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**San Francisco Bay Regional Water Quality Control Board**

**November 9, 2016 Board Meeting**  
**Draft Minutes for Board Consideration**  
**ADOPTED December 14, 2016**

Note: Copies of orders, resolutions, and minutes are posted on the Regional Water Board's website ([www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay)). Information about obtaining copies of audio recordings of Board meetings may be obtained by calling the Board's file review coordinator at (510) 622-2430. Written transcripts of Board meetings may be obtained by calling California Reporting, LLC, at (415) 457-4417.

**Item 1 - Roll Call and Introductions**

Meeting called to order at 9:08 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Status</u>
John Muller (left at 10:30)		QUORUM
Cecilia Ogbu		
Steve Lefkovits		
Newsha Ajami (arrived at		
William Kissinger (left at 2:37)		
Vice-Chair James McGrath		
Chair Terry Young		

Senior Scientist Kevin Lunde introduced new Environmental Scientist Rebecca Nordenholt. Senior Information Systems Analyst Kevin Heinemann introduced new Associate Information Systems Analyst Vince Pagpaguitan.

**Item 2 – Retirement Award Ceremony for John Muller**

Vice Chair McGrath read a proclamation from the California State Assembly honoring Board Member Muller upon his retirement from the Board. Executive Officer Bruce Wolfe read a proclamation from Governor Brown honoring Board Member Muller. Craig Johns shared memories of Board Member Muller's years of service. Laura Pagano, Chair of the Bay Area Clean Water Agencies, congratulated Board Member Muller on his retirement. Amy Chastain thanked Board Member Muller for his public service, inspiration, and mentoring. Gary Grimm highlighted all the work Board Member Muller accomplished for the Board. Karin North noted how Board Member Muller always welcomed speakers and made them feel heard. Kevin Buchan reflected on the 15 years he has been attending Board meetings and Board Member Muller's leadership. Mr. Wolfe read an email from Ellen Johnck, representing the Bay Planning Coalition, thanking Board Member Muller for his service and support of the Bay. Marina Fraser, Half Moon Bay City Council Member, highlighted Board Member Muller's long history of public service and dedication and thanked him on behalf of the City of Half Moon Bay. Allan Alifano, former Half Moon Bay City Council Member, talked about how Board Member Muller served as a mentor

and his dedication and leadership to the City of Half Moon Bay. Former Half Moon Bay Mayor Naomi Patridge described her long history with Board Member Muller and his accomplishments. Eda Muller, Board Member Muller's wife, highlighted Board Member Muller's dedication and attributes. Assistant Executive Officers Dyan Whyte and Tom Mumley thanked Board Member Muller on behalf of staff. Board Member Kissinger highlighted Board Member Muller's contribution to the Board and the example he has provided. Board Member Ogbu thanked Board Member Muller. Vice Chair McGrath thanked Board Member Muller for his mentoring. Chair Young reflected on Board Member Muller's legacy and contributions. Board Member Ajami noted her appreciation of Board Member Muller's leadership and how he demonstrated respect for everyone who came before the Board. Board Member Lefkovits presented Board Member Muller with a gift on behalf of the Board. Board Member Muller highlighted all of the challenges and accomplishments of the Board over the last two decades. Mr. Wolfe concluded the item by thanking Board Member Muller for his 21 years of service to the Board and the Bay Region and noting that he had gone beyond the call of duty to the Board by serving as its Vice Chair in 1999 – 2000 and Chair in 2001 – 2003 and 2005 – 2013.

### **Item 3 – Public Forum**

Six parties addressed the Board expressing concern regarding the pace of cleanup at the Prosperity Cleaners site in Marinwood. Bill McNicholas, a member of the Cleanup Marinwood Plaza Now oversight committee, raised issues regarding the oversight of site cleanup and the site's impact on the Marinwood community. Raymond Day, Marinwood resident, summarized the history of the Marinwood Plaza site. Robert Graham, Marinwood resident, stated that the site's owners are willfully disregarding requirements. He recommended that the Board take enforcement against the owners. Dave Trattor, representing the neighboring property owners, noted the property owners' support for the Board's recent rejection of the remedial action plan addendum submitted by the site's owners but requested a firm deadline for submittal of the revised addendum. Stephen Nestel asked the Board to followup on the requirements of the Board's site cleanup order. Michael Van Zandt, representing Catholic Charities, discussed deadlines, the need for future community meetings, and enforcement options.

### **Item 4 - Minutes of the October 12, 2016 Board Meeting**

Mr. Wolfe recommended adoption of the Minutes from the October 12, 2016 Board Meeting. Vice Chair McGrath moved for adoption of the Minutes; Board Member Ajami seconded the motion.

Ayes: Ogbu, Lefkovits, Ajami, Kissinger, McGrath, Young

Nos: none

ITEM ADOPTED

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

Board Member Ogbu commented on the recent Water Quality Coordinating Committee meeting. Vice Chair McGrath complimented staff on their prompt response to his report of a messy construction site. He also noted the passage of bond measures supporting green

infrastructure in Berkeley and Oakland. Chair Young discussed her recent meeting with San Francisco Estuary Partnership Executive Director Caitlin Sweeney.

Mr. Wolfe gave an overview of this month's Executive Officer's Report. He highlighted the Pinole Creek fish passage project and vapor intrusion items.

### **Consideration of Uncontested Items**

#### **Item 6A – USS-POSCO Industries, Pittsburg Plant, Pittsburg, Contra Costa County — Reissuance of NPDES Permit**

Mr. Wolfe recommended adoption of Item 6A.

Vice Chair McGrath moved for adoption of Item 6A; Board Member Ogbu seconded the motion.

Ayes: Ogbu, Lefkovits, Ajami, Kissinger, McGrath, Young

Nos: none

ITEM ADOPTED

#### **Item 6B – Phillips 66 Company, San Francisco Refinery, Rodeo, Contra Costa County — Reissuance of NPDES Permit**

Due to the public's desire to speak about Item 6B, it was removed from the Uncontested Item calendar. Water Resource Control Engineer John Madigan gave the presentation on Item 6B to the Board. He described the permit's requirements, comments received, and staff's response.

Ian Wren, representing the San Francisco Baykeeper, discussed concerns regarding new fish tissue data for sturgeon. He encouraged the Board to reopen the selenium Total Maximum Daily Load (TMDL) when the new data is finalized. Don Bristle, Environmental Director for Phillips 66, stated that they are prepared to comply with the permit and urged the Board to move forward with the permit as proposed.

Board Member Kissinger asked about the fish tissue data and implications for the TMDL. Division Chief Naomi Feger noted that staff is still evaluating the fish tissue data and its collection methods. Board Member Kissinger asked about the treatment technology at Phillips 66 and whether it is best available technology economically achievable. Dr. Mumley discussed the basis of staff's recommendation. Board Member Kissinger asked for clarification regarding the potential for invasive species to be discharged with treated ballast water. Member Ajami asked about whether there is data from previous droughts. Dr. Mumley discussed the TMDL wasteload allocations and how they were derived. Board Member Ajami asked for clarification regarding the fish tissue data trends. Vice Chair McGrath discussed the scientific basis of the TMDL. Board Member Ajami asked about the life cycle of sturgeon. Chair Young asked about the reopener provisions in the permit. Mr. Wolfe discussed the conditions that would allow reopening a NPDES permit. Board Chair Young noted that she does not think there is sufficient data to modify the proposed limits. With respect to invasive species in ballast water, she asked about using an approach consistent with Water Code section 13267 to have refineries investigate the

potential for invasive species in ballast water. Vice Chair McGrath asked that other agencies who have been working on ballast water issues be consulted before requiring work by the refineries. Chair Young requested that there be a discussion at a later date about selenium science. Ms. Feger suggested that six months from now would be a timeframe that is consistent with the Regional Monitoring Program selenium work group. Craig Johns, of the Partnership for Sound Science, commented on ballast water treatment and discharge issues. He urged the Board to adopt the permit.

Mr. Wolfe recommended adoption of Item 6B with no changes to the order but recognizing that other activities suggested by the Chair would be moving forward on separate tracks.

Board Member Kissinger moved for adoption of Item 6B; Board Member Ogbu seconded the motion.

Ayes: Ogbu, Lefkovits, Ajami, Kissinger, McGrath, Young

Nos: none

ITEM ADOPTED

*BREAK at 12:30 p.m.; RECONVENED at 1:10 p.m.*

#### **NPDES Permit**

#### **Item 7 – Schnitzer Steel Industries, Inc., Schnitzer Steel Products Company, Oakland, Alameda County — Issuance of NPDES Permit**

Water Resource Control Engineer Jessica Watkins gave the presentation on Item 7 to the Board. She gave an overview of the facility and water management practices including the treatment system and permit requirements.

Vice Chair McGrath disclosed that as a former employee at the Port of Oakland he was involved in stormwater planning for the area surrounding the facility. However, he stated he had no specific knowledge of the facility and had no reason to recuse. Scott Sloan, representing Schnitzer, described the facility's operations, recent wastewater and stormwater control improvements, and commitment to compliance with the permit.

Mr. Wolfe recommended adoption of Item 7.

Vice Chair McGrath moved for adoption of Item 7; Board Member Lefkovits seconded the motion.

Ayes: Ogbu, Lefkovits, Ajami, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

### **Waste Discharge Requirements**

**Item 8 – Santa Clara Valley Water District and U.S. Army Corps of Engineers, Upper Berryessa Creek Flood Risk Management Project, Santa Clara County** — Adoption of Waste Discharge Requirements and Water Quality Certification

Mr. Wolfe recommended continuation of Item 8 to the January Board Meeting.

### **Recycled Water Policy Implementation**

**Item 9 – Santa Clara Valley Water District, Concurrence with Findings of the Salt and Nutrient Management Plan for the Santa Clara Subbasin** – Hearing to Consider Adoption of Tentative Resolution

Engineering Geologist Nathan King gave the presentation on Item 9 to the Board. He described the State Water Board's recycled water policy, the Santa Clara groundwater subbasin, and the proposed resolution. Tom Mohr, Senior Hydrogeologist with the Santa Clara Valley Water District, summarized the key findings in the Salt and Nutrient Management Plan.

Board members asked clarifying questions.

Mr. Wolfe recommended adoption of Item 9 as indicated in the supplemental.

Board Member Lefkovits moved for adoption of Item 9 as supplemented; Board Member Ajami seconded the motion.

Ayes: Ogbu, Lefkovits, Ajami, Kissinger, McGrath, Young

Nos: none

ITEM ADOPTED

### **Other Business**

**Item 10 – Proposed Updates to 2010 Water Quality Enforcement Policy and Overview of the Penalty Methodology** — Information Item

State Water Board Office of Enforcement's Assistant Chief Counsel David Boyers gave the presentation on Item 10 to the Board. He described the goals of the policy and the penalty methodology.

Chair Young asked about discretion in determining days of violation. Vice Chair McGrath asked for clarification about economic benefit. The Board members asked a number of clarifying questions about the penalty factors.

The item was for informational/discussion purposes, and no action was taken.

**Item 11 – Estuary Blueprint** – The 2016 Comprehensive Conservation and Management Plan – Presentation on the 2016 CCMP Update by Caitlin Sweeney, Director of the San Francisco Estuary Partnership

Mr. Wolfe recommended continuation of Item 11 to the January Board Meeting.

**Item 16 - Adjournment**

Meeting adjourned at 2:55 p.m. until the next Board Meeting – December 14, 2016