guide for the Care and Use of Laboratory Animals,” and the American Veterinary Medical Association Euthanasia Guidelines.” These provisions establish space requirement standards for animal enclosures. This document recommends 15 square feet of floor area per goat, and this figure is the basis for the calculation presented below.

Using 15 square feet as the amount of area needed per animal, the existing barns could shelter 1,037 goats (it should be noted that this figure is an estimate only, and does not take into account area which may be needed to conduct certain day-to-day operations, such as separating individual goats or groups of animals out of the herd for special handling). This would require a reduction of the existing herd by 638 animals. While the overall manure volume would be reduced considerably through implementation of this option, further attention would still need to be given to limiting or prohibiting animal concentration and access to the open areas between the barns during the winter months.

Without the implementation of additional measures, the reduction in the size of the herd on the property, alone, would not fully address water quality impacts. As stated earlier in this report, Planning and Environmental Health Services staff believe that the presence of goats in open areas, particularly sloped areas draining to watercourses, contributes significantly to water quality degradation. If your Board elects to reduce the number of goats on the SCB property, staff recommends that steps also be taken to preclude the concentration of animals in these open areas during the fall and winter months.

CONCLUSION AND RECOMMENDATION

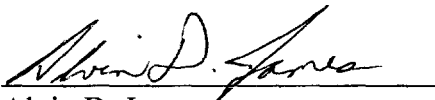
While Planning Department and Environmental Health staff initially believed that interim, non-structural measures were preferable to the permanent, structural solution proposed by SCB, our position has changed following discussions with County Counsel, the release of the Regional Boards Draft Waste Discharge Requirements, further dialog with Regional Board staff, and the comparison of improvements proposed under application 99-04 19 and the Master Plan. Based on the analysis and discussion contained in this report, Planning Department and Environmental Health staff now believe that the most appropriate course of action for addressing water quality impacts at the SCB property would be to issue an Emergency Coastal Zone Approval to implement the “best management practices” proposed under application 99-04 19, with additional conditions to reduce concentration of animals on sloped areas and areas draining directly to watercourses. This combines the measures preferred by the Regional Board staff, along with the additional measures County staff believe are needed to more completely address the water quality problems. In order for work to be

completed at the earliest possible time , an emergency permit is the most viable option.


It is therefore RECOMMENDED that your Board authorize the following actions:

1. Authorize the Planning Director to issue an Emergency Coastal Zone Approval to Santa Cruz Biotechnology to construct two barn roof extensions, two concrete manure bunkers, secondary containment facilities for existing above ground fuel storage tanks, maintain 2 temporary tents and erect a third tent for use as livestock shelters, and to repair an eroding gully in order to reduce water quality impacts at its north coast facility, as described in application 99-0419; and
2. Direct the Planning Department to include as conditions of Emergency Coastal Zone Approval 99-0419, the following: a restriction on the presence of goats on slopes adjacent to watercourses and in areas immediately adjacent to drainage inlets during the winter months, a requirement for the execution of an agreement indicating that the proposed work is being undertaken at the applicant's own risk in advance of approval of the Master Plan solely for the purpose of abating water quality problems, and a requirement for execution of a Waiver and Indemnification Agreement.

Sincerely,


Alvin D. James
Planning Director

RECOMMENDED:

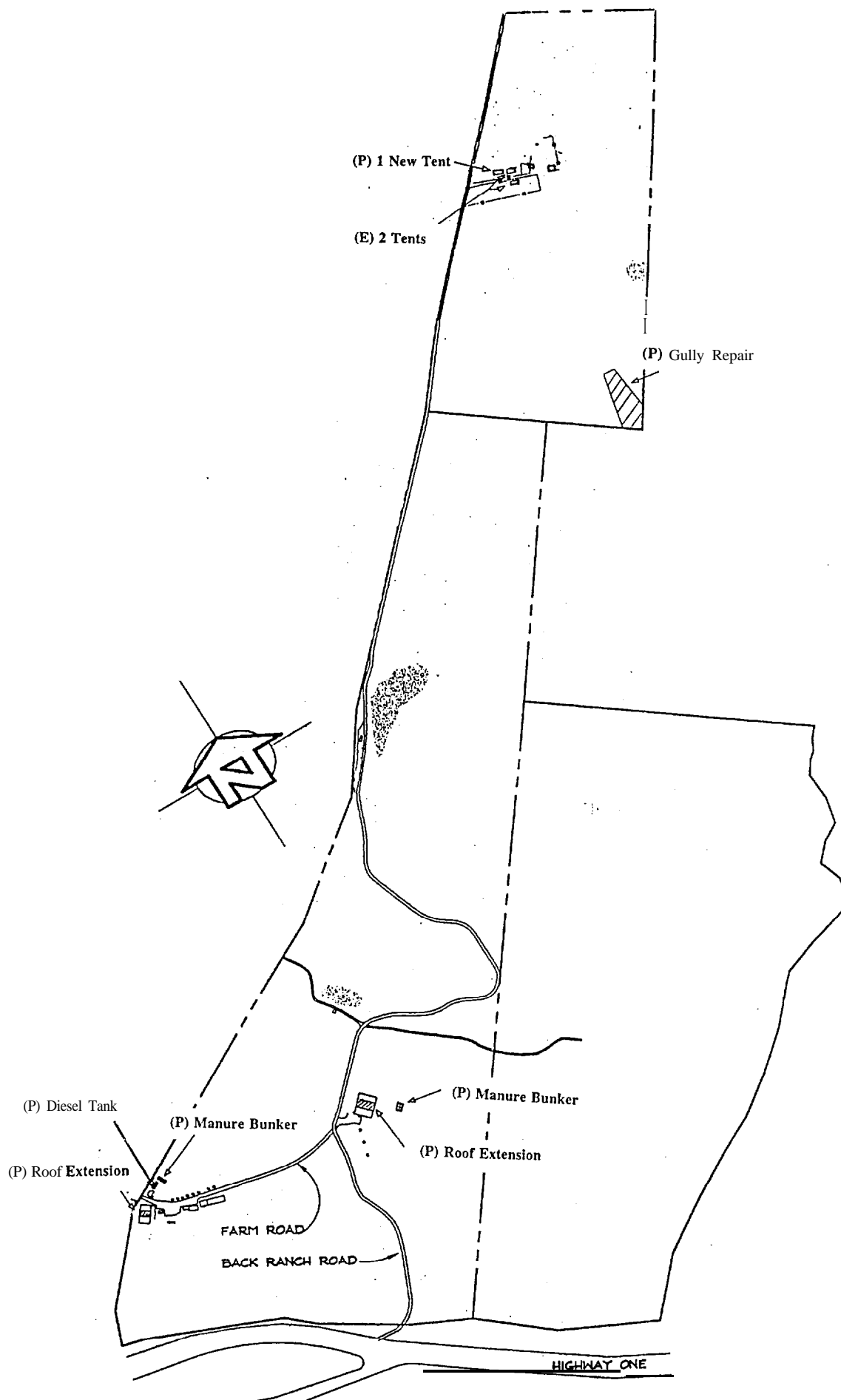

Susan A. Mauriello
County Administrative Officer

Santa Cruz Biotechnology
Board Agenda Date: August 17, 1999

- Attachments:
1. Site Plan
 2. Minute Order Dated September 23, 1997
 3. Correspondence to SCB, Dated July 2, 1999
 4. Draft Regional Board Waste Discharge Requirements
 5. Master Plan/Application 99-04 19 Comparison
 6. Correspondence from SCB, Dated August 2, 1999

cc: Santa Cruz Biotechnology, Inc.
Regional Board
County Counsel
Environmental Health
Jonathan Wittwer

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Vicinity Map

NOT TO SCALE

Santa Cruz Biotechnology, Inc.

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA

ATTACHMENT 2



AT THE BOARD OF SUPERVISORS MEETING
On the Date of September 23, 1997

REGULAR AGENDA Item No. 063

Motion made by Supervisor Belgard, seconded by Supervisor Symons, to amend Section 13.10.647(e)(2) last sentence to read: "With respect to the foregoing, APAC shall make its recommendation based on a formula that requires 35 square feet of structure per goat or sheep, and 40 square feet of structure for swine to establish the maximum number of animals possible under consideration by APAC."; motion failed with Supervisors Beautz, Almquist and Wormhoudt voting "no";

By consensus, the Board directed staff to include reference to the Animal Control Ordinance in Ordinance No. 4474 and directed the County Administrative Officer to include the issues raised regarding the humane treatment of animals as a part of the Animal Control Ordinance which is currently being modified;

Upon the motion of Supervisor Almquist, and duly seconded by Supervisor Beautz, motion was made to restrict growth at Santa Cruz Biotechnology, Inc.'s north coast facility, pending approval of a master plan, to the additional proposed structures for which the Planning Department has current applications;

Motion made by Supervisor Belgard, seconded by Supervisor Symons, to amend the main motion to allow 10% growth in the number of goats at the north coast facility; motion failed with Supervisors Beautz, Almquist and Wormhoudt voting "no";

Upon the motion of Supervisor Almquist, duly seconded by Supervisor Belgard, the Board, with Supervisor Wormhoudt voting "no", reconsidered motion to allow 10% growth in the number of goats at the north coast facility;

Upon the motion of Supervisor Belgard, duly seconded by Supervisor Symons, the Board, with Supervisors Beautz and Wormhoudt voting "no", approved allowing a 10% increase to the existing number of 1,525 goats at Santa Cruz Biotechnology, Inc.'s facility on the north coast prior to approval of its master plan;

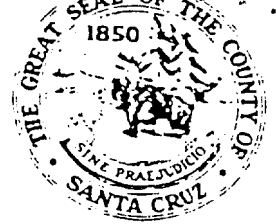
Approved main motion, as amended, by unanimous vote, to restrict growth at Santa Cruz Biotechnology, Inc.'s north coast facility, pending approval of its master plan, to the development of

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA

ATTACHMENT 2



THE BOARD OF SUPERVISORS MEETING
on the Date of September 23, 1997

REGULAR AGENDA Item No. 063

subject for which Planning has current applications and to limit
the goat population to a 10% increase over the current number

cc:

CAO

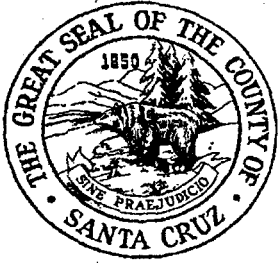
County Counsel
Lloyd Williams
Paul Bruno
Back Ranch Road Association
Santa Cruz Biotechnology, Inc.
Save Our Agricultural Land
Environmental Health Services
County Health Officer
Agricultural Commissioner
UC Extension Services
Agricultural Policy Advisory Commission
Rich Casale, NRCS
Planning Commission

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors, on October 1, 1997.

Page 4 of 4

by Sandy Hansen Deputy Clerk



County of Santa Cruz

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

July 2, 1999

Matt Mullin .
 Santa Cruz Biotechnology, Inc.
 2 162 Delaware Avenue
 Santa Cruz, CA 95060

Subject: Emergency Coastal Zone Permit Application No. 99-0419 (Proposal to Remediate Water Quality Impacts)

Dear Mr. Mullin:

Thank you for the opportunity to meet on the Stephenson Ranch property on Tuesday, June 22, 1999 to discuss proposals to reduce water quality impacts associated with the biomedical livestock operation. That meeting was attended by yourself, John Ricker, County Environmental Health Services, Ken Hart, County Planning, and Bill Arkfeld, Regional Water Quality Control Board. The proposals reviewed on the site are contained in a request for an Emergency Coastal Zone Permit (application 99-0419), submitted to the Planning Department for processing on June 21, 1999. The purpose of this letter is to explore the full range of Best Management Practices (BMP's) available to address the existing water quality problems on the Stephenson Ranch. These alternatives go beyond those proposed in your Emergency Coastal Zone Permit application, which does not fully address the water quality problems originating on the site. Finally, this letter serves to provide you with the status of your Emergency Coastal Zone Permit and information about the manner in which the Planning Department will conduct its review of this request.

As you are aware, elevated bacteria levels were documented during the winter of 1998-99 in watercourses which drain the Stephenson Ranch. These bacteria levels greatly exceed the body contact-standards established by the State and are therefore of concern to both the Regional Water Quality Control Board (RWQCB) and the Santa Cruz County Environmental Health Services Agency. Both drainages flow into areas where the water can come into contact with the general public. While we acknowledge that you have been working with the RWQCB to develop BMP's in order to reduce the impacts of the existing biomedical livestock operation on water quality, the Planning Department is constrained in its ability to issue local permits to implement the measures as currently proposed. We are, however, committed to assisting you in implementing appropriate measures to protect water quality.

The Santa Cruz County Board of Supervisors, at their meeting on September 23, 1997, restricted the growth of the biomedical livestock operation on the property in question, pending approval of the master plan, to the development of structures for which application had been made to the

Planning Department as of that date. In addition, many of the BMP's proposed to the RWQCB and contained in Emergency Coastal Zone Permit application no. 99-0419 represent permanent, structural measures which are also included in the master plan application (98-0647). That master plan application will be subject to Environmental Review, as required by the California Environmental Quality Act (CEQA). California courts have declared that a public agency may not divide a single project into smaller individual sub-projects to avoid responsibility for considering the environmental impact of the project as a whole. Approval of the permanent, structural measures requested in application 99-0419 would, in the opinion of staff, represent such a "segmentation" of the larger master plan proposal and would therefore be prohibited.

In light of the foregoing information, the Planning Department will clearly need to consult with the Board of Supervisors prior to issuing any additional permits for the Stephenson Ranch property. As the Board is in recess during the month of July, our intention is to discuss your application 'for an Emergency Coastal Zone Permit with them at the first opportunity in August and to process your application as expeditiously as possible shortly thereafter.

Planning Department staff envisions the use of interim BMP's wherever possible, as an alternative to the permanent, structural measures proposed by Santa Cruz Biotechnology in order to avoid segmenting Environmental Review of the master plan project. Please be advised that these recommendations for interim measures have been evaluated by both Planning Department and Environmental Health Services staff, who have concluded that, as a package, they will provide water quality protection equal to or greater than that provided by the permanent, structural measures proposed by Santa Cruz Biotechnology through Emergency Coastal Zone Permit application no. 99 0419. An item-by-item discussion of the interim measures that might be appropriate follows.

Manure Management

Your Emergency Coastal Zone Permit application includes a request to construct two permanent concrete manure bunkers. The locations of these bunkers is identical to those proposed under your application for a master plan approval. As discussed in the field on June 22, we recommend that you simply elevate the existing manure piles on base rock or some other suitable material, implement some additional, minor drainage improvements immediately adjacent to the piles, and continue your practice of using tarps during the winter period to ensure that water does not come into contact with this animal waste.

Discontinued Winter Use of Penned Areas Adjacent to Barns #1 and 2

Currently, the biomedical livestock operation utilizes four penned areas in the vicinity of barns # 1 and 2 and the caretaker's quarters on a year-round basis. These pens are located on a steep slope and are situated immediately adjacent to watercourses. Their use during the dry season as pasture area is appropriate, as animal waste is not delivered to these streams over the course of the summer and fall. During the winter period, however, the pens become saturated and this waste is transported by surface runoff to the adjacent watercourses. The presence of goats here during the winter period

Stephenson BMP's
Emergency Coastal Zone Permit Application 99-0419
July 2, 1999

comprises a distinct threat to water quality and staff believes that use of these pens should be prohibited during the winter months. Furthermore, the areas should be revegetated in order to provide for filtration of surface water which ultimately enters these drainages. While this issue was not included in the application for an Emergency Coastal Zone Permit, staff will be addressing it with the Board of Supervisors, as we believe that it should be discussed in connection with the roof extension proposal discussed below.

As an alternative, goats normally housed in these pens could be moved to the southern portion of the pasture designated as "Genuine Risk" on the site plan submitted with your Emergency Coastal Permit application. This area is relatively flat and is well removed from slopes leading to any watercourse. If you desire to provide shelter for the relocated animals, please be advised that, because the use of permanent or temporary tents on the property meets the Coastal Zone definition of "development," use of tents here would require the issuance of a Coastal Zone Permit. Such a proposal could be considered under a revised permit application.

Roof Extensions

Your application for an Emergency Coastal Zone Permit includes a request to cover the area between barns 1 and 2, as well as between barns 4 and 5. Goats use these uncovered areas during the rainy season and it is infeasible to keep manure from coming into contact with surface water.

The construction of roof extensions would accomplish work proposed under the master plan application. Because the joining of the four barns is proposed as part of the master plan application, this work will be evaluated in the environmental document prepared for that project. As this proposal appears to involve project segmentation, and because we believe that an equal level of water quality protection may be achieved through alternative methods, Environmental Health Services and Planning staff do not support constructing these roof extensions at this time.

It is our opinion that livestock should be kept out of the areas between the barns during the winter months. To accomplish this, barns 1 and 2 would need to be enclosed through the use of wire mesh, tarps, or some other solid material. Goats from this area could be relocated to the southern portion of "Genuine Risk," as described above. To exclude animals from the area between barns 4 and 5 during the winter, the southern side of barn 5 would need to be enclosed. Goats from this area could be relocated to the eastern portion of "Cannonade." As indicated earlier in this letter, the use of temporary tents to shelter animals requires the issuance of a Coastal Zone Permit and could be considered as part of a revision to your existing application.

Protection of Drainage Inlets

There are three drainage inlets on the north side of barn 5 which convey runoff from a series of pens

Stephenson BMP's
Emergency Coastal Zone Permit Application 99-04 19
July 2, 1999

to the head of Edwards Creek. Additional water quality protection, beyond that proposed in your Emergency Coastal Zone Permit application, is needed here. This can be accomplished by excluding animals from this area during the winter. To accomplish this, you would need to install a fence parallel to the barn at the top of the break in slope (approximately 15 to 20 feet from the barn), along with chutes or gates to allow access from the pens to barn 5. This configuration would prevent the deposition of animal waste in the swale leading to the culvert inlet and would allow for the establishment of vegetation in this area to filter runoff from the pens. The drainage swales on the north side of each barn should be revegetated to provide better filtration of runoff prior to it entering the inlets. Animals displaced as a result of the reduction of pen size could be relocated to the eastern portion of "Cannonade."

Gully Repair

Your proposed gully repair design has been reviewed by Rachel Lather, Senior Civil Engineer. MS Lather believes that the overall design has merit, but has the following comments and questions:

The plans do not indicate whether you intend to grade the eroded gully prior to laying filter fabric and placing drain rock in order to provide a uniform surface for the sub-drain system. Such ground preparation should occur and be reflected on the plans.

- The plans must specify the overlap requirements for the filter fabric to be used to enclose the drain rock.
- A perforated pipe, wrapped in filter fabric, and placed at the bottom of the gully should be included in the design. This pipe would establish a secondary system to transport water along the interface between the gravel drain and the existing ground surface at the bottom of the gully. Such a system is typically used to ensure that undermining of soil does not occur beneath the gravel drain.

The gully that would be filled under this proposal is reportedly 200 feet in length. It is customary to place cut-off walls at regular intervals in order to slow the velocity of subsurface water flowing through a gravel drain of this length. This aspect of the design needs to be addressed by your Civil Engineer.

- It is unclear whether the dimensions of therevet mattress shown on the plans are adequate to prevent undercutting of the gabion structure resulting from discharge from the 12 inch storm drain. Please provide information on the discharge volume and velocity of water exiting the storm drain.

The storm drain risers and debris racks will consist of HPDE, which could be attractive

Stephenson BMP's
Emergency Coastal Zone Permit Application 99-0419
July 2, 1999

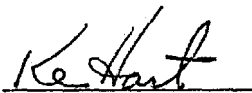
for goats to chew. In addition, the repaired gully will be graded, at least initially, to drain to the two drop inlets. If goats are allowed to graze in this area, this positive drainage to the inlets could be compromised. Please address these two issues which could affect the long-term effectiveness of the gully repair project.

In summary, both Planning Department and Environmental Health Services staff acknowledge that serious water quality impacts are occurring during the winter months as a result of the existing layout and concentration of biomedical livestock operations on the Stephenson Ranch property. While we agree with the need to address this problem prior to the onset of winter, we also believe that the alternatives discussed in this letter could provide a more comprehensive approach to providing water quality protection, and will not segment the master plan project currently under review, in keeping with CEQA-related court rulings on this issue. While we believe implementation of these measures would substantially improve water quality, additional measures may be necessary if winter sampling indicates that there is a continuing problem.

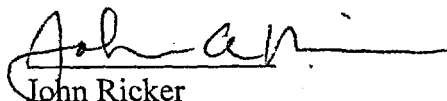
As indicated above, we intend to discuss the proposals contained in application 99-0419 and the interim measures outlined above with the Board of Supervisors in August. We believe that this schedule will still leave sufficient time for the completion of water quality protection work prior to the winter season.

Please feel free to contact John Ricker (454-2750) or myself (454-3 127) if you have any questions regarding this matter.

Sincerely,



Ken Hart
Principal Planner/
Environmental Coordinator



John Ricker
Water Quality Program Manager

cc: Board of Supervisors
Planning Director
Environmental Health Services Director
County Counsel
Regional Water Quality Control Board
--



Winston Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Coast Region

Internet Address: <http://www.swrcb.ca.gov>
81 Higuera Street, Suite 200, San Luis Obispo, California 93401-5427
Phone (805) 549-3147 • FAX (805) 543-0397



Gray Davis
Governor

July 20, 1999

Matt Mullin
Santa Cruz Biotechnology, Inc.
2161 Delaware Ave.
Santa Cruz, CA 95060

Dear Mr. Mullin:

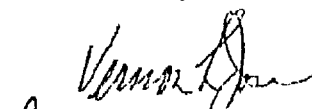
DRAFT WASTE DISCHARGE REQUIREMENTS: SANTA CRUZ, BIOTECHNOLOGY, INC., STEPHENSON RANCH AND EDWARDS PROPERTY, GOAT GRAZING AND MANURE LAND APPLICATION SITES, SANTA CRUZ, COUNTY, BOARD ORDER NO. 97-007

Enclosed for your review and comment is a first draft of Board Order No. 99-007, "Waste Discharge Requirements for Santa Cruz Biotechnology, Inc., Stephenson Ranch and Edwards Property, Grazing and Manure Land Application Sites, **Santa Cruz County**" and an accompanying staff report.

We request your written comments and recommendations regarding draft Order No. 99-007 be submitted to this office by Comments received by then will be considered for the Order staff will recommend the Board adopt. Consideration by the Board is scheduled for **October 22, 1999** during a regularly scheduled meeting in Seaside, California.

If you have any questions, please contact William Arkfeld of my staff at (805) 547-4627.

Sincerely,


for Roger W. Briggs
Executive Officer

Attachments: Staff Report for Oct. 22, 1999 Meeting
Draft WDR 97-007
Draft M&RP 97-007
Standard Provisions

cc: See "Interested Parties List"

SCBTRANSMITTALDOC

California Environmental Protection Agency

cc: Rec'd Power

18

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF OCTOBER 22, 1999

Prepared on July 20, 1999

ITEM NUMBER: _____

SUBJECT: Issuance of Waste Discharge Requirements, Santa Cruz Biotechnology, Inc., Stephenson Ranch and Edwards Property, Grazing and Manure Application, Santa Cruz County, Board Order No. 99-007

KEY INFORMATION

Location:	5322 Back Ranch Road, about five miles northwest of Santa Cruz City
Discharge Type:	Manure land application and grazing
Design Capacity:	up to approximately 4000 goats
Current Capacity:	Approximately 1650 goats and small number of donkeys and horses
Reclamation:	Land applied manure used as a soil amendment
Project Size:	255 acres of the 308 acres Site available for grazing and manure application

SUMMARY

Santa Cruz Biotechnology, Inc. (SCBI) submitted a Report of Waste Discharge requesting waste discharge requirements to land to apply manure on the Stephenson Ranch (Site) and Edwards Property near the Bonny Doon area. Proposed Board Order No. 99-007 (Order) regulates the Site with SCBI primarily responsible for compliance with this Order. John & Brenda Stephenson and Ralph Edwards, as property owners, are ultimately responsible for the grazing and manure discharge allowed by the Order. Manure and bedding (rice hulls) will be collected from the barns and spread on the 21 pastures (i.e., Designated Manure Application Sites) during dry weather. During wet weather, manure collected at the barns will be stored in bunkers until the dry season (April 1 through October 1 of each year) when it will be land applied on the pastures. Manure will be beneficially reused as a soil amendment to grow pasture grasses.

DISCUSSION

SCBI has operated a goat and donkey grazing operations since 1990. These animals are injected with a peptide molecule to stimulate production of

antibodies. Small quantities of blood are harvested on 8 regular basis from each animal. The blood is then processed to remove and purify these antibodies. Staff has found no evidence indicating this grazing operation is any different than a non-biomedical animal grazing operation of comparable size. Furthermore, the California Coastal Commission and a Santa Cruz County Judge have ruled that the operation is an "agricultural operation."

This operation is currently regulated under the NPDES Stormwater Program. Surface water samples collected by Santa Cruz County between 1998 and March of 1999 indicated sporadically elevated levels of fecal Coliform, nitrate and ammonia. However, some of these test results were not considered conclusive evidence of a water quality problem originating from the Site since other sources of these pollutants were not evaluated. SCBI agreed to seek regulation under waste discharge requirements to resolve this concern.

The 21 pastures are located on property owned by either John and Brenda Stephenson or Ralph Edwards. The manure spreading operation will only occur during dry weather. Manure collected during

Item No. _____

-2-

October 22, 1999

the wet weather will be stored until wet season ends (i.e., no earlier than April 1 of each year). If manure can be adequately composted, wet season application may be considered by the Executive Officer. Best management practices will be implemented to optimize the grazing of pastures and minimize water quality impacts from the pastures and barn areas.

SCBI and the property owners, John and Brenda Stephenson and Ralph Edwards are jointly considered "Dischargers" subject to the proposed Order. SCBI has indicated they will assume primary responsibility for compliance with the Order, while the property owners are considered ultimately responsible for the grazing and manure discharge occurring on their respective properties.

WASTE DISCHARGE REQUIREMENTS

FINDINGS

Most of the Findings are self-explanatory.

Finding 1: Santa Cruz Biotechnology is currently regulated under the NPDES Stormwater Program. They agreed to seek waste discharge requirements to facilitate a clear demonstration their grazing operation could operate in compliance with water quality requirements. They also had the option of staying under the Stormwater Program, but chose not to after discussing these options with Board staff. The primary advantage in choosing to be regulated under waste discharge requirements will be a clear framework for establishing maintaining compliance with water quality requirements.

Finding 7: According to Todd Engineer's October 29, 1998 "Santa Cruz Biotechnology-Stephenson Ranch, Water Quality Monitoring Plan," existing geologic conditions at the Site along with Site management practices are the primary reasons groundwater impacts are not expected. In particular, the existence of a relatively low permeable mudstone under the Site is a primary factor in the determination that groundwater is not threatened by the project.

Finding 15: Santa Cruz County has a local ordinance for biomedical grazing operations, which

regulates this Site. Staff is coordinating with County staff to avoid conflicts between the Order and the County's Ordinance.

Finding 17: Before the goat herd population can be significantly increased, a new environmental review process, with Santa Cruz County Planning Department acting as the lead agency, must be completed to comply with the California Environmental Quality Act (CEQA).

All other finding in the Order are considered self-explanatory.

PROHIBITIONS

Prohibition A.2.: Manure land application at the Site is only allowed on designated pastures. Manure may be moved offsite to appropriately regulated disposal and reuse sites. Staff also does not object to the use of composted manure in the vicinity of the Stephenson's home and other landscaping purposes at the Site provided no conditions of pollution or nuisance are created.

Prohibition A.6.: The Discharger will be required to assess the nitrogen application rate (i.e., agronomic rate) in two ways. Soil samples will be collected and analyzed for soil fertility parameters. The nitrogen needs of the pastures may be estimated based on the soil analysis results. The Discharger will also be required to monitor the levels of nitrogen compounds in manure. The appropriate rate of manure application may be determined by determining the amount of "plant available nitrogen" (PAN) per unit weight of manure. Generally, the PAN equals all the nitrate, all the nitrite, the portion of the ammonia that does not volatilize and the portion of organic nitrogen that is expected to mineralize each year following manure application. Since both of these methods estimate the agronomic rate, the Discharger is expected to annually reassess the manure application rates to ensure excess nitrogen is not applied.

Prohibition A.6.: The Discharger will need to be particularly careful with erosion on steep slopes, along drainage ways, along roads and in disturbed areas (e.g., areas disturbed by wild pigs and gophers). For steeply sloped pastures where manure

Item No. _____

-3-

October 22, 1999

is applied, there is additional concern manure and its constituents could migrate to surface waters.

Prohibition A.8.: Discharger has agreed to only land apply manure during the dry season (April 1 through October 1). Since wet weather may extend past April 1, the Discharger should use caution during the months of April and May. Preferably, manure should be applied when 30 or more days of dry weather are expected. This 30 plus day period will significantly reduce the number of Coliform bacteria present in the land-applied manure. Composting of manure prior to land application is another effective way to destroy coliform bacteria,

All other Prohibitions are considered self-explanatory.

DISCHARGE SPECIFICATIONS

Discharge Specification B.1.: Stockpiled manure has the potential to become anaerobic (i.e., create an odor nuisance) and to breed flies. By spreading manure promptly after it is moved to one of the pastures, these concerns can be minimized.

Discharge Specification B.2.: If the Discharger chooses to utilize a no till manure application method, then additional safeguards may be appropriate. The Discharge is expected to consider vegetation height, distance to nearest surface water body or drainageway, manure application rate, topography, time of year, manure quality, and other appropriate factors when utilizing a no till manure application method.

Discharge Specification B.3.: The setbacks contained in this Specification are based on staff's best professional judgement and should be considered minimum setbacks. Site specific conditions at each pasture should be evaluated to determine whether greater setbacks are appropriate.

Discharge Specification B.6.: Manure application, excessive grazing and wildlife (gophers and pigs) on steeply sloped pasturelands could lead to stormwater pollution [i.e., transport of Sediment, nutrients and microorganisms to surface waters)+

Discharge Specification B.7.: To determine the optimal to optimal level of dry residual matter and vegetation height for each pasture, the Discharger is required to seek consultation by a qualified expert in pasture management.

Discharge Specification B.8.: The Discharger is required to remove all stored manure from the manure storage facilities to ensure there is adequate storage capacity during the next wet weather season.

Discharge Specification B.9.: The Discharger is required to inspect all drainageways, riparian corridors, bridges, drainage swales and other areas where manure could easily migrate to surface waters during a storm event. All such manure that is visible must be removed prior to October 1 of each year.

All other Specifications are self-explanatory.

WATER QUALITY PROTECTION STANDARDS

Water Quality Protection Standard C.4.: The most threatened beneficial use of water near the Site is water contact recreation in the Ocean and nearby creeks. To protect this beneficial use, fecal coliform monitoring will be required.

On June 28, 1999, Todd Engineers (on behalf of the Discharger) submitted a report detailing why "water contact recreation" is not a beneficial use in the ephemeral creeks that drain off of the Site. Todd Engineers argues that none of the typical water recreation activities listed in the Basin Plan are likely to occur in any of the subject ephemeral creeks. They also argue that other sources of Coliform bacteria already sporadically cause Laguna Creek to exceed the water contact recreation standard for Coliform. Nevertheless, staff still maintains that water contact recreation is a beneficial use of the subject creeks for the following reasons:

- 1) These creeks cross private property where people (especially children) may choose to use the water for recreation.
- 2) A reservoir, which collects water from the Lorenzi Creek, is reportedly used for fishing and could possibly be used for swimming.

Item No. _____

-4-

October 22, 1999

- 3) Nearby beach users and hikers on the adjacent State Park lands may choose to wade in Majors Creek.
- 4) Other waste discharge requirements for this Region utilize water contact recreation under similar circumstances.

All other Water Quality Protection Standards are self-explanatory.

PROVISIONS

All other Provisions are considered self-explanatory.

MONITORING AND REPORTING PROGRAM

Todd Engineers has prepared the October 29, 1998 "Santa Cruz Biotechnology-Stephenson Ranch Water Quality Monitoring Plan" (Plan) for the Discharger. The Plan proposed surface water monitoring, soil monitoring and site observations necessary to evaluate compliance with water quality requirements. The need for groundwater monitoring is addressed in the Plan and found to be unnecessary due to site conditions.

There is a foreseeable need for surface water monitoring because the risk of surface water impacts. Samples of surface water will be collected from drainageways containing significant surface water quantities at the point where each drainageway crosses the Site's property line. Internal surface water monitoring may be performed by the Discharger to evaluate the effectiveness of particular best management practices, but is not required by the MRP. Internal monitoring may be required by the Executive Officer at a later date if the source of surface water degradation needs to be determined. Background surface water monitoring points include Laguna and Majors Creek, any points where significant stormwater run on occurs, and in each irrigation water source. If elevated levels of any constituent or parameter are found in surface water downstream of the Site, then background water quality data will be used to determine the significance of each potential surface water impact. Soil monitoring is required to determine background soil quality, to verify appropriate manure applications rates, and to determine if excess levels

of nutrients are present in the soil. SCBI is responsible for evaluating the soil monitoring data to determine whether manure application rates are appropriate.

Regular inspections of the Site are required to ensure all surface water impacts are prevented or promptly resolved. If surface water impacts are observed, then the Discharger is required to promptly report this fact to the Board and to follow-up in writing.

ENVIRONMENTAL SUMMARY

On May 7, 1998, the Santa Cruz County Planning Department adopted a mitigated negative declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) and State guidelines. This Negative Declaration addressed the construction of two barns, installation of five water storage tanks, installation of 3,000 lineal feet of new water line, and installation of one grain silo.

Since Santa Cruz County has recently adapted an ordinance for biomedical animal operations, a new environmental review process will be required before a significant increase in the goat population may occur. Santa Cruz County Planning Department will act as lead agency for this future environmental review process under CEQA.

ATTACWMEN-I-S

1. Board Order No. 99-007 - Waste Discharge Requirements for Santa Cruz Biotechnology, Inc., Stephenson Ranch and Edwards Property, Grazing and Manure Application Sites, Santa Cruz county
2. Monitoring & Reporting Program No. 99-007 for Santa Cruz Biotechnology, Inc., Stephenson Ranch., Edwards Properly, Grazing and Manure Land Application Sites, Santa Cruz County.
3. Standard Pro & ions and Reporting Requirements for Waste discharge Requirements (January 19 84).

SCBISTAFF.DOC

22

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
81 Higuera Street, Suite 200
San Luis Obispo, California 93401-5427**

WASTE DISCHARGE REQUIREMENTS ORDER NO. 99-007

Waste Discharge Identification No. 3 4498 1001

First Draft July 19, 1999

Proposed for Consideration at the October 22, 1999 Meeting

For

**SANTA CRUZ BIOTECHNOLOGY, INC.
STEPHENSON RANCH AND EDWARDS PROPERTY
GRAZING AND MANURE LAND APPLICATION SITES
SANTA CRUZ COUNTY**

The California Regional Water Quality Control Board, Central Coast Region, (hereafter Board) finds:

1. Matt Mullin, Director of Planning and Regulatory Affairs for Santa Cruz Biotechnology, Inc., 2161 Delaware Ave., Santa Cruz, CA 95060, filed a Report of Waste Discharge (Application) on October 26, 1998. The Application was filed to seek authorization for livestock grazing and manure land application on the Stephenson Ranch and adjacent land owned by Ralph Edwards. Currently, about 1,675 goats and seven donkeys, owned by Santa Cruz Biotechnology are utilized for biomedical purposes as described in Finding 4 below. In addition, John and Brenda Stephenson keep six horses and three miniature donkeys at the Site for recreational purposes. John and Brenda Stephenson are the President and Vice President, respectively, of Santa Cruz Biotechnology. The site operator, Santa Cruz Biotechnology, and the property owners, John and Brenda Stephenson and Ralph Edwards, are jointly considered "Dischargers." Although landowners are ultimately responsible, Santa Cruz Biotechnology, Inc. is primarily responsible for compliance with this Order.
2. The Stephenson Ranch and the Ralph Edwards property are located near Highway 1 and Back Ranch Road, four miles northwest of the Santa Cruz City limits in Township 11S, Range 2W and 3W as shown on the US Geological Survey 7.5' Santa Cruz quadrangle, and as indicated on Attachment C.
3. Discharger proposes to utilize 208 acres of the Stephenson Ranch and 100 acres of the Edwards property (hereafter Site) for animal grazing and manure land application. Grazing occurs only on established pasture areas as indicated on Attachment B.
4. Goats and donkeys are raised to periodically harvest small quantities of their blood. Prior to harvest, the animals are injected with peptide molecules to encourage production of antibodies. Following blood harvesting, blood is transported to the Laboratories of Santa Cruz Biotechnology, Inc., located at 2161 Delaware Ave. in Santa Cruz. The blood is then processed to remove and purify antibodies contained in the blood. These antibodies are marketed worldwide for biomedical research purposes.
5. The Site consists of 21 fenced pastures (refer to Attachment A) with several barns located on terrain that varies from nearly level to moderately steep (i.e., greater than 10 % slope). Soils found on the Site are primarily deep fertile, loamy and clayey soils on alluvial and coastal terraces which have a high forage production capacity rating (see page 5 of the September 16, 1998 Stephenson Ranch Pasture Management Plan).
6. The Site is located between Laguna and Majors Creeks. Both Creeks have perennial flow. Two ephemeral creeks flow onto the Site: one recharges the lower reservoir and a second is referred to as the "Lorenzi Drainage." Five other ephemeral creeks

Attachment No. 1
Item No.
October 22, 1999 Meeting
Santa Cruz Biotechnology, Inc.

WDR No. 99-007

-2- Draft for Meeting of October 22, 1999

- originate onsite. Storm water runoff from the Site either flows to Laguna Creek, Majors Creek or the Ocean. Attachment C indicates the locations of these creeks.
7. Geology of the Site includes several formations. A sequence of rock layers from top to bottom is: marine terrace deposits, Santa Cruz Mudstone, Santa Margarita Sandstone, Monterey, Lompico Sandstone, and granite. Depth to groundwater is expected to vary spatially across the Site. A well located on the north side of the Site is screened in the Lompico Sandstone Formation and has a depth to water measured at approximately 127 below ground surface. Site specific groundwater flow direction and gradient have not been determined. However, pumping of offsite irrigation wells and the terrain at the Site likely influences groundwater movements below the Site.
 8. This Order requires proper manure and grazing management to protect water quality. Grazing will be managed to maintain adequate dry r&dual matter and vegetation height to prevent erosion and migration of manure deposited on pastures. During wet weather the goats seek shelter in the barns. Goats are also herded into the barns for blood harvesting and other animal care purposes. Manure is regularly collected in and near the barns along with bedding materials (i.e., rice hulls). Collected manure is stored until appropriate dry weather periods.
 9. Manure contains nutrients and soil amendment characteristics which are beneficial as a soil amendments as follows:
 - Nitrogen is a basic nutrient for plant growth and is present in the forms of ammonia nitrate, nitrite and organic nitrogen in manure at about one percent by weight.
 - Phosphorus is a basic nutrient for plant growth and is present in manure in varying concentrations.
 - Micronutrients, including a variety of salts and metals necessary for plant growth, are present in manure in varying amounts.
 - Organic material present in manure improves soil structure, reduces soil erosion, aids soil moisture retention, improves tilth, and helps hold nutrients in root zones for plant usage.
 10. Manure has the following characteristics which can create water quality and public health problems if improperly treated or managed:
 - Pathogens (disease-causing organisms) can be present. Unless the manure has been treated or disinfected, significant concentrations of bacteria, viruses, and parasites can remain. Public health problems can be prevented with the proper type of treatment, appropriate control over public access, and restrictions on the type and usage of crops grown on the Site. Buffer zones around water supply wells, surface water drainage Courses, and public areas will help prevent transmission of pathogens to the public.
 - Nutrients are present. Nitrogen, a nutrient, can be over-applied, thus allowing accumulation of nitrogen in soil. Excess nitrogen may be converted to nitrate which can migrate to groundwater. Excess nitrate in groundwater can result in exceedance of drinking water standards and a threat to public health. Nutrients entering surface water may cause algae blooms and thus diurnal fluctuation in dissolved oxygen. Low dissolved oxygen may impact fish life and stream biota. Matching the nitrogen application rate to the crop's nitrogen demand can prevent nitrogen over-application.
 - Odor and insect nuisances can result if manure has not been adequately treated (stabilized) prior to application, or if wet manure is allowed to stand in piles or on the ground surface for extended periods of time. Proper management and composting of manure minimize the potential for nuisances. Properly stabilized manure could generate limited, transient odors in the immediate vicinity Of the application operations.
 11. The Water Quality Control Plan, Central Coastal Basin (Basin Plan), was revised and adopted September 8, 1994. The Basin Plan incorporates

WDR No. 99-007

-3-

Draft for Meeting of October 22, 1999

statewide **plans** and policies by reference and contains a **strategy** for protecting beneficial uses of State waters.

this Order should assure conditions **are met and mitigate** any potential **changes** in water quality due to the discharge.

12. **Present** and anticipated beneficial uses of groundwater in the vicinity of the discharge include:

- a. Domestic and Municipal Supply;
- b. Industrial Supply; and
- c. Agricultural Supply

13. **Present** and anticipated beneficial uses of Majors and Laguna Creeks that could be affected by the discharge include:

- a. Domestic and municipal supply;
- b. Groundwater recharge;
- c. Agricultural supply;
- d. Cold freshwater habitat;
- e. Industrial Supply;
- f. Wildlife habitat
- g. Water contact recreation;
- h. Fish migration;
- i. Non-contact water recreation;
- j. Fish spawning;
- k. Rare, threatened and endangered species
- l. Freshwater replenishment; and
- m. Estuarine habitat.

14. This discharge is exempt from criteria of the California Code of Regulations, Title 27, Division 2, Subdivision 1, Chapter 1, Article 1, Section 20090(f), since it constitutes a use of non-hazardous decomposable waste as a soil amendment.

15. Discharge of waste is a privilege, not a right, and authorization to discharge is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and with any more stringent effluent limitations necessary to implement the Basin Plan, to protect beneficial uses of Waters of the State, and to prevent nuisance. Compliance with

16. This discharge is regulated by "SWRCB Water Quality Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001" (NPDES Storm Water Permit). The Order includes specific requirements that are functionally equivalent to the requirements of the NPDES Storm Water Permit. The Discharger responsible for compliance with all NPDES Storm Water Permit requirements.

17. This Order sets minimum standards for the use of manure as a soil amendment, and does not preempt or supersede the authority of any other agency to prohibit, restrict or control the use of manure. It is the Discharger's responsibility to make inquiry and obtain any other governmental agency permits or authorizations prior to application of manure at the Site.

18. On May 7, 1998, the Santa Cruz County Planning Department adopted a mitigated negative declaration in accordance with the California Environment31 Quality Act (Public Resources Code, Section 21000, et seq.) and State guidelines. This Negative Declaration addressed the construction of two barns, installations of 5 water storage tanks, installation of 3,000 lineal feet of new water line, and installation of one grain Silo-

19. On July 20, 1999, the Board notified the Dischargers and interested agencies and persons of its intention to consider waste discharge requirements for the discharge and has provided them with a copy of the proposed Order and an opportunity to submit written views and comments.

20. On October 22, 1999, the Board, in a public meeting, heard and considered a 11 comments pertaining to this Order.

WDR No. 99-007

-4-

Draft for Meeting of October 22, 1999

IT IS HEREBY ORDERED, pursuant to authority in Section 13263 of the California Water Code, that Santa Cruz Biotechnology, Inc. may discharge waste at the properties owned by John & Brenda Stephenson and Ralph Edwards providing compliance is maintained with the following:

(Note: other prohibitions and conditions, definitions, and the method of determining compliance are contained in the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January, 1984. Applicable paragraphs are referenced in paragraph D.2. of this Order.)

A. PROHIBITIONS

1. Operation of this facility shall neither cause, nor contribute to, degradation of water quality.
2. Application of manure, except within Designated Manure Application Sites (i.e., the 21 pastures) indicated in Attachment A is prohibited. This prohibition does not preclude offsite disposal or beneficial use of the manure.
3. Manure application outside the root zone of crops grown in the Designated Manure Application Sites, shall neither cause, nor contribute to, a condition of contamination, pollution or nuisance as defined by the California Water Code.
4. Discharge of any waste to surface waters, adjacent drainageways, or adjacent properties is prohibited.
5. Discharge of wastes other than non-hazardous manure, bedding material (i.e., rice hulls or other appropriate material), or composted manure to Designated Manure Application Sites is prohibited.
6. Application of manure or composted manure at rates in excess of the nitrogen requirements of the soil and vegetation, or at rates that would cause nutrients or other contaminants to migrate to groundwater or surface water, is prohibited.
7. Manure shall not be applied to water-saturated soil, applied during periods of significant rainfall (i.e., sufficient rain to cause runoff), or applied when a greater than 40 percent chance of significant rainfall is predicted within 96 hours.

8. Manure land application (i.e., manure that is spread by humans and machinery) is prohibited during the wet weather season, October 1 through April 1 of each year. If the Discharger can demonstrate to the Executive Officer's satisfaction that no water quality impacts will occur, composted manure may be land applied during the wet weather season. Composting is considered adequate if the temperature of the compost is maintained at 55 degrees Celsius for more than three days.

B. DISCHARGE SPECIFICATIONS

1. Manure and composted manure shall be spread within 48 hours of delivery to the Designated Manure Application Sites. The Executive Officer may increase or decrease the time frame of this Specification, when appropriate, to maintain prevention of pollution, nuisance, or contamination.
2. Proper tillage practices shall be used to minimize soil erosion by wind, water (including irrigation water), or other mechanisms. Manure and composted manure may be land applied without tilling provided no significant migration of the manure will occur.
3. Staging areas and manure application areas shall be at least:
 - 25 feet from riparian corridors, and surface waters (including drainageways, creeks, ponds, lakes, and wetlands);
 - 100 feet from any well.

The Discharger shall evaluate each Designated Manure Application Area to determine if greater setbacks are necessary to protect water quality.

4. Surface water run-on, excluding sheet flow, from storms of up to 100-year, 24-hour intensity shall be diverted away from the Designated Manure Application Sites or other sites where contamination may occur. This run-on water may be used beneficially if reuse is not detrimental to water quality.
5. Transportation and application of manure shall be done in such a manner that nuisance conditions do not develop.

WDR No. 99-007

-5-

Draft for Meeting of October 22, 1999

6. Before ~~manure or composted manure~~ is applied to ~~ground~~ surfaces ~~having a slope greater than ten percent (10%),~~ a ~~technical~~ report ~~shall~~ be prepared which demonstrates to the Executive ~~Officer's~~ written ~~satisfaction that~~ manure application will not threaten water quality or public health. This report shall address both fertilization and erosion control aspects of manure application. ~~Recommendations specified in the technical report to mitigate threats to water quality and public health shall be implemented prior to such application.~~
7. The Discharger shall maintain an optimal level of ~~dry residual matter and~~ vegetation height on each pasture.
8. By November 15, 1999, or as soon as legally possible, the Discharger shall design, construct and maintain containment structures (e.g., ponds, storage tanks, etc.) and best management practices (e.g., roof extensions, manure bunkers, grassed swales, etc) to prevent the offsite discharge of contaminated storm water. Containment structures and best management practices shall be designed to effectively perform during storm events of up to, and including, a 24-hour, 25 year storm event.
9. By October 1 of each year, all stored manure and composted manure shall be removed from the manure storage bunkers or other storage facilities and either land applied on-site or appropriately managed off-site.
10. By October 1 of each year, all manure visually present in locations where it will likely migrate during stormwater runoff events shall be removed from these areas.

C. WATER QUALITY PROTECTION STANDARDS

In cases where two or more of the following limitations are contradictory, the more (or most) stringent limitation applies. The discharge shall not cause surface water or underlying groundwater to:

1. be degraded;
2. contain chemicals, heavy metals, or trace elements in concentrations that adversely affect beneficial

uses or exceed Maximum Contaminant Levels specified in 22 CCR, Division 4, Chapter 15;

3. contain concentrations of chemical constituents in amounts that adversely affect agricultural use;
4. impair any beneficial uses of water.

D. PROVISIONS

1. Discharger shall comply with "Monitoring and Reporting Program No. 99-007" (MRP), included as part of this Order, and any revisions thereto as ordered by the Executive Officer.
2. Discharger shall comply with all items of the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January, 1984, specifically Item Nos. A.1-5, A.9, A.10, A.12-16, A.18-26, B.1-7, C.1-7, C.10-18, E.1-4, and F.1-19.
3. Discharger shall keep a copy of this Order at the Site for reference by operating personnel. Discharger shall ensure that key operating personnel and on-site residents are familiar with the contents of this Order.
4. This Board considers the property owners to have a continuing responsibility for correcting any problems which arise in the future as a direct or indirect result of this waste discharge.
5. Individuals and entities responsible for site operations retain primary responsibility for compliance with these requirements, including day-to-day operations and monitoring. The Discharger, as defined in Finding 1 of this Order, are ultimately responsible for ensuring compliance with this Order.
6. In the event of any change in control or ownership of land or waste discharge facilities described herein, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter at least 60 days prior to change of ownership or control. The Discharger shall forward a copy of the letter to this office via certified mail.
7. Discharger shall inform on-site residents and personnel involved in producing, transporting, or

WDR No, 99-007

- 6-

Draft for Meeting of October 22, 1999

using manure, of possible health hazards that may result from contact and use of manure.

8. The Discharger shall comply with all conditions of this Order, including timely submittal of technical reports as directed by the Executive Officer. Violations of this Order may result in enforcement action, including Regional Board or court orders requiring, corrective action or imposing civil monetary liability. Violations may also result in revision or rescission of the applicability of this Order for a specific project or in total. Violations of this Order may also result in civil and/or criminal remedies imposed against the Dischargers in corporate and/or individual capacities.
9. By October 1 of each year, the Discharger shall submit a "Wet Weather Preparedness Report" which address past wet weather performance and measures implemented to prevent storm water pollution.

10. Pursuant to Title 23, Chapter 3, Subchapter 9, of the California Code of Regulations, the Discharger shall submit a written report to the Executive Officer not later than April 1, 2003, addressing:

- Whether there will be changes in the continuity, character, location, or volume of the discharge, and,
- Whether, in Santa Cruz Biotechnology, Inc.'s opinion, there is any portion of the Order that is incorrect, obsolete, or otherwise in need of revision.

11. The Board may review this Order periodically and may revise or rescind it when necessary.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Coast Region, on October 22, 1999.

Roger W. Briggs, Executive Officer

SCBIWDR.DOC



SUMMARY OF MASTER PLAN PROPOSAL AND ITS RELATIONSHIP TO EMERGENCY COASTAL PERMIT APPLICATION 99-0419

Major Master Plan Components

Application 99-0419

Barn #1: 1,240 sq. ft. roof extension
to connect two existing barns

1 ,240 sq. ft. roof extension
to connect two existing barns

Barn #2: existing structure

N/A

Barn #3: 4,000 sq. ft. roof extension
to connect two existing barns

4,000 sq. ft. roof extension
to connect two existing barns

Barn #4: new 10,000 sq. ft. structure

N/A

Barn #5: new 10,000 sq. ft. structure

N/A

Barn #6: new 10,000 sq. ft. structure

N/A

Barn #7: new 10,000 sq. ft. structure

N/A

Barn #8: new 10,000 sq. ft. structure

N/A

Manure Bunker #1 : new 717 sq. ft. structure

New 7 17 sq. ft. structure

Manure Bunker #2: new 1,275 sq. ft. structure

New 1,275 sq. ft. structure

Manure Bunker #3: new 1,860 sq. ft. structure

N/A

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August 2, 1999

Sent via Hand Deliver?, on August 3, 1999

Mr. Ken Hart
Principal Planner/Environmental Coordinator
Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Mr. John Ricker
Water Quality Program Manager
Environmental Health Services
701 Ocean Street
Santa Cruz, CA 95060

Re: Emergency Coastal Zone Permit Application No. 99-0419

Dear Mr. Hart and Mr. Ricker:

We are in receipt of your formal response to Mr. Mullin, Santa Cruz Biotechnology, Inc. (SCB), dated July 2, 1999 to SCB's Emergency Coastal Zone Permit application to maintain and improve water quality. The rejection of the Best Management Practices proposed by SCB and endorsed by the RWQCB ("Proposed BMP's") is based on: 1) a recent concern that the proposed BMP's would be a "segmentation" of a project under CEQA; and 2) the Planning Department's and Environmental Health Services' ("Department") alternative tarps, minor grading, rock piles under manure, etc. are superior and "more comprehensive" BMP's ("Interim BMP's"). We appreciate your detailed response; however, are disappointed by the apparent reversal of the Department's opinions reflected in its letter of December 7, 1998. We also surprised and concerned by the lack of support for the Proposed BMPs (including roof extensions and manure bunkers) where the Department previously acknowledged these "best and most efficient" proposed water quality protection improvements. We address these concerns below.

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Mr. Ken Hart and Mr. John Ricker
 August 2, 1999
 Page 2

I.

THE COUNTY HAS ACKNOWLEDGED THAT THE BMP'S
 OUTLINED BY SCB AND THE RWQCB WOULD BE
 MOST SUCCESSFUL

With regard to the proposed improvements in Emergency Coastal Zone Permit application no. 99-0419 ("ECZP"), the Department's letter stated that, following the June 22, 1999 field inspection, staff would not support the proposed BMP's to help protect water quality. Instead, the Department is recommending Interim BMPs, similar to those previously recommended by the Department prior to the onset of last year's wet season. As you will recall, both of you participated in a previous field inspection of the ranch on December 2, 1998 to review SCB's request to comply with directives given by the RWQCB' to implement the same BMPs requested in the ECZP for last year's rainy season. That previous meeting was conducted in response to SCB's attempts² to obtain approval from the county to comply with the requirements of the RWQCB directives. As acknowledged by Jackie Young in a letter dated November 24, 1998, *"these and other BMPs (the BMPs in this emergency permit application) may be appropriate to protect water quality during the upcoming wet season and that the implementation of all appropriate BMPs prior to the upcoming ('98/'99) should be expedited."* (Emphasis supplied.) The Proposed BMP's were rejected by the Department under Board Resolution 390-97, and were not implemented.³

The outcome of that previous field inspection is similar to the current outcome of this most recent field inspection as identified in the Department's July 2, 1999 letter: implement alternative BMPs instead of the Proposed BMPs endorsed by the Regional Water Quality Control Board (RWQCB). However, one important distinction between the letter of July 2, 1999 in comparison to the Department's December response is the reversal of opinion that the Proposed BMPs are the most effective measures to protect water quality. In the Department's letter of December 7, 1998, each of the Proposed BMPs *"would most successfully deal with manure management and animal welfare by (manure bunkers) and shielding the open areas between the barns with a covered roof"* (Emphasis supplied.). However, the Department's most recent letter states "... these recommendations for interim measures have been evaluated by both Planning Department and Environmental Health Services staff, who have concluded that, as a package, they will provide water quality protection equal or greater than that provided by the permanent, structural measures proposed by Santa Cruz Biotechnology through Emergency Coastal Zone Permit application no. 99-0419." Mr. Mullin asked for documentation in support

¹ Letter by Roger Briggs, Executive Officer, Regional Water Quality Control Board to Jackie Young, Planning Department, dated October 6, 1998.

² Letter by Paul Bruno, Thelen Reid & Priest, and Matt Mullin, Santa Cruz Biotechnology, Inc. to Jackie Young, Planning Department dated October 23, 1998 and November 13, 1998, respectively.

³ SCB has been ready and willing to implement the Proposed BMPs since before October, 1988. See, letter of P. Bruno to Jackie Young, Planning Department dated October 23, 1998.

THELEN REID & PRIEST LLP

Mr. Ken Hart and Mr. John Ricker

August 2, 1999

Page 3

of that reversal of opinion, none was forthcoming. Equally important, the recommended Interim BMPs, as indicated in the July 2, 1999 letter, are not endorsed by the Regional Water Quality Control Board as superior to the those measures in SCB's Emergency Coastal Zone Permit application.

The key question thus remains: on what basis was that reversal of opinion made? Also, what considered, scientific study subsequent to December 7, 1998 was the cause of the reversal of the Department's previous acknowledgement that the Proposed BMPs would most successfully deal with manure management?

I understand that during the June 22, 1999 field inspection, several "alternative" BMPs were identified by County staff and discussed on a very general basis (primarily amongst the regulators), but those alternatives were not evaluated or discussed with SCB in a detailed manner to ascertain the true feasibility of each alternative. Because time is of the essence in this matter, SCB desired to discuss any possible alternatives more thoroughly with the Department. My understanding is that SCB attempted to meet with the Planning Department and Environmental Health Services staff to further discuss possible "alternative" BMPs touched upon during the field inspection. However, the Planning Department could not meet with SCB, and although Environmental Health Services staff agreed to meet, they were unavailable to do so until after the letter was released.

Therefore, we respond in writing to each Interim BMP. We urge approval of the Proposed BMPs before more valuable time is lost in preparation for the upcoming wet season.

A. Interim Measure Of Manure Management By Rock Piles.

Instead of installation of a concrete bunker for manure contaminant and composting, the Department recommends that "simply **elevat(ing)** the existing manure piles on base rock or some other suitable material," implementing some "minor drainage improvements," and **tarping** the manure stockpiles will provide equal or greater protection than the proposed concrete manure bunkers. We strongly disagree with the recommendation for the following reasons:

Assuming that stockpiling manure on a rock pile is the preferred manure management practice endorsed by the Department, it cannot be superior to a concrete bunker. Despite best housekeeping practices, an unenclosed manure stockpile is subject to some contact with storm water, and the potential for manure to be transported from the stockpile area. For example, the tarps may be blown off the pile, or be ripped from the winds. Settling of the pile, or turning the pile during composting, may cause some manure to breach the limits of the pile. Further, strong storm events producing significant amounts of sheet flow may cause run off to overrun the "minor drainage" improvements and scour the manure out of the base rock pad. To reiterate, we do not agree that an open, undefined stockpile on a rock base may provide equal or greater water quality protection than a concrete manure bunker.

THELEN REID & PRIEST LLP

Mr. Ken Hart and Mr. John Ricker

August 2, 1999

Page 4

Moreover, the recommendation is impractical from an operational perspective. Using base rock as a pad beneath the manure stockpile will create a health and safety hazard when the manure is spread on the pastures as fertilizer. Rocks will inevitably become mixed into the manure pile by the farm machinery used to manage the manure. This is inevitable even if the Department demands that shovels are the only implement that may scoop manure in the County of Santa Cruz. Those interspersed rocks also may become dangerous projectiles that could be shot out of the manure spreader at high velocities endangering both employees and livestock.

B. Interim Measure Of Discontinued Winter Use of Penned Areas Adjacent to Barns #1 and #2.

The Department suggests that the use of the pens in the Barn #1/#2 complex and the caretakers house "should be prohibited during the winter months." In other words, the Department suggests that Santa Cruz Biotechnology eliminate the pen areas near Barns #1/#2 and the caretakers house so that the goats are kept exclusively inside the barns during the wet season. Thus, the Department proposes to keep the goats housed at all times until the pastures are dry enough for the goats to be released for grazing. This is completely impractical and against the object of the LCP, General Plan Amendments and the Ordinance. This would also effectively preclude Santa Cruz Biotechnology from operating. That action would also be in contravention of Board Resolutions allowing the goat herd until the Master Plan is approved.

Specifically, the pens are critically important for sorting animals into groups, as part of SCB's antibody production and normal veterinarian care. Immunizations, blood harvesting, and veterinarian care are administered to each goat at regular intervals. However, such activities are administered to each individual goat at specific times. Thus, individuals within the overall goat herd in Barns #1/#2 must be identified and separated from the main herd on a regular basis. The pens are absolutely required for this purpose. SCB simply could not select, separate, and administer care for individual goats solely underneath the existing roof lines of the barns amongst the herd allowed by the Board of Supervisors. Goats are livestock, not rabbits or chickens, and space is required to shelter *and work with them*. Eliminating the holding pens, as the Department recommends, significantly reduces the amount of space available to the livestock, as well as the means to effectively provide care by SCB personnel. For example, the safety of the employees involved in animal care could be jeopardized should they be required to work on animals within the general population. The chances of an employee being bumped by a non-involved animal during immunizations, or disposal of sharps, are obviously increased.

The recommendation to offset the lost pen area by establishing new pens and tents within the Genuine Risk pasture is impractical. Separating the herd into smaller subgroups would make the administration of immunizations and care extremely difficult. As noted above, each individual goat has a schedule of treatment and care, which coincides with ~~some~~ goats at one point, and then with another set of goats at another point. Trying to coordinate the various schedules of each goat, in conjunction with the schedules of all of the goats in the herd, spread

THELEN REID & PRIEST LLP

Mr. Ken Hart and Mr. John Ricker

August 2, 1999

Page 5

out over two non-contiguous facilities is operationally impractical and could effect the quality and viability of the agricultural commodities produced at the ranch. Further, making the operations highly inefficient would significantly delay the availability of Santa Cruz Biotechnology's products to the biomedical research community.

Finally, and contrary to the objectives of the ordinance, eliminating the pen areas jeopardizes the animals by confining them indoors for extended periods of time. The existing barns are crowded. When it rains, the goats will cluster together in the barns, but during breaks in the weather some goats will venture into the holding pen areas, thus alleviating crowding. The goats are kept off of the pastures during the winter when the pastures are saturated. Putting the goats out to pasture when the pastures are saturated is unwise by any accounting of either animal management or water quality preservation. Finally the recommendation to eliminate the pen areas and house the livestock exclusively indoors during the winter with no ability for the goats to go outside during fair weather, jeopardizes the animals' health and thus may cause the facility to be non-compliant with respect to Federal law.

C. Interim Measure Of Tarns And Animal Crowding.

The roof extensions proposed by SCB on the one hand are admitted by the Department in December 1998 to be the "best.. ." BMP but are now not supported by the Department. Instead, the Department has taken a restrictive position by recommending that livestock be completely excluded from the uncovered middle areas between both barn clusters. This, in combination with eliminating the holding pens discussed above and with the protection of drainage inlets discussed in the next section, results in the goats being exclusively confined under the footprint of the existing barns. The Department would apparently have SCB place all of the animals into a very small area for months on end until the wet season has ended.

This recommendation will lead to a potential increase in the threat to water quality. Obviously, concentration of the animals for extended periods of time solely under the existing barns will lead to increased concentrations of manure and urine. Leaving the area between the barns uncovered and exposed to rainfall will continue to cause this area to become saturated during the wet season. (On one point we hope the Department agrees – rain seldom falls in a linear fashion perpendicular to the ground. The slightest breeze causes an angle and hence rain water to come into contact with height concentrations of manure and urine.) Upon saturation, moderate to large storm events will cause sheet flow to run off the middle area and into the lower barn structure, scouring out manure, urine and bacteria. The Department suggests that the barns should be enclosed with wire mesh, tarps, or some other solid material. Wire mesh will not prevent wind driven storm water from penetrating under the eaves of the barn roofing, nor will it prevent storm water from running off of the saturated middle area and penetrating the downhill barns.

THELEN REID & PRIEST LLP

Mr. Ken Hart and Mr. John Ricker
 August 2, 1999
 Page 6

Enclosing the barns (with tarps and necessary structural backing) is also problematical. An entire infrastructure of framing would have to be constructed in order to mount the tarps, or some other structure such as wood or tin. Without the support framing, the 15 foot canvas tarps extending the length of the barn would be difficult to mount and they would also be shredded very quickly by the strong coastal winds experienced in the area, thereby defeating the purpose of the tarps in the first place.⁴ Moreover, using tarps would also result in the loss of additional interior barn space. A barrier, or buffer zone, would have to be created to prevent the livestock from reaching the tarps and eating them. Not only would ingesting the tarps endanger the animals' health, it would compromise the tarps' effectiveness of keeping rain out of the barns. Again, this option would further reduce available protective space within the barns. Protective shelter within the barns is the most effective solution in preventing storm water and manure from contacting one another. Hence, the superiority of the proposed roof extensions.

Another recommendation offered by the Department is to house goats in tents instead of within a covered barn. This is what SCB has done for some goats already, and is the subject of a "reg tag.". Sheltering goats in tents cannot be equal to, or better than, sheltering livestock in a barn. We can see that fact demonstrated by the existing tents. Similarly (and from experience) humans are not better protected from the weather in camping tents than in the security of their homes. The effectiveness of the existing barns during a storm over the tents this past wet season demonstrated that the barns are more effective. We agree that tents are better than no shelter at all, but they are not better than extending the roofs between the existing barn clusters. The use of tents may be more appropriate to shelter the holding pen areas around the barns, but not to replace the covered shelter afforded by the roof extensions.

Nevertheless, despite the forgoing, the Department opines that tents, in combination with its other recommendations, leaving the middle barn areas uncovered and exposed to rainfall is equal to or superior than the proposed roof extensions. Again, we disagree with that conclusion, which is contrary to Departments' earlier statement as to the superiority of roof extensions.

D. Interim Measure To Increase Buffer Strip To Drainage Inlets.

As previously discussed, eliminating or reducing the holding pen areas is problematical from an operational perspective, and further concentrates the animals in a smaller area. The additional 15-foot buffer strip recommended by staff offers insignificant filtration capacity in comparison to the existing 450-foot filter strip already in place at the ranch. The roof extensions will lessen the use of the pens by the goats in that livestock would not be as inclined to go out into the pens due to crowded conditions in the barns.

⁴ Mounting siding would require design and sign-off by an engineer or architect to ensure the structural integrity of the existing barns could support the siding, and that the siding is mounted in an appropriate manner. All of the improvements necessary to implement this interim BMP makes this alternative "permanent" in nature, the very objection expressed by staff over the superior roof extension proposal.

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Mr. Ken Hart and Mr. John Ricker

August 2, 1999

Page 7

E. Gully Repair Concerns And Revisions.

We have forwarded Ms. Lather's comments to our engineering consultants and will respond upon review of our consultants.

II.

THE BMP'S OFFERED BY SCB AND ENDORSED BY THE
RWQCB ARE APPROPRIATE FOR ACTION NOW.

First, I address your concerns that approval of Emergency Coastal Zone Permit, no. 99-0419 may not meet with CEQA cumulative impact review requirements. Both the Department and our clients know that it is in everyone's best interest, and continued economic success, to ensure that the lands and waters in and around the ranch are protected and preserved. The health of the animals allowed by the Board of Supervisors and the health of the environment are important concerns. Quality pastures, water and shelter facilities are the only ways to ensure this. Undoubtedly, we are all trying to achieve the same goal, protection of the environment. Our reasons for wanting to achieve that goal may be different, but nonetheless the goal is the same. To this end, we offer two independent and legally sound solutions for the County of Santa Cruz and our clients to follow the law and protect the environment through approval of Emergency Coastal Zone Permit, no. 99-0419.

A. Implementation Of The Proposed BMP's Are Consistent With The Restrictions On "Segmentation".

This Emergency Coastal Zone Permit is specifically aimed at protection of water quality both during the master plan review period and the ongoing operations of the ranch. Approval of Emergency Coastal Zone Permit, no. 99-0419, does not constitute an improper segmentation of a 'project' under CEQA. I am aware of California court decisions that have interpreted the CEQA guidelines to require that a project may not be broken into small segments, however that avoidance of "segmentation" is to prevent agencies from trying to avoid the requirements of CEQA review⁵. This discrete project (the BMP's for water quality improvements) does not contemplate additional development without further consideration of environmental consequences.⁶ Nor does this project propose or consider future development upon the issuance of a negative declaration.⁷ The approval of this permit does not break the project into small bits to avoid environment impact evaluation; rather this project must be approved to help protect the environmental quality during the review of the proposed project.

⁵ See *Bozung v. Local Agency Formation Commission*, (1975) 13 Cal.3d 263, 283-284, 118 Cal. Rptr. 249.

⁶ See *Rio Vista Farm Bureau Center v. County of Solano*, (1992) 5 Cal. App. 4th 351, 372, 7 Cal. Rptr.2d 307.

⁷ See *id.*

THELEN REID & PRIEST LLP

Mr. Ken Hart and Mr. John Ricker

August 2, 1999

Page 8

B. Implementation of the Proposed BMP's Are Categorical Exempt.

In addition to meeting the substantive purpose of CEQA, Emergency Coastal Zone Permit, no. 99-0419, is a project that is covered by the categorical exemptions. The actions proposed by Emergency Coastal Zone Permit, no. 99-0419, fall into both class 1, existing facility exemption and class 11, accessory to existing facility exemption.* These exemptions allow for the repair, maintenance and minor alteration of facilities as they exist at the time of review or application to the public agency.⁹ They are not exemptions that fall under the exception category, precluding application of exemptions where the cumulative impact of successive projects in the same place and of the same type is potentially significant, because there will be no further projects of the same *type* and location." Any further development of manure bunkers or barn extension will be elsewhere on the property.

CEQA does not apply to maintenance or minor alterations of facilities that do not increase the facility size or production.¹¹ The connecting of the barns/extending of their roofs would qualify as a minor alteration of an existing facility. There will be no increase in the capacity of the barns or the number of animals that the barns will house.¹² This is only the maintenance of the facilities as they currently exist to keep them in line with the requirements of the RWQCB. Class 11 exemptions make exempt "construction or placement of minor structures accessory or appurtenant to existing facilities (i.e. signs, parking lot, seasonal or temporary structures.)"¹³ The construction of the manure bunkers is an appurtenant structure to the barns (just as a parking lot is appurtenant to a building). These structures will not (and can not under existing restrictions) increase the operation of the facility or increase its potential for environment impact. Rather, these structures will mitigate the impact of the existing facilities. Therefore, not only will approval of Emergency Coastal Zone Permit, no. 99-0419 not be improper segmenting of a project, this project is wholly exempt from CEQA requirements.

III.

CONCLUSIONS AND SUMMARY

Finally, we are troubled by the allegations made in the letter, made as though they were fact. I am aware of coliform readings downstream of the Ranch. We are unaware of any comprehensive water shed monitoring, both upstream and downstream of the ranch, that has determined background fecal coliform levels in the drainages. In the absence of such a comprehensive water quality study, statements be made such as "... both Planning Department

⁸ Pub. Res. Code §21084, §21086, see *also* Title 14, Cal. Admin. Code §15301, §15311.

⁹ *Bloom v. McGurk*, (1994) 26 Cal. App. 4th 1307, 1315.

¹⁰ 14 Cal. Admin. Code §15300.2(b).

¹¹ *Bloom*, 26 Cal. App. 4th at 1315.

¹² The number of animal is restricted by Board Resolution No. 390-97 until the Master Plan is approved.

¹³ 14 Cal. Admin Code. § 153 11. The class 3 exemption may also be applicable for both structures.

THELEN REID & PRIEST LLP

Mr. Ken Hart and Mr. John Ricker
August 2, 1999
Page 9

and Environmental Health Services staff acknowledge that serious water quality impacts are occurring... as a result of the existing layout and concentration of the biomedical livestock....” is overstatement. This statement, to our knowledge, has not been validated, may prejudice future actions by the County and other governmental agencies regulating SCB, and is damaging to the interests and reputation of SCB. SCB has been working hard to implement BMP's suggested by the State Agency responsible to define and implement BMP's (the RWQCB) since August of 1998. For the Department to make this statement in the July 2, 1999 letter after refusing to allow the Proposed BMP's requested for over a year is unfortunate.

In summary, the alternative measures outlined in the Department's July 2, 1998 letter will potentially exacerbate water quality in the area by significantly reducing the available area to shelter livestock, may contribute to an increased concentration of manure and urine build up in areas still subject to storm water infiltration, and allow exposed stockpiles of manure to be subject to storm water contact and potential transportation into the drainage ways. Further, the alternative, Interim BMP's recommended by staff will curtail SCB's ability to operate its agricultural enterprise to such a degree that those measures would effectively prohibit SCB from operating.

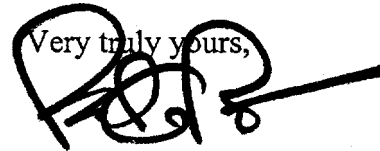
Our opinion remains that the intent of the Board of Supervisors to allow SCB to continue to operate as authorized by the Board on September 23, 1997. We also believe the Board intended to allow, and if necessary approve, the infrastructure needed to support the authorized herd population, especially if the necessary infrastructure is required by another regulatory agency. The RWQCB has determined the BMPs proposed in SCB's Emergency Coastal Zone Permit application are appropriate and required to manage the existing livestock on the ranch that was authorized by the Board.

THELEN REID & PRIEST LLP

Mr. Ken Hart and Mr. John Ricker
August 2, 1999
Page 10

We request that you reconsider your recommendations and support the BMPs included in Emergency Coastal Zone Permit application no. 99-0419. SCB strongly desires to move forward with each element proposed in application no. 99-0419.

If you have any questions, please don't hesitate to contact me at (408) 292-5800 or Matt Mullin at 457-3800 ext. 63.

Very truly yours,


Paul A. Bruno

PAB/law

cc: Board of Supervisors
Regional Water Quality Control Board
Rahn Garcia, Esq., Assistant County Counsel
Alvin James, Planning Director
Diane Evans, Environmental Health Services Director