

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD SAN
FRANCISCO BAY REGION

MEETING DATE: July 8, 2020

ITEM: **3**

SUBJECT: **Minutes for the June 10, 2020 Board Meeting**

June 10, 2020 Board Meeting
ADOPTED JULY 8, 2020

Note: Copies of orders, resolutions, and minutes are posted on the Regional Water Board's website (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 (510) 313-0610.

Note: **Bold text** in paragraphs for each item represent topics Board members focused on and were discussed more extensively than others.

Item 1 – Roll Call and Introductions

Meeting called to order at 9:00 a.m. via Zoom Virtual Meeting Platform.

Board Members Present	Board Members Absent	Status
Chair James McGrath		QUORUM
Vice-Chair Jayne Battey		
William Kissinger		
Newsha Ajami		
Alexis Strauss Hacker		
Andrew Gunther		

Item 2 – Public Forum

Item 3 – Minutes of the May 13, 2020, Board Meeting

Michael Montgomery, Executive Officer, introduced the item and said that a few changes were needed- add Andrew Gunther as present, change the word "reinvent" to "reinvest" in Vice-Chair Battey's comment on green infrastructure, change "meet" to "not meet" in notes for Item 11. Deliberation.

Vice-chair Battey made a motion to approve the minutes. Board Member Kissinger seconded the motion.

Ayes: McGrath, Battey, Kissinger, Ajami, Hacker, Gunther

Nos: none

ITEM APPROVED

Item 4 – Chair’s, Board Members’ and Executive Officer’s Reports

Chair McGrath reported that on May 22 he met with all Regional Water Board Chairs and discussed homelessness and the state budget. He also said he had a conversation with Allison Chan, Save the Bay, on May 23 in response to budget issues and funding restrictions for Caltrans for compliance with projects and maintenance, including the possibility of Save the Bay engaging on legislation to change restrictions. He said he reached out on June 9 to Warner Chabot of SFEI (San Francisco Estuary Institute) and Caitlin Sweeney of SFEP (San Francisco Estuary Partnership) to discuss metrics on management of the workflow. He said they also discussed the dispute with the federal government over the navigable waters rule, and hexavalent chrome and PFAS in drinking water.

Tam Doduc, State Water Board, announced that the State Water Board approved the Petaluma River Bacteria TMDL (Total Maximum Daily Load) last week with unanimous support for the Regional Water Board’s approach. She mentioned budget uncertainty and challenges ahead to get work done with reduced staff resources- due to retirement, vacancies, redirection to contact tracing. She said the State Water Board and Regional Water Boards will be discussing priorities and how to measure progress on these priorities with this resource reduction. State Water Board, at their upcoming meeting, will consider a definition of microplastics in drinking water and approval of the Intended Use Plan for State Revolving Funds.

Mr. Montgomery described a few items from the Executive Officer’s Report. He mentioned that staff volunteered to be reassigned to Department of Public Health to do contact tracing and how much we appreciate that they stepped forward. He said we had an all staff emergency response training. He said all the Regional Water Boards discussed responses to sea level rise, including Mark Gold from Ocean Protection Council. He said we have an upcoming training on Inclusivity and Diversity for the management team that we planned about six months ago and will benefit us as an organization and inform our workforce planning efforts.

Vice-chair Battey expressed her appreciation for Mr. Montgomery’s and all staff’s work in this challenging time and managers for keeping a steady hand on the work. Board Member Kissinger added that staff has made this look easy. Chair McGrath said he appreciates Mr. Montgomery’s leadership and Board members on addressing diversity. He said we must consider equity for disadvantaged communities when we address sea level rise. He said we are doing a good job on that in the Bay Area and we should be amplifying our organization’s contribution through social media or other means.

Item 5 – Consideration of Uncontested Items

- A. Novato Sanitary District, Novato Sanitary District Wastewater Treatment Plant and Collection System, Novato, Marin County – Reissuance of NPDES Permit**
- B. U.S. Department of Navy, Treasure Island Wastewater Treatment Plant and Collection System, San Francisco, San Francisco County – Reissuance of NPDES Permit**

Mr. Montgomery introduced the item and pointed out that the Board needs to take two separate votes. Board Member Kissinger recused himself from Item 5B because he has a business relationship with San Francisco Public Utilities Commission (SFPUC).

Board Member Ajami moved approval of Item 5A and Board Member Gunther seconded the motion.

Ayes: McGrath, Battey, Kissinger, Ajami, Hacker, Gunther

Nos: none

ITEM APPROVED

Board Member Hacker offered complements to the Sanitary District on the marsh habitat project and reducing sanitary sewer overflows, and to permit writer, James Parrish.

Bill Johnson, NPDES Division Chief, announced a minor change needed for some permit language in Item 5B. Board Member Andy Gunther asked if staff verified design criteria for sea level rise that can be used in other facility permits in the future. Mr. Johnson explained that the design criteria used by the SFPUC is consistent with the Ocean Protection Council's guidance and is more comprehensive than what is reflected in our permit language. Mr. Johnson also explained that the entire system, including the collection system will be built to address new future conditions. Chair McGrath added that the treatment will include polishing the discharge with wetlands as well. Board Member Hacker acknowledged the operator's success in reducing sanitary sewer overflows, our Board's inspectors and the permit writer, Anna Gallagher.

Vice-Chair Battey made a motion to approve Item 5B. Board Member Ajami seconded the motion.

Ayes: McGrath, Battey, Ajami, Hacker, Gunther

Nos: none

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Waste Discharge Requirements

Item 6 - General Waste Discharge Requirements for Residual Firework Pollutants from Public Fireworks Displays – Issuance of General NPDES Permit

Mr. Montgomery introduced the item and Staff Engineer, Marcos de la Cruz, made the presentation.

Nicole Sasaki, San Francisco Bay Keeper, commented that they support adoption of this permit. She conducted outreach to several agencies and organizations to determine who had authority over this polluting activity and was surprised that the activity was not regulated. She thanked staff for developing this permit.

Gary Brown, Pyro Spectaculars North, said they support adoption of this permit. He thanked Bay Keeper for sharing resources, establishing best practices to make this activity protective of the environment, and for entering a memorandum of understanding to advocate for development of a statewide permit. He also thanked Board staff, said they did an exemplary job developing the permit, and kept him informed at every step. He recognized the sponsors of fireworks displays for supporting this activity.

Board members asked how staff determined that chemical impacts on beneficial uses were nominal and commented that it was great that stakeholders were aligned.

Board Member Gunther made a motion to approve the item. Board Member Ajami seconded the motion.

Ayes: McGrath, Battey, Kissinger, Ajami, Hacker, Gunther

Nos: none

ITEM APPROVED

Informational Items

Item 7 – Municipal Regional Stormwater NPDES Permit, Lessons Learned and Reissuance Issues – Information Item

Mr. Montgomery introduced the item and Staff Engineers Derek Beauduy, Imtiaz-Ali Khan and Richard Looker made the presentation.

Board Members asked questions on the following topics: trash load removal goals in the permit and increased costs of removing remaining trash load; whether trash discharges to the ocean are included; PCB loading and how PCBs are controlled; offsets and credits for trash source control; accounting for cleanup related to homeless encampments; baseline for trash generating areas; and measurement of trash controls.

Staff members answered the Board members questions. Staff explained the trash control goals are relative to loading assessed in 2009 when MRP 1 was issued and said there are higher costs and challenges of cleaning up the remaining 20 percent. Staff

confirmed that trash controls apply to discharges to the ocean and not just to the Bay. Staff explained how PCB's are controlled through local agency programs. Staff said it is difficult to quantify the trash reduction from programs that get credits or offsets and have tried to account for programs that ban plastic bags and cleanup homeless encampments. Staff also said the permittees are developing a receiving water monitoring program.

The following people made public comments:

- Matt Fabry, Chair of BASMAA Board of Directors,
- Mitch Avalon, Contra Costa County
- Kerrie Romanow, Director of Environmental Services for City of San Jose
- Amanda Booth, City of San Pablo
- Kathy Cote, Environmental Services Manager for City of Fremont
- Kristin Hathaway, City of Oakland,
- Rinta Perkins, Compliance Division Manager from City of Santa Clara
- Jill Mercurio, Public Works Director, City of San Pablo
- Pam Boyle-Rodriguez, Stormwater Compliance Manager from City of Palo Alto
- Jim Scanlin, Program Manager of Alameda County Clean Water Program.
- Luisa Valiela, USEPA
- Chris Lim, Executive Director of the Contra Costa Resource Conservation District
- Bob Simmons, Walnut Creek Watershed Council
- Allison Chan, Save the Bay
- Dina El-Tawansy, Chief Deputy District Director, District 4 Caltrans,
- Vaikko Allen, Regulatory Director for Contech Engineered Solutions

The commenters talked about the following issues:

- increasing cost to comply
- budget hits from COVID-19 crisis
- problems crediting source controls and creek cleanup
- the importance of maintaining credits as incentives
- need for time and flexibility
- moving into implementation of capital projects to comply with green infrastructure requirements
- MRP restrictions on project development, such as reducing size of projects and including prescriptive design criteria for bioretention facilities, and how those requirements conflict with and low-cost and efficient housing development
- permittees' challenges to address sea level rise
- extra benefits of public awareness through creek cleanups
- finding ways to focus on the most environmental benefit with least drain on public resources

- US EPA's role in providing technical and financial assistance and support for time extensions and maintaining credits
- environmental concerns that trash impairment in the Bay has not abated even after two rounds of the MRP permit
- suggestions to consider equity by focusing additional efforts in places where infrastructure and funding are bigger hurdles, even if beyond current jurisdictional and political boundaries
- supporting funding for permittees such as including funding for green infrastructure in current economic recovery/climate change bill
- adding language to the MRP about collaboration between Caltrans and permittees to address opportunities for Caltrans to comply with its Cease and Desist Order

Chair McGrath asked for Board members input on whether the Board should have another workshop and whether the Board should consider delays, and what should be the basis for delays.

Board members responded. Some said they supported additional workshops or discussions. Some mentioned supporting a delay in updating the permit because of COVID. Some said staff should consider limiting the scope of the permit and extending the time to meet targets. Board Member Hacker recommended determining the path and timing to bring the permit to the Board as soon as possible so staff and stakeholders do not invest time in detailed negotiations on permit terms that are unlikely to be resolved.

Board members further commented that a high-quality dialogue is in progress so staff should continue to engage with stakeholders to try and find cost-effective control measures; the type of trash captured should be studied to focus on source control and behavior changes; the permit should include measures of progress and ways to account for source control and behavior changes, especially in challenged communities; outreach should be expanded to the communities most in need; science should be used to indicate if loading to the Bay is being reduced and how to inform adapting control measures; staff should move forward cautiously given uncertainty of state and local government budgets.

Mr. Montgomery said he recommends maintaining the target date as having a deadline as a forcing mechanism is helpful. He also said he agrees with the support to work collaboratively and try and close gaps.

Mr. Mumley said it is a given that the permit will have to be administratively extended and that was part of the plan; it expires in December 2020. He said he likes the challenge to maintain schedule now and adapt as we go forward.

Chair McGrath thanked everyone for their input and asked for motion to adjourn the meeting.

Item 8 - Correspondence

Item 9 – Closed Session – Personnel

The Board did not meet in closed session for Personnel in this meeting

Item 10 – Closed Session – Litigation

The Board did not meet in closed session for Litigation in this meeting

Item 11 – Closed Session – Deliberation

The Board did not meet in closed session to deliberate in this meeting.

Item 12 – Adjournment

The meeting was adjourned at 2:45 p.m.