

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

MEETING DATE: February 11, 2015

ITEM: **3**

SUBJECT: **MINUTES OF THE JANUARY 21, 2015 BOARD MEETING**

San Francisco Bay Regional Water Quality Control Board

**January 21, 2015 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). 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 9:02 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

| <u>Board Members Present</u> | <u>Board Members Absent</u> | <u>Status</u> |
|-------------------------------------|-----------------------------|---------------|
| Steve Lefkovits | Margaret Abe-Koga | QUORUM |
| Newsha Ajami | | |
| William Kissinger (arrived at 9:09) | | |
| John Muller | | |
| Vice-Chair James McGrath | | |
| Chair Terry Young | | |

Item 2 – Election of Chair and Vice-Chair

Board Member Muller nominated Chair Young to continue as the Board's Chair. The Board unanimously approved the nomination.

Chair Young nominated Jim McGrath to continue as the Board's Vice-Chair. The Board unanimously approved the nomination.

Board Member Kissinger arrived just after the vote and noted his support for the selection of the Chair and Vice-Chair.

Item 3 - Public Forum

No parties requested to speak.

Item 4 - Minutes of the November 12-13, 2014 Board Meeting

Executive Officer Bruce Wolfe recommended adoption of Item 4.

Vice Chair McGrath moved for adoption of the Minutes; Board Member Kissinger seconded the motion.

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

Nos: none

ITEM ADOPTED

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

Board Member Ajami discussed her trip to Brazil and water quality issues. Board Member Muller discussed the development of a wetland restoration committee led by Board members from all Regional Water Boards. Vice Chair McGrath reported on the Bay Conservation and Development Commission's (BCDC's) effort to evaluate Bay fill and sea level rise in context of BCDC's Bay Plan. He also discussed a tour of king tides along the East Bay shoreline and the significance of public access to the shoreline. Chair Young reported on her meeting with staff regarding the water quality certification process. She also met with staff to discuss the issue of trash associated with illicit dumping and homeless encampments. Chair Young and Board Member Muller noted that they plan to meet with staff this afternoon to discuss the vineyard regulatory program.

Mr. Wolfe gave an overview of this month's Executive Officer's Report. He discussed the restoration of the wetlands at Cullinan Ranch in the North Bay and lessons learned. He also discussed the statewide wetland restoration committee that Board Member Muller reported on. Board Member Lefkovits asked about funding sources for wetland restoration. Mr. Wolfe described the various sources and challenges with funding. He updated the Board on the status of issuing water quality certification for the San Francisquito Creek Flood Control Project. Board Member Kissinger asked about the construction schedule. Board Member Ajami asked for clarification on the status of the biological consultation and discussed ways of improving agency coordination. Chair Young clarified the schedule regarding next steps. Mr. Wolfe discussed next year's proposed State budget, a forthcoming Board information item on water quality problems from homeless encampments, and the mysterious goo in the Bay impacting birds.

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

Item 6A – Cedar Fair Entertainment Company, California's Great America, Santa Clara, Santa Clara County – Reissuance of NPDES Permit

Item 6B – U.S. Department of Navy, Treasure Island Wastewater Treatment Plant, Treasure Island, San Francisco County – Reissuance of NPDES Permit

Item 6C – Zarsion-OHP 1, LLC, Oak to Ninth Avenue Project, Oakland, Alameda County – Adoption of Waste Discharge Requirements and Water Quality Certification

Item 6D – City of Brisbane, Sierra Point Class III Solid Waste Disposal Site, Brisbane, San Mateo County – Amendment of Waste Discharge Requirements

Item 6E – City of Daly City, Mussel Rock Landfill, Daly City, San Mateo County – Update of Waste Discharge Requirements

Item 6F – Cleanup Programs – Status Report including Case Closure

Vice Chair McGrath described his prior involvement with the Oak to Ninth Avenue Project, subject of Item 6C, as part of his duties as a BCDC commission member. He also disclosed ex parte communications on the item and his desire to improve communication between agencies. He noted that he can consider the item with an open and unbiased mind and that he has not prejudged the matter. Legal Counsel Yuri Won asked if there is anyone in the audience who wanted to comment or object to the Vice Chair's participation on Item 6C. No one responded.

Mr. Wolfe recommended adoption of items 6A – 6E, noting that Item 6F was a status report that did not require action. Board Member Ajami moved for adoption of the items; Board Member Kissinger seconded the motion.

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

Nos: none

ITEMS ADOPTED

Item 7 – Hanson Marine Operations, Sand Mining in Central San Francisco Bay and Suisun Bay – Adoption of Waste Discharge Requirements and Water Quality Certification

Mr. Wolfe noted that there would be one presentation for items 7, 8, and 9, but that the items must be considered separately. Vice Chair McGrath disclosed his prior involvement with sand mining projects as part of his BCDC commission member duties. He noted that he can consider all three items with an unbiased mind and will base his decision on the information in the Water Board's record. Legal Counsel Tamarin Austin asked if there are any members in the audience who wanted to comment or object to Vice Chair McGrath's participation on the three items. No one responded. Legal Counsel Austin reported that two comment letters were submitted after the comment period deadline. Chair Young responded that the letters were acceptable as the information would be presented as part of the testimony at the meeting and was not new information.

Staff Engineer Elizabeth Christian gave the presentation to the Board covering items 7, 8 and 9. She discussed the history of sand mining in the Bay, the three projects, and the three tentative orders. She also described the information contained in the supplemental handout that covered the three items.

Board Member Ajami asked about sand replenishment rates and erosion of the San Francisco off-shore bar. Division Chief Naomi Feger responded that replenishment rates are less than extraction rates. Mr. Wolfe described the reopener components of the permits and some of the special study requirements. Vice Chair McGrath asked for clarification on sand volumes. Ms. Christian responded. Board Member Kissinger asked about how baseline was determined and the basis of reductions. He also asked about the timeline for the verification studies. Ms. Feger

responded. Chair Young asked about avoidance and minimization measures. Ms. Christian responded that these measures implement the requirements of the incidental take permit. Chair Young noted support for the revised reopener provisions. Board Member Ajami asked for clarification about a response to a comment on letter referencing a 1993 study and asked whether updates or modifications are needed.

Christian Marsh, legal counsel for all applicants, addressed the Board. He noted support of the tentative orders but not necessarily the justification for some of the requirements. He explained the basis of the baseline volume evaluated in the EIR. He discussed modeling results that suggest minimal to no impact to the San Francisco off-shore bar associated with sand mining. He further described the environmental analyses conducted to date. Board Member Lefkovits asked about how much sand is left. Christine Boudreau, consultant for the applicants, clarified the timing of the water quality studies. She described the benthic studies and process for developing and implementing work plans. She presented the timeframe for the bathymetric surveys. Jason Flanders, representing Baykeeper, complimented Board staff on the thoroughness of their evaluation of these projects. He discussed concerns about the derivation of the baseline sand extraction volumes and suggested using the last ten years. He asked about the averaging periods for permit volume requirements. He urged the Board to consider a shorter permit duration. He recommended a tracer study. Mike Bishop, Hanson Aggregates' Operations Manager, described where and how sand mined from the Bay is used. Bill Butler, representing Lind Marine, described uses and environmental benefits of local sand mining. He noted support for the tentative orders. Ian Wren, Baykeeper staff scientist, presented a letter submitted by the Citizens Committee to Complete the Refugee and noted that their concerns were similar to the Baykeeper's. Arielle Harris, representing the applicants, responded to comments made by Ian Wren regarding the Marine Geology-published studies. Ms. Feger clarified that staff are not proposing a ten-year permit; rather, staff is proposing certifying the Army Corps of Engineers' 10-year permit.

Vice Chair McGrath noted that he will not vote for an increase in volume. He described the basis of this statement and the resources he evaluated. He noted Lester McKee's findings in the EIR and stated why he disagreed with the conclusions in the EIR. He suggested that a mass balance approach should have been used to evaluate potential impacts. He noted the significance of the coarser sand-sized material in preventing erosion of beaches. Board Member Muller noted the need to consider balancing economics with water quality. Board Member Ajami expressed that she would like to have a better understanding of the optimal volume of sand that can be mined while still protecting beneficial uses. Mr. Wolfe noted that the volume amounts Vice Chair McGrath expressed concern about pertain to Item 7. Mr. Wolfe clarified the proposed volumes and averaging periods. Board Member Lefkovits noted the complexity of the issues. Chair Young asked about the feasibility of reevaluating the baseline averaging period. She noted her support for relying on the resource agencies for their evaluation of the biological effects. Mr. Wolfe clarified the terms of the State Land Commission's permit. He summarized staff's understanding of the issues discussed. Brenda Goeden, BCDC sediment program manager, answered questions regarding BCDC's planned permit.

Mr. Wolfe recommended adoption of Item 7 as supplemented and noted it represents a reduction in volume from what was originally proposed. Board Member Muller moved for adoption of the item as supplemented; Board Member Ajami seconded the motion. Vice Chair McGrath noted concerns about the possibility of long term mining of sand in active transport. Chair Young noted her concerns but stated that she is relying heavily on the conditions in the supplemental to improve all parties' understanding of the issues.

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

Nos: none

ITEM ADOPTED

Item 8 – Lind Marine Incorporated, Sand Mining in Suisun Bay – Adoption of Waste Discharge Requirements and Water Quality Certification

Mr. Wolfe recommended adoption of Item 8 as supplemented. Vice Chair McGrath moved for adoption of the Order as supplemented; Board Member Ajami seconded the motion.

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

Nos: none

ITEM ADOPTED

Item 9 – Suisun Associates, Sand Mining in Suisun Bay – Adoption of Waste Discharge Requirements and Water Quality Certification

Mr. Wolfe recommended adoption of Item 9 as supplemented. Vice Chair McGrath moved for adoption of the Order as supplemented; Board Member Kissinger seconded the motion.

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

Nos: none

ITEM ADOPTED

Item 12 - Adjournment

Meeting adjourned at 1: 48 p.m. until the next Board Meeting – February 11, 2015