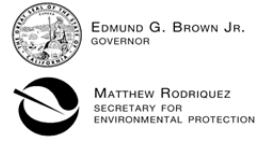


*STATE OF CALIFORNIA*  
**REGIONAL WATER QUALITY CONTROL BOARD**  
**SAN FRANCISCO BAY REGION**

MEETING DATE: December 10, 2014

ITEM: **3**

SUBJECT: **MINUTES OF THE BOARD MEETING for NOVEMBER 12 and 13, 2014**



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

**November 12 and 13, 2014 Board Meeting  
Draft Minutes for Board Consideration**

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**

**Day 1** - Meeting called to order on November 12, 2014, at 9:03 am in the Elihu M. Harris Building, First Floor Auditorium.

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Status</u>
William Kissinger	Newsha Ajami (arrived at 12:15 pm)	QUORUM
Margaret Abe-Koga (left at 2:30 pm)		
John Muller		
Vice Chair James McGrath		
Chair Terry Young		

State Water Board Member Tam Doduc addressed the Board. She discussed the proposed statewide NPDES permit for potable water discharges and the FY 13/14 performance report recently posted on the State Water Board’s website.

Planning Division Chief Naomi Feger introduced Americorps contractors Corie Hilavaty and Rebecca Nordenholt. Senior Engineering Geologist David Elias introduced Environmental Scientist Margarete Beth and Engineering Geologist Yemia Hashimoto. Assistant Executive Officer Dyan Whyte introduced Keith Lichten as the new Division Chief for the Watershed Management Division.

Chair Young presented 2014 Sustained Superior Accomplishment Awards to Utha Hellmann-Blumberg, Ross Steenson, and Lindsay Whalin for their outstanding work at the Water Board. Utha and Ross were recognized for their leadership roles on the staff team that updated the Board’s Environmental Screening Levels. Stephen Hill and Cheryl Prowell were also recognized as management members of the staff team. Lindsay was recognized for her ongoing work resolving challenging site cleanup cases.

**Day 2** - Meeting called to order on November 13, 2014, at 9:06 am in the Elihu M. Harris Building, First Floor Auditorium.

**Board Members Present**

William Kissinger  
John Muller  
Vice Chair James McGrath  
Chair Terry Young  
Newsha Ajami (arrived at 9:22 am)

**Board Members Absent**

Margret Abe-Koga

**Status**

QUORUM

**Day 1 - Item 2 - Public Forum**

Ray Day, a resident of the Marinwood community, noted his concern regarding the slow pace of cleanup of the former Prosperity Dry Cleaners site in Marin County. Bill McNicolas, representing the Marinwood Community, noted his concern about lack of cleanup progress and the groundwater plume migrating under the freeway. He stated that there is a cluster of cancer incidents detected nearby. Toxics Division Chief Stephen Hill gave an update on the status of the cleanup. He noted that the parties are close to agreeing on an access agreement, which should further the investigative work, and he agreed to report back to the Board next month.

Richard McMurtry addressed the Board regarding water quality issues related to Coyote Creek homeless encampments in San Jose. He noted that he created a group called the Coyote Creek Homeless Stream Stewards. He requested that a Water Board representative participate on a committee looking into the now-closed Singleton landfill as a relocation option. He described efforts to clean up trash in the area and urged the Board to use its regulatory authority to compel cleanup. Sandy Perry, Santa Clara County affordable housing organizer, addressed the Board and distributed a letter. He asserted that the Water Board's September 2014 letter to the City of San Jose was inadequate and requested that the Board conduct a workshop in December to discuss regulatory options. Phil Olmstead, representing a group called Homeless that Advocates for Homeless, distributed a letter that he summarized as part of his comments. He urged the Board to conduct a workshop and hold creekside property owners responsible for waste discharges. Robert Aguirre addressed the Board. He described conditions at the homeless encampment and distributed a letter. Assistant Executive Officer Whyte discussed efforts by the City of San Jose to comply with the Board's letter. Vice Chair McGrath described his recent tour of the homeless encampments along Coyote Creek. Chair Young asked legal counsel Yuri Won to discuss liability concerns with the City of San Jose's legal counsel. Ms. Won suggested that the Board may want to form a subcommittee of no more than two members to explore this topic further. Chair Young asked Board members to let her know if they are interested in participating on such a subcommittee.

**Day 1 - Item 3 - 2014 Dr. Teng-chung Wu Pollution Prevention Award – Presentation of Award to Phil Bobel for Lifetime Achievement**

Senior Scientist Bill Johnson made a presentation to the Board describing Phil Bobel's lifetime accomplishments. Board Member Muller presented the award to recipient Phil Bobel. Phil thanked the Board.

**Day 1 - Item 4 - Minutes of the September 10, 2014 Board Meeting**

Executive Officer Bruce Wolfe recommended adoption of Item 4.

Board Member Abe-Koga moved for adoption of the Minutes; Vice Chair McGrath seconded the motion.

Ayes: Ajami, Kissinger, Abe-Koga, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

### **Day 2 - Item 5 - Chairman's, Board Members', and Executive Officer's Reports**

Vice Chair McGrath reported on the successful passage of Measure F in Berkeley. Board members discussed the San Francisquito Creek Flood Control Project public meeting summarized in the Executive Officer's Report. Executive Officer Wolfe provided an update on this project's application for water quality certification, indicated that he has signed a complete application letter, and noted that the National Marine Fisheries Service has finalized its letter to the Army Corps of Engineers evaluating the project's impacts. Chair Young highlighted the agreement that the Board's certification will have "known unknowns". Kevin Murray, representing the San Francisquito Creek Joint Powers Authority, thanked the Board for setting up the meeting. Board Member Muller noted that San Mateo County Supervisor Pine contacted him about this project but that they did not discuss specifics.

Chair Young reported on an August 18 meeting with BACWA members, September meetings with Gordon Burns and CalEPA to discuss strategic vision, the October WQCC meeting, an October meeting with Save The Bay staff to discuss trash issues, the November Chairs' call, Region 5's mercury reduction project on the Yuba River, and the next steps in coordinating our vineyard program with Region 1.

Mr. Wolfe gave an overview of this month's Executive Officer's Report. Assistant Executive Officer Whyte updated the Board on her recent discussion with City of San Jose staff regarding the cleanup of homeless encampments.

### **Uncontested Items**

#### **Day 2 - Item 6A – Process for Review and Approval of Local Agency Management Programs under the Onsite Wastewater Treatment Systems Policy – Information Item**

Water Resource Control Engineer Blair Allen responded to questions regarding local agency reporting requirements. This item was for informational/discussion purposes and no action was taken.

#### **Day 2 - Item 6B – Enforcement Actions and Priorities for Fiscal Year 2014/2015 – Summary Report**

Senior Engineer Brian Thompson responded to questions regarding targeted inspections. This item was for informational/discussion purposes and no action was taken.

### **Site Cleanup Requirements**

**Day 1 - Item 7 - Gregory Village Partners, L.P., Village Builders, L.P., Joseph J. Lee, Alan Choi, Kauen Choi, Joseph William O'Malley, and Floyd G. Taylor, for the property located at 1643 Contra Costa Boulevard, Pleasant Hill, Contra Costa County – Adoption of Initial Site Cleanup Requirements**

**Day 1 - Item 8 - Chevron U.S.A. Inc., MB Enterprises, Inc., Jane A. Lehrman, and Marjorie P. Robinson, for the property located at 1705 Contra Costa Boulevard, Pleasant Hill, Contra Costa County – Adoption of Initial Site Cleanup Requirements**

Mr. Wolfe stated that testimony pertaining to Items 7 and 8 would be combined but that the Board would need to consider adoption of the tentative orders for each item separately. Board Member Kissinger noted that while his firm represents Chevron on other matters, he has had no ex parte communications regarding this matter and no financial interest in the outcome. Mr. Wolfe introduced the Board's Advisory Team. Ms. Whyte introduced the Board's Cleanup Team. Board staff Kevin Brown gave the Cleanup Team's presentation. Mr. Brown described the history of the two sites addressed by Items 7 and 8 and discussed why site cleanup requirement orders are needed. He also presented an overview of the Cleanup Team's response to comments. Vice Chair McGrath asked about potential nearby sources of MTBE. Board Member Muller asked about the timing of MTBE use. Mr. Brown responded. Board Member Kissinger asked about the role of the Central Contra Costa Sanitary District. Cleanup Team staff discussed common practices at dry cleaning facilities and the data supporting their recommendation to not name the Sanitary District as a discharger for either order. Ms. Whyte confirmed that if additional evidence suggests that the Sanitary District should be named, it can be added to either order at a later date.

Ed Firestone, representing Gregory Village Partners, L.P., addressed the Board. He presented an argument for why the Sanitary District should be named to the tentative order for Item 7. Alan Johnson, representing Joseph and Grace Lee, noted that he was available for questions. John Till also noted that he was available for questions. Kent Alm, representing the Sanitary District, presented evidence supporting his argument that the Sanitary District should not be named as a discharger for either order. Vice Chair McGrath asked a number of clarifying questions. Mike Connor, representing the Bay Area Clean Water Agencies, emphasized the need for the Board to use evidence as the basis of naming dischargers, as opposed to general statements such as "all sewers leak". He also suggested looking into the use of markers as indicators of sewer inputs.

Bob Goodman, representing Chevron U.S.A. Inc., noted that Chevron did not own the 1705 Contra Costa Boulevard site when PCE was released from the site. He described the regulatory history pertaining to the fuel UST case at the site. He also described Chevron's evaluation of the data and why the site's former waste oil tank should not be considered a solvent source. He urged the Board to name the Sanitary District as a discharger for Item 8 as well as the estate of Marjorie Robinson. Vice Chair McGrath and Board Member Kissinger asked clarifying questions.

Donald Solderman, an attorney representing Jane Lehrman and Marjorie Robinson, discussed why both parties should not be named to the tentative order for Item 8. Wendy Lutz spoke on behalf of her mother, Jane Lehrman. She read a letter from her mother into the record that described her mother's lack of knowledge regarding the property in question. Ms. Whyte

summarized the Cleanup Team's rebuttal to a number of the arguments presented. The Board members asked clarifying questions pertaining to the data evaluated and the bases of Cleanup Team's conclusions.

The Board convened a closed session for 45 minutes and reconvened in open session at 2:20 pm.

Mr. Wolfe noted that the Cleanup Team had distributed a supplemental for Item 7 removing references to two parties. He recommended adoption of Item 7 as supplemented.

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

Ayes: Kissinger, Abe-Koga, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

Mr. Wolfe noted that the Cleanup Team had distributed a supplemental for Item 8 removing reference to Marjorie Robinson. He recommended adoption of Item 8 as presented in the supplemental with additional changes he read into the record in support of not naming Jane Lehrman as a discharger. Mr. Wolfe also recommended a minor change in wording to Finding 3 on page 3 clarifying that Chevron owned the property during the time of an ongoing discharge.

Board Member Muller moved for adoption of Item 8; Vice Chair McGrath seconded the motion.

Ayes: Kissinger, Abe-Koga, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

### **Enforcement**

#### **Day 1 - Item 9 - City of Calistoga, Dunawael Wastewater Treatment Plant, Calistoga, Napa County – Adoption of Cease and Desist Order**

John Madigan gave the staff presentation. He described the City's wastewater treatment facility and the justification for a cease and desist order (CDO). Vice Chair McGrath asked about the quality of water in the facility's ponds and whether those are considered a discharge point. Chair Young asked about the timing associated with monitoring and reporting of antimony sources. Chair Young also asked about the boron issues raised by commenters. Mr. Wolfe stated that boron studies will be evaluated as part of reissuing the City's NPDES permit. He further clarified that the most sensitive beneficial use will be evaluated as part of the analysis.

Mike Kirn, Calistoga's Public Works Director, addressed the Board. He discussed the City's plans to increase storage and address the conditions described in the CDO. Carl Sherrill, Calistoga resident, urged the Board to vote for a connection ban. Christina Aranguren, Director of California Fisheries and Water Unlimited, showed the Board photos and argued that the facility's riverside ponds are seeping into the Napa River. She argued for a connection ban. Patrick Porgans, representing Planetary Solutionaries, expressed concern about the staff recommendation and noted support for a connection ban. Doug Cook, a Calistoga resident, asked about interim standards and the timeline in the CDO. He also recommended that the same approach for antimony be applied to boron. Mayor Chris Canning, City of Calistoga,

discussed policies and projected growth in the City.

Division Chief Lila Tang summarized the staff recommendation. Board Member Muller reminded everyone that Calistoga is at the headwaters of the Napa River watershed and the City should be setting an example of how to appropriately discharge wastewater. Vice Chair McGrath noted that the beneficial reuse of the wastewater should be a priority. Chair Young recommended that staff evaluate whether we should be concerned about potential impacts to wildlife exposed to recycled water spray in irrigation fields. She further encouraged staff to require additional boron-related studies.

Mr. Wolfe recommended adoption of Item 9 with a modification to allow the Executive Officer to modify deadlines in the table by no more than six months for good cause.

Vice Chair McGrath moved for adoption of the Item as supplemented; Board Member Ajami seconded the motion.

Ayes: Ajami, Kissinger, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

### **NPDES Permits**

**Day 1 - Item 10 - East Bay Municipal Utility District; Oakport, San Antonio, and Point Isabel Wet Weather Facilities and Wastewater Interceptor System; Oakland and Richmond, Alameda and Contra Costa Counties – Reissuance of NPDES Permit and Rescission of Cease and Desist Order**

Mr. Wolfe noted that the presentations for Items 10-17 would be combined but that the Board would need to consider adoption of the tentative orders for each item separately. Robert Schlipf gave the staff presentation. He described the service area for the East Bay Municipal Utility District. He described the work required under the cease and desist orders and noted that it is duplicative to that required by the federal consent decree; therefore, the cease and desist orders are no longer necessary. He also presented staff's rationale on why NPDES permits for all of the satellite agencies remain necessary.

Kent Alm, representing the Stege Sanitary District, Albany, and Piedmont satellite agencies, addressed the Board and explained the basis for a likely petition of the orders by the agencies. Marilee Allan, representing the City of Oakland, addressed the Board and underscored comments made by Mr. Alm. John Salman, representing East Bay MUD, discussed the "cause and contribute" component of the discharge prohibition. He noted that the Water Board can regulate collection system maintenance. He expressed support of all the permits in Items 10-17. Vice Chair McGrath noted the importance of being reasonable in the context of evaluating cause and contribute.

Mr. Wolfe recommended adoption of Item 10.

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

Ayes: Ajami, Muller, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

**Day 1 - Item 11 - City of Emeryville, Wastewater Collection System, Emeryville, Alameda County – Reissuance of NPDES Permit**

Mr. Wolfe recommended adoption of Item 11.

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

Ayes: Ajami, Muller, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

**Day 1 - Item 12 - City of Alameda, Wastewater Collection System, Alameda, Alameda County – Reissuance of NPDES Permit**

Mr. Wolfe recommended adoption of Item 12.

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

Ayes: Ajami, Muller, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

**Day 1 - Item 13 - City of Albany, Wastewater Collection System, Albany, Alameda County – Reissuance of NPDES Permit**

Mr. Wolfe recommended adoption of Item 13.

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

Ayes: Ajami, Muller, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

**Day 1 - Item 14 - City of Berkeley, Wastewater Collection System, Berkeley, Alameda County – Reissuance of NPDES Permit**

Mr. Wolfe recommended adoption of Item 14.

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

Ayes: Ajami, Muller, McGrath, Young

Nos: none



Recuse: Kissinger

ITEM ADOPTED

**Day 1 - Item 15 - City of Oakland, Wastewater Collection System, Oakland, Alameda County – Reissuance of NPDES Permit and Rescission of Cease and Desist Order**

Mr. Wolfe recommended adoption of Item 15.

Board Member Muller moved for adoption of the Item; Board Member Ajami seconded the motion.

Ayes: Ajami, Muller, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

**Day 1 - Item 16 - City of Piedmont, Wastewater Collection System, Piedmont, Alameda County – Reissuance of NPDES Permit**

Mr. Wolfe recommended adoption of Item 16.

Board Member Muller moved for adoption of the Item; Board Member Ajami seconded the motion.

Ayes: Ajami, Muller, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

**Day 1 - Item 17 - Stege Sanitary District; Wastewater Collection System; El Cerrito, Kensington, and Richmond; Contra Costa County – Reissuance of NPDES Permit**

Mr. Wolfe recommended adoption of Item 17.

Board Member Muller moved for adoption of the Item; Board Member Ajami seconded the motion.

Ayes: Ajami, Muller, McGrath, Young

Nos: none

Recuse: Kissinger

ITEM ADOPTED

**Day 2 - Item 18 – Overview of Regional Water Board Priorities – Workshop on the Board’s Programs and Their Priorities for the 2014-2015 Fiscal Year**

Mr. Wolfe noted that this was the second year the Board was holding a workshop on its priorities for the fiscal year. Planning/TMDL Division Chief Naomi Feger gave an overview of the TMDL/Planning Division’s priorities. Vice Chair McGrath discussed possible items for the Basin Plan’s triennial review process. Chair Young asked about third-party audit programs. She also raised the issue of alternative monitoring means and the need to explore how to incentivize compliance. NPDES and Enforcement Division Chief Lila Tang gave an overview of the NPDES

and Enforcement Division's priorities. Chair Young suggested exploring whether reporting of priority pollutant monitoring can be streamlined in order to redirect resources towards managing contaminants of emerging concern. Watershed Management Division Chief Keith Lichen gave an overview of priorities for the Watershed Management Division. Board members asked about green infrastructure. Toxics Division Chief Stephen Hill gave an overview of the Toxics Division's priorities. Chair Young asked about the dry cleaner strategy. Groundwater Protection Division Chief Terry Seward gave an overview of the Groundwater Protection Division's priorities.

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

**Day 2 - Item 19 – Oro Loma Sanitary District Wet Weather Equalization and Ecotone Demonstration Project – What It Is and What It Intends to Demonstrate** – Presentation by Jason Warner, Oro Loma Sanitary District, Michael Connor, East Bay Dischargers Authority, and Jeremy Lowe, ESA PWA

Mike Connor, General Manager of the East Bay Dischargers Authority, introduced the item. Jeremy Lowe, Coastal Geomorphologist at Environmental Science Associates, described the project's design and objectives. Jason Warner, General Manager of the Oro Loma Sanitary District, described the demonstration project in detail. Segal Choksi, representing Baykeeper, commented on the project and the need for other good demonstration projects in the Region.

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

#### **Item 24 - Adjournment**

Meeting adjourned on Day 1 at 4:15 pm.

Meeting adjourned on Day 2 at 1:11 pm until the next Board Meeting – December 10, 2014.