

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY
BOARD MEETING MINUTES
February 27, 2002

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Item 1 - Roll Call and Introductions

The meeting was called to order on February 27, 2002 at 9:02 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Clifford Waldeck, Vice-Chair; Josephine De Luca; Shalom Eliahu; John Reininga; and Mary Warren.

Board members absent: Kristen Addicks, Doreen Chiu [Note: Mrs. Chiu arrived at 9:18 a.m.], and William Schumacher [Note: Mr. Schumacher arrived at 9:10 a.m.].

Shin-Roei Lee introduced Joe Ernest, new staff member in the Permits Division.

Item 2 – Strategic Plan for the State Water Resources Control Board and the Regional Water Quality Control Boards – Report by Arthur G. Baggett, Jr., Chair, State Water Resources Control Board

Arthur Baggett talked about a meeting he attended on Wednesday, February 13, 2002 in San Jose regarding the Santa Clara Basin Watershed Management Initiative.

He discussed several water quality issues of statewide interest.

[Mr. Schumacher arrived at 9:10 a.m.]

Mr. Baggett discussed the Strategic Plan for the State Water Resources Control Board and the Regional Water Quality Control Boards. He noted the word “restore” had been added to the Boards’ mission statement. He said the mission statement reads: “To preserve, enhance and restore the quality of California’s water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.”

[Mrs. Chiu arrived at 9:18 a.m.]

Mr. Baggett discussed six goals set out in the Strategic Plan. He said the goals would be used to guide staff activities over the next five years. He noted the Strategic Plan includes performance measures that would be reviewed on a quarterly and annual basis.

William Schumacher asked if the Plan addresses ways to increase California's water supply through such means as desalinization facilities or importation from other states.

Mr. Baggett said the Plan addresses the beneficial use of groundwater and reclaimed wastewater. He said the State Department of Water Resources has primary responsibility for water supply issues.

John Reininga noted participants from many state agencies worked together on the Strategic Plan. He congratulated them for their cooperative effort.

Mr. Baggett said California's vitality is dependent upon a healthy water supply. He emphasized the need to protect and restore the State's water bodies.

Mrs. De Luca asked how population growth would affect water quality.

Mr. Baggett said society must learn not to destroy the natural resources that sustain us. He noted the Total Maximum Daily Loads program addresses environmental sustainability.

Item 3 - Public Forum

There were no public comments.

Item 4 - Minutes of the January 23, 2002, Board Meeting

The minutes were adopted by the Board.

Item 5 - Chairman's, Board Members' and Executive Officer's Reports

John Muller reported attending a dedication ceremony for the construction of the new east span of the Bay Bridge.

Mr. Muller and Ms. Barsamian reported attending a recent Santa Clara Basin Watershed Management Initiative meeting in San Jose.

Mr. Waldeck said he attended a staff forum conducted by representatives of Cal/EPA on February 13, 2002 in Oakland.

Item 6 - Uncontested Calendar

Ms. Barsamian said there was supplemental material for Item 6A. She recommended adoption of the uncontested calendar.

Motion: It was moved by Mrs. De Luca, seconded by Mr. Schumacher, and it was unanimously voted to adopt the uncontested calendar as recommended by the Executive Officer.

Ellen Johnck, Executive Director of Bay Planning Coalition, talked about the importance of the Army Corps of Engineers maintenance dredging program. She said many agencies worked cooperatively in the development of the order adopted under Item 6A.

Lieutenant Colonel Timothy O'Rourke, U.S. Army Corps of Engineers, concurred with Ms. Johnck's comments.

Item 15 – Santa Clara Valley Water District, Multi-Year Stream Maintenance Program, Santa Clara County – Adoption of New Waste Discharge Requirements and Section 401 Water Quality Certification

Greg Zlotnick, Director of the Santa Clara Valley Water District, spoke in support of the tentative order. He noted the District's mission includes an environmental enhancement function as well as water supply and flood management functions.

Paul Amato gave the staff presentation. He said the tentative order allows the discharger to carry out stream maintenance activities over a 10-year period. He said activities would include sediment removal, vegetation management, ~~and~~ bank repair, **and specific minor maintenance activities**. Mr. Amato said proposed activities would temporarily impact: 30 acres of tidal wetlands, 91 acres of non-tidal wetlands, and 32 acres of riparian vegetation. He noted the maintenance activities would be considered temporary impacts because they would allow for the reestablishment of wetland and riparian habitats.

Mr. Amato described the mitigation program designed to compensate for temporary impacts. He said there would be: (1) restoration of 30 acres of tidal wetlands at a former Cargill Salt Pond; (2) creation of 3 acres of freshwater wetlands at Los Capitancillos and 7 acres of freshwater wetlands at Coyote Lakes Park; (3) purchase of 720 to 950 acres of land and conservation easements to protect streams and their watersheds; and (4) removal of ~~32~~ **74** acres of Giant Reed, an invasive plant.

Mr. Waldeck asked where dredged sediment would be disposed. Mr. Amato said disposal locations included landfills, construction sites and wetland restoration sites. He said the tentative order included a provision allowing for adaptive management.

Loretta Barsamian noted the tentative order covers a 10-year term. However, she said the Board could change requirements in the adopted order during that term if warranted by circumstances.

Mr. Eliahu asked about the compensatory mitigation program for adverse impacts caused by the stream maintenance activities. Mr. Amato reiterated the impacts caused by stream maintenance activities would be temporary in nature.

Mr. Muller noted Best Management Practices are important to the success of a sediment reduction program.

Mr. Reininga asked how stream dredging would affect habitat for salmon and steelhead fish.

Fred Fowler, Mayor of the City of Sunnyvale, commended the fact that the tentative order covered a ten-year term. He believed better solutions would be reached by considering flood control and habitat protection problems over the long term.

Carl Wilcox, California Department of Fish and Game, spoke in support of the tentative order. He said the proposed stream maintenance activities were designed to minimize adverse impacts to fish.

Mr. Reininga expressed concern about the impacts dredging would have on spawning beds.

Mr. Wilcox said most dredging would take place downstream of spawning areas.

Mr. Muller noted heavy sedimentation often is found in the mouths of creeks.

Maura Eagan, National Marine Fisheries Service, said many stakeholders participated in the development of the tentative order. She believed the order would enhance fish habitat.

Ms. Barsamian noted that cumulative, rather than just individual impacts would be addressed by the tentative order because of the ten-year term.

Mrs. Warren asked how a stream was defined. Mr. Amato described various types of streams.

Luisa Valiela, USEPA, spoke in support of the tentative order. She said Molly Martindale, U.S. Army Corps of Engineers, was not present, but asked that the Corps' support of the tentative order be conveyed to the Board.

Jim Fiedler, Santa Clara Valley Water District, requested the Board adopt the tentative order. He said the stream maintenance program would enhance habitat restoration and would help in providing flood protection.

Ms. Barsamian asked how District employees who carry out stream maintenance activities on a daily basis are trained. Mr. Fiedler described the District's training program.

Ms. Barsamian recommended adoption of the tentative order.

Mr. Reininga said his concerns about the impact of sediment removal on fish habitat had been allayed. He noted the ten-year term of the maintenance program offered opportunities for environmental enhancement.

The Board unanimously adopted the tentative order.

[The Board took a break at 11:05 a.m. and resumed at approximately 11:10 a.m.]

Item 14 – City of Burlingame, Wastewater Treatment Plant, Burlingame, San Mateo County – Reissuance of NPDES Permit

Ken Katen gave the staff presentation. He said the City of Burlingame Wastewater Treatment Plant discharges an annual average 3.6 million gallons per day into the North Bayside System Unit joint force main. He said the wastewater eventually is discharged into Lower San Francisco Bay through a diffuser located 5,300 feet offshore.

Mr. Katen said the discharger raised some issues about the tentative order that staff resolved. However, he said two issues remain in contention. He said the City requests dilution credits for bioaccumulative pollutants. He also said the City contends the interim mass limit for mercury might limit growth.

Mr. Schumacher asked about the interim mass limit for mercury. Mr. Katen presented statistics that indicated the treatment plant would exceed capacity before it exceeded the performance based mass limit for mercury.

Mr. Schumacher expressed hope that the interim mass limit for mercury would not lead to the Board imposing mandatory minimum penalties on the discharger.

Mr. Reininga asked about leeway to grant dilution credits under the State Implementation Policy. Mr. Katen read a portion of the SIP and gave staffs' interpretation that dilution credits should be not be granted. He said denial of dilution credits was necessary to protect beneficial uses of the receiving water.

Bill Toci, Plant Manager for the City of Burlingame Wastewater Treatment Plant, said the City was implementing procedures to help it meet the interim mercury limit.

Frank Erbacher, Assistant Director of Public Works for the City of Burlingame, thanked staff for their work on the tentative order.

Mr. Reininga asked whether the City agreed with staff's presentation regarding plant capacity and the mass limit for mercury.

Mr. Toci said the City was concerned about its ability to meet the mass limit during wet weather flows.

Shin-Roei Lee said peak flows during the wet season should not lead to violations of the permit. She explained that calculation of the load that would be used to compare with the mercury mass limit would be based on a moving annual average.

Chuck Weir, Bay Area Clean Water Agencies, was concerned about limits in the tentative order for bioaccumulative pollutants. He discussed the interim limit for mercury.

Craig Johns, Partnership for Sound Science in Environmental Policy, concurred with Mr. Weir's comments.

Mrs. De Luca asked staff to address the issue of bioaccumulative pollutants in fish tissue.

Shin-Roei Lee said staff set interim limits in accordance with provisions in the State Implementation Policy. She said the interim limits are based upon the POTW's current performance. She said final effluent limits would be based on Wasteload Allocations derived from Total Maximum Daily Loads.

Loretta Barsamian noted the discharger community is working with staff to complete TMDLs. She reiterated interim mass limits are based on the discharger's current performance.

Mrs. Chiu asked about the length of time interim limits would be imposed.

Shin-Roei Lee and Larry Kolb said the tentative order covers a five-year period. Dr. Kolb noted that the mercury TMDL should be completed by the end of the five-year period. He said staff expects it will show that POTWs are not a major source of mercury that enters the Bay.

Mr. Muller noted the importance of having consistency among the recently reissued NPDES permits.

Ms. Barsamian noted the need for these NPDES permits to meet regulatory requirements in the California Toxics Rule, State Implementation Policy, and several remands from the State Board.

Mrs. Warren asked if limits in the tentative order would allow for population and business growth in the City. Ms. Barsamian said staff believe the tentative order does allow for growth.

Mr. Reininga asked whether the City could request the Board to reconsider permit limits if it experienced compliance problems. Ms. Barsamian said the tentative order includes a reopener clause.

Ms. Barsamian recommended adoption of the tentative order.

Motion: It was moved by Mr. Waldeck, seconded by Mr. Eliahu, and it was unanimously voted to adopt the tentative order as recommended by the Executive Officer.

Item 7 – Cosentino Winery, Vintage Grapevine, Inc., Yountville, Napa County – Hearing to Consider Imposition of Administrative Civil Liability for the Unauthorized Discharge of Industrial Stormwater to Waters of the State

Loretta Barsamian said Cosentino Winery, Vintage Grapevine, Inc. signed a waiver of its right to a hearing on the proposed ACL. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay an Administrative Civil Liability in the amount of \$98,000, of which \$80,000 would be used for a supplemental environmental project.

Item 8 – Phillips Petroleum Company, 9000 Carquinez Scenic Drive, Port Costa, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said Phillips Petroleum Company signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the

amount of \$6,000, of which \$3,000 would be used for a supplemental environmental project.

Item 9 – City of Livermore, Wastewater Treatment Plant, Livermore, Alameda County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said the City of Livermore signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$15,000, of which \$3,000 would be used for a supplemental environmental project.

Item 10 – Mountain View Sanitary District, Wastewater Treatment Plant, Martinez, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said Mountain View Sanitary District signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$3,000, all of which would be used for a supplemental environmental project.

Item 11 – City of Petaluma, Wastewater Treatment Plant, Petaluma, Sonoma County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said the City of Petaluma signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$30,000, of which \$3,000 would be used for a supplemental environmental project.

Item 12 – South San Francisco and San Bruno, Wastewater Treatment Plant, San Bruno, San Mateo County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said the Cities of South San Francisco and San Bruno signed a waiver of their right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$51,000, of which \$6,000 would be used for a supplemental environmental project.

Item 13 – Fairfield Suisun Sanitary District, Subregional Wastewater Treatment Plant, Fairfield, Solano County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said Fairfield Suisun Sanitary District signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$48,000, of which \$6,000 would be used for a supplemental environmental project.

Ms. Barsamian said staff would give the Board a summary of the mandatory minimum penalties imposed in Region 2 since January 1, 2000. She noted a bill recently introduced into the legislature would modify the mandatory minimum penalty law. She said staff would provide more details about the bill to the Board.

Darrin Greenwood, City of Livermore, suggested the mandatory minimum penalty law be modified to give Regional Boards greater flexibility in enforcement.

Item 16 – Status Report on San Mateo Countywide Stormwater Pollution Prevention Program and its 2000-2001 Annual Report

Susan Gladstone gave an overview of the Board's municipal stormwater program. She said municipal stormwater permits include five components: municipal government maintenance activities; watershed assessment and monitoring; new and redevelopment construction; commercial/industrial source control and illicit discharge elimination; and public information and participation.

Habte Kifle said the San Mateo Countywide municipal stormwater permit applies to the following: the City and County Association of Governments of San Mateo County, San Mateo County and 20 cities in the County. He noted each of these co-permittees must implement all components of the permit. Mr. Kifle described the co-permittees' accomplishments and deficiencies in carrying out one permit component: commercial/industrial source control and illicit discharge elimination.

Ann Crum discussed another component of the San Mateo permit: public information and participation. She said most co-permittees met the performance standards required to implement this component of their stormwater programs.

Richard Napier, Executive Director of the City and County Association of Governments of San Mateo County, thanked staff for evaluating the co-permittees' compliance with the stormwater permit.

Mrs. De Luca asked who received calendars that were distributed to Regional Board members as an example of public outreach material.

Robert Davidson, Program Coordinator for San Mateo Countywide Stormwater Pollution Prevention Program, said the calendars were distributed to school board officials, other elected officials, and students.

Mr. Reininga asked about stormwater controls applicable to new construction and redevelopment projects. Mr. Davidson said several dozen performance standards are applicable at various stages of the development process. Mr. Davidson also thanked staff for their comprehensive review of San Mateo's stormwater program.

Mr. Eliahu asked whether staff was enforcing stormwater requirements. Ms. Barsamian said staff reviews annual reports from each of the countywide municipal stormwater programs. She anticipated the reviews would become more rigorous.

Mr. Eliahu said enforcement of the stormwater permits would ensure compliance.

Bruce Wolfe noted annual reports from each of the countywide municipal stormwater programs are due September 1st of each year.

Mr. Reininga suggested permittees might be encouraged to comply with stormwater requirements if the Board reviewed stormwater program status reports every few months.

Ms. Barsamian said staff intend to bring more status reports on municipal stormwater programs to the Board.

Mr. Muller thanked staff for their presentations. He also thanked Ms. Crum for her work with the agricultural community in the Central Coast region.

Adjournment

The meeting was adjourned at 12:50 p.m.