

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY
BOARD MEETING MINUTES

January 14, 2009

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Item 1 – Roll Call and Introductions

The meeting was called to order on January 14, 2009 at 9:03 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Terry Young, Vice-Chair; Shalom Eliahu; James McGrath; Steven Moore; William Peacock.

Board members absent: Rameshwar Singh. [Note: Dr. Singh arrived at approximately 9:16 a.m.]

New staff was introduced. Terry Seward introduced Alyx Karpowicz and Alec Naugle introduced Ross Steenson.

Tam Doduc, Chair, State Water Resources Control Board, and liaison to Region 2, addressed the Board.

Item 2 – Election of Chair and Vice-Chair

Mr. Peacock complimented Mr. Muller for the leadership he has shown as Chair and placed Mr. Muller's name in nomination for 2009 Board Chair.

Mr. Eliahu seconded the nomination.

Dr. Young and Mr. McGrath spoke in favor of the motion.

Dr. Young, serving as Chair, requested a vote on the motion.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Young, Mr. Muller

No: None

Motion passed 6 – 0

Mr. Muller began serving as the Chair for the year 2009.

Mr. Muller thanked Board members for the privilege of serving as Chair.

Mr. Eliahu nominated Dr. Young to serve as Vice-Chair.

Mr. McGrath seconded the motion.

Mr. Muller complimented Dr. Young for the leadership she has shown as Vice-Chair and requested a vote on the motion.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Young, Mr. Muller

No: None

Motion passed 6 – 0

Dr. Young thanked Board members for the opportunity to serve as Vice-Chair.

[Dr. Singh arrived at approximately 9:16 a.m.]

Anna Torres introduced new staff, Angela Tsao.

Item 3 – Public Forum

There were no public comments.

Item 4 – Minutes of the August 22, 2008 Board Meeting and Minutes of the September 10, 2008 Board Meeting

Mr. Peacock made a motion to approve the Minutes of the August 22, 2008 Board Meeting.

Mr. Eliahu seconded the motion.

Mr. Wolfe replied to a question from Mr. McGrath.

Mr. Peacock amended his motion to add approval of the Minutes of the September 10, 2008 Board Meeting.

A vote was taken on the motion. The motion passed unanimously.

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

Mr. Muller said Nancy Sutley, former member of the State Water Resources Control Board and former liaison to Region 2, was selected to serve as chair of the White House Council on Environmental Quality in the new Administration.

Mr. Muller asked Dr. Singh to serve as the Water Board's alternate representative on the San Francisco Bay Conservation and Development Commission. He asked Mr. Peacock to serve as the Board's alternate representative at the Executive Board Meetings of the Association of Bay Area Governments.

Mr. Wolfe said the next Water Education Workshop for Board members will be held in late February 2009.

Item 6 – Consideration of Uncontested Items Calendar

Mr. Wolfe recommended the Board adopt Item 6A, the action item on the uncontested items calendar.

Motion: It was moved by Mr. Peacock, seconded by Mr. Moore, and it was unanimously voted to adopt the uncontested item as recommended by the Executive Officer.

Item 8a – East Bay Municipal Utility District, Special District No. 1, Point Isabel, San Antonio Creek, and Oakport Wet Weather Facilities, Richmond and Oakland, Contra Costa and Alameda Counties – Reissuance of NPDES Permit

Item 8b – East Bay Municipal Utility District, Special District No. 1, Point Isabel, San Antonio Creek, and Oakport Wet Weather Facilities, Richmond and Oakland, Contra Costa and Alameda Counties – Issuance of Cease and Desist Order for Discharge of Partially Treated Wastewater

One hearing was held for both items and the items were heard next.

The following people testified: Robert Schlipf, Staff Engineer, Water Board; Doug Humphrey, District Manager, Stege Sanitary District; David Williams, Director of Wastewater, East Bay Municipal Utility District; Alexis Strauss, Director, Water Division, U.S. EPA, Region IX; Amy Chastain, Staff Attorney, San Francisco Baykeeper. Staff and persons who testified replied to questions from Board members.

Mr. Wolfe recommended adoption of the Revised Tentative Order for Item 8a.

Motion: It was moved by Dr. Young, seconded by Mr. Peacock, and it was voted to adopt the Revised Tentative Order for Item 8a as recommended by the Executive Officer.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young, Mr. Muller

No: None

Motion passed 7 – 0

Mr. Wolfe recommended adoption of the Revised Cease and Desist Order for Item 8b.

Motion: It was moved by Dr. Young, seconded by Mr. Peacock, and it was voted to adopt the Revised Cease and Desist Order for Item 8b as recommended by the Executive Officer.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young,
Mr. Muller

No: None

Motion passed 7 - 0

[The Board took a break at 10:35 a.m. and resumed the meeting at 10:48 a.m.]

Item 7 – Evaluation of Water Quality Conditions for the San Francisco Bay Region – Proposed Revisions to Clean Water Act Section 303(d) List of Impaired Waters – Hearing to Consider Proposed Revisions (No Action Will Be Taken)

Barbara Baginska said staff used the *Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List* to develop proposed revisions to the Clean Water Act Section 303(d) list of impaired waters in the Region. She said the document establishes requirements for data quality and data quantity and other factors to be considered in listing and de-listing recommendations.

Dr. Baginska said as part of the revision process, staff reviewed data submitted by stakeholders, data collected through the Surface Water Ambient Monitoring Program, and other available information.

Dr. Baginska discussed proposed revisions to the Section 303(d) list. She showed power point slides illustrating locations of waters that staff recommends be added to the list. She said staff believes the waters are impaired by trash and other pollutants. She said staff recommends removing three segments of the Bay that are currently listed as impaired by nickel. She said staff recommends a revision to a regulatory action applicable to one impaired water body.

Richard Looker said staff followed the Rapid Trash Assessment method that was developed as part of the Surface Water Ambient Monitoring Program to evaluate whether waters are impaired by trash. He said Board Member Steve Moore helped develop the method when he worked as Board staff.

Mr. Looker said following the Rapid Trash Assessment method, staff established scores for sites that described (1) level of trash and (2) threat to aquatic life. He said staff used these parameters to evaluate whether there was adverse impact on the beneficial uses of (1) non-contact water recreation and (2) wildlife habitat.

Mr. Looker said staff established a score for the level of trash parameter by assessing a 100 foot section of a water body, evaluating whether trash was visually distracting, and counting the number of trash items found. He said staff established a score for the threat to aquatic life parameter by identifying the type of trash items that would harm wildlife.

Mr. Looker said the level of trash parameter was used to determine whether the non-contact water recreation beneficial use was impacted. He said the threat to aquatic life parameter was used to determine whether the wildlife habitat beneficial use was impacted.

Mr. Looker said staff recommended listing a water body as impaired by trash if a score for at least one of the parameters was indicative of poor condition on more than one day, and in almost all cases, in more than one location along the water body.

Mr. Looker said some stakeholders submitted photographs of water bodies to document trash conditions. He said staff reviewed the photographs to establish scores for the level of trash and threat to aquatic life parameters following the RTA method. He said in order to calculate the parameters, staff required both a close-up photograph of trash at a site and a photograph of the entire site under evaluation.

Mr. Looker said staff also reviewed trash assessment data collected by a stormwater program that developed a revised version of the Rapid Trash Assessment method.

Mr. Looker described written comments staff received from stakeholders regarding proposed revisions.

Mr. Looker said staff does not recommend development of Total Maximum Daily Loads for trash as an initial step to address impairment. He said staff recommends initial efforts to address the impairment occur as part of the proposed Municipal Regional Stormwater NPDES Permit.

Staff replied to questions from Mr. Moore, Dr. Singh, and Dr. Young.

Dan Tafolla, Environmental Services Director, Vallejo Sanitation & Flood Control District, said community volunteers, District staff, and a municipal district have greatly reduced trash levels along Rindler Creek. He requested the Board allow the District to continue these efforts rather than listing the Creek for trash impairment. He said the District has identified the primary source of trash to the Creek and intends to develop management practices to remove trash at its source.

Mr. Tafolla replied to questions from Mr. McGrath and Mr. Moore.

Vern Bessey, Environmental Program Manager, City of San Mateo, said San Mateo Creek is proposed to be listed for sediment toxicity. He said samples were collected from tidally influenced Creek sites. He said it is uncertain whether sediments associated with toxicity originated from the Creek watershed or from San Francisco Bay. He said further studies should be conducted before a decision is made to list the Creek.

Mr. Moore discussed monitoring data.

Jody Hall Esser, Director of Planning & Development, County of Santa Clara, expressed concern about staff's recommendation to list eight creeks and one river in the County for trash impairment. She said data justifies listing impaired hot spots rather than entire waterways.

Greg Van Wassenhove, Agricultural Commissioner, County of Santa Clara, questioned whether trash impairment at one site of a creek necessitates an impairment listing for the entire creek.

Mr. Van Wassenhove replied to questions from Mr. McGrath.

Mr. McGrath recommended agencies consider what the sources of their trash are and the amount of money they spend to cleanup the trash.

Jeff Roubal, Administrative Analyst, City of Concord, said staff recommends listing Mount Diablo Creek for toxicity. He said the proposed listing is based on four SWAMP water samples taken six years ago and Creek conditions have changed significantly since then. He said in 2009 the City will conduct Creek studies and water quality data will be obtained. He requested the Board defer a determination at this time that the Creek should be added to the revised Section 303(d) list.

Laura Reinhard, Policy Associate, Save the Bay, spoke in favor of revising the Section 303(d) list to add trash impaired waters. She said trash and plastic debris in waters are widespread problems in the Region.

Chris Sommers, Watershed Monitoring/Assessment Program Coordinator, Santa Clara Valley Urban Runoff Pollution Prevention Program, and speaking on behalf of the SCVURPPP co-permittees, requested proposed listings for trash impairment be limited to the particular sites or reaches of a water body where assessments were conducted. He said the approach would allow agencies to focus resources on known problem areas rather than entire creek systems. He requested staff conduct a scientific review of the Rapid Trash Assessment method.

Larry Kolb, speaking on his own behalf, spoke in favor of adding listings for trash impaired waters to the revised Section 303(d) list. He said acknowledging the trash problem in Bay Area waters is important.

Jill Yung, Legal Counsel, on behalf of Citizens for East Shore Parks, requested the Section 303(d) list be revised to require that impairment at Stege Marsh be addressed through development of a Total Maximum Daily Load. She gave staff copies of exhibits.

Michele Plá, Executive Director, Bay Area Clean Water Agencies, said San Francisco Bay is listed on the Section 303(d) list as impaired by selenium. She said there is data that show the Bay is not currently impaired by selenium and requested removal of the listing.

In reply to a question from Mr. Moore, Tom Mumley said staff is in the process of developing a Total Maximum Daily Load to address selenium impairment in North San Francisco Bay. He recommended questions regarding selenium data be addressed through the TMDL development process.

Cynthia Royer, Manager of Technical Services, City of Daly City, requested Colma Creek not be listed for trash impairment. She concurred with the comment that proposed trash impairment listings be limited to specific sites or reaches and not encompass entire water bodies. She said trash cleanup programs are conducted along Colma Creek and requested the City be allowed to continue with the cleanup efforts.

Mr. Moore said three and one-half years ago he conducted field investigations of trash impaired sites. He said yesterday he re-visited the sites and found improved conditions at about one-half of them.

Mr. Moore recommended listings for trash impairment include entire water bodies rather than specific impacted sites. He said trash is transported along waters from upstream locations. He said agencies seeking funding for trash programs might be at a competitive advantage if a water body is listed as impaired. He discussed various implementation measures.

Mr. McGrath said trash impairment is a problem in Bay Area waters. He said coastal and stream cleanups collect more, not less, trash each year. He discussed actions jurisdictions might take as a means to reduce trash levels.

Dr. Singh recommended staff take commenters' suggestions into consideration when preparing listing recommendations for the Board's adoption.

Mr. Eliahu spoke in favor of treating trash as a pollutant and listing waters for trash impairment. He said it is important staff work with local governments to find ways to reduce trash impairment.

Dr. Young spoke in favor of listing entire creeks if there are trash hotspots at downstream locations. She spoke in favor of assessing trash impairment following the Rapid Trash Assessment method in the field and with photographs. She spoke in favor of keeping the selenium listing for the Bay on the Section 303(d) list. She discussed several other pollutants and said she would give staff a scientific article.

Mr. Muller discussed trash issues.

Mr. Wolfe said staff will reply to written comments staff received and to testimony received at today's hearing in a written Response to Comments document. He said staff anticipates bringing the proposed revised Section 303(d) list to the Board for consideration of adoption at the February 2009 Board meeting.

Item 13 – Adjournment

The Board meeting was adjourned at 1:07 p.m.