

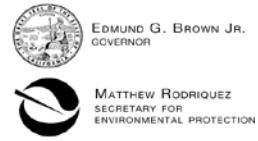
*STATE OF CALIFORNIA*

**REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

MEETING DATE: August 8, 2018

ITEM: **3**

SUBJECT: **MINUTES OF THE JULY 11, 2018 BOARD MEETING**



San Francisco Bay Regional Water Quality Control Board

July 11, 2018 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.

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 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

Table with 3 columns: Board Members Present, Board Members Absent, Status. Lists names like Chair Terry Young, Vice-Chair James McGrath, Cecilia Ogbu, William Kissinger, Newsha Ajami, Jayne Battey, Steve Lefkovits and Status QUORUM.

Senior Engineering Geologist Jim Ponton introduced Samantha Harper who has joined his Irrigated Lands and Cannabis Section as a Water Resource Control Engineer.

Item 2 – Public Forum

There were no speakers for the Public Forum.

Item 3 – Minutes of the June 13, 2018 Board Meeting

Executive Officer Bruce Wolfe recommended adoption of the Minutes from the June 13, 2018, Board Meeting.

Board Member Battey moved adoption, and Vice-chair McGrath seconded the motion.

Chair Young asked if all were in favor of adoption of the Minutes – all Ayes. Chair Young then asked if anyone was opposed - none opposed.

ITEM ADOPTED

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

Vice-chair McGrath met with the City of Berkeley about trash at freeway interchanges. He also said he had his confirmation interview with Senate Rules staff. One of the questions for him was what is the leadership and responsibility of the Board related to homelessness and the Board’s role in sanitation and trash control. He responded that he wants to know what the Legislature thinks our Board’s role is and requested a speaker come to discuss this issue with Board members and staff. He said it is time for more Board involvement, and, at a minimum, we should consider impacts of human waste and use regional monitoring to evaluate impacts.

Chair Young encouraged Board members or staff to let her know who they recommend speak on homelessness. She also requested that staff recirculate the resolution the Board adopted on homeless encampments in 2015.

Board Member Ajami said she also had her confirmation interview with Senate Rules staff. She said the questions to her focused on the following: wildfire response, disadvantaged communities and their access to water supply related to water quality and our agency’s role, and cannabis. They also asked about Board meeting locations and whether this region holds them in different locations. There was a lot of interest in more active engagement with the public and making it easier for people to access our meetings and track our activities. She said she explained that the Board is working on this and wants to improve reporting out on what the Board does and accomplishes.

Board Member Battey mentioned that the Half Moon Bay local press has been covering the news of the Sewer Authority Mid-Coastside spill and enforcement discussed in the Executive Officer’s Report.

Chair Young mentioned she met with Santa Clara Valley Water District (SCVWD) Board members. She spoke about the background of having a long-standing collegial relationship that turned contentious in 2016 around the time of the Board’s expedited permitting of the Upper Berryessa Flood Management Project. She said the first meeting was with SCVWD Board members Santos and Estromera and Board Member Battey on June 16. The second meeting was on July 5 with Mr. Wolfe, Watershed Division Chief Keith Lichten, Watershed Division Section Leader Xavier Fernandez, SCVWD Board members Santos and Estromera, and SCVWD Chief Operating Officer of Watersheds, Melanie Richardson. Chair Young said the purpose of the meetings was to figure out why we are still in court and how to improve the relationship.

Mr. Wolfe mentioned that the State Fiscal Year 2018-2019 budget is signed and that we will get two new positions for cannabis regulation.

Mr. Wolfe gave an overview of this month’s Executive Officer’s Report. He highlighted the abandoned mine project and the use of new technology to determine immediately in the field if metals are present and impacting water quality. He also mentioned the mercury and PCBs loading information that showed levels remain below targets set in the Total Maximum Daily Loads. He mentioned that the report includes a write-up on climate change activities, and we will have a discussion at the August meeting on these and setting priorities. Chair Young said

the August meeting will include a workshop and asked Board Member Battey and Board Member Ogbu to frame it. Chair Young expressed preference for a strategic focus on climate change and resiliency. Board Member Ajami suggested that we repeat this effort annually, to inventory activities to see what accomplished, and to make sure to keep the activities in a living document that can be reviewed and revisited. Assistant Executive Officer Lisa Horowitz McCann said that she and Board members Battey and Ogbu were planning to frame a more general prioritization discussion with the Board in the next few months and can prepare a workshop for August.

Board Member Ajami said she attended a Science and Data Symposium at the State Board and thought it was useful.

Mr. Wolfe mentioned the Planning Division is hosting a workshop on August 14 on updates to the Board's wetland policies in the Basin Plan addressing use of recycled water for wetlands.

Vice-chair McGrath asked if the root causes of the overflows that led to enforcement for Sewer Authority Mid-Coastside have been addressed. Mr. Wolfe said that the settlement includes an Environmental Enhancement Project to increase capacity to hold and transport water to minimize future overflows. Vice-chair McGrath asked for more detail on the settlement in the Executive Officer's Report in the future. Board Member Battey asked if we can request information on the root causes of the overflows, e.g., physical system or organizational. Board Member Battey asked if we can look at all the entities in San Mateo County regarding overflows.

### **Uncontested Items**

#### **Item 5 – East Bay Regional Park District, Regional Maintenance Activities, Alameda and Contra Costa Counties – Reissuance of Waste Discharge Requirements and Water Quality Certification**

Mr. Wolfe introduced Item 5 and recommended adoption of the item.

Vice-chair McGrath asked East Bay Regional Park District (District) staff about removing vegetation from drainages and trash and the District's system for trash removal. Becky Tuden, Stewardship Manager for the District, thanked Board staff for assistance putting the permit together. She said the Stewardship Department conducts education about preventing trash through park interpretive programs. Steve Castile, Chief of Park Operations, said park staff cleanup trash along trail systems and at facilities routinely. The public can identify problem areas, and park staff then assess and clean up those locations. Vice-chair McGrath recommended keeping records of where and what is picked up. Board Member Lefkovits suggested using social media to credit public and staff for cleanup efforts and further encourage it. He also asked if the District is tracking park usage. Mr. Castile explained methods of tracking and that the District has documented a noticeable increase in park use and related trash increases.

Vice-Chair McGrath moved adoption, and Board Member Ajami seconded the motion.

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

Nos: None

ITEM ADOPTED

### **Site Cleanup Requirements**

**Item 6 – Sang Lee, Individually and Doing Business as Hillview Cleaners; Suk Lee, Individually and Doing Business as Hillview Cleaners; Eugene Zambetti, Individually and Doing Business as Hillview Cleaners; Estate of Julia Zambetti, Deceased, Individually and Doing Business as Hillview Cleaners; Estate of Peter Zambetti, Deceased, Individually and Doing Business as Hillview Cleaners; and Frank L. Burrell, Trustee of the Frank L. Burrell 1937 Trust, for the property located at 14440 Big Basin Way, Saratoga, Santa Clara County –**

Adoption of Site Cleanup Requirements

Mr. Wolfe introduced the item. Chair Young reviewed the procedures granting three minutes for each party to make comments. Ms. McCann, representing the Board's Cleanup Team, indicated that staff recommended adoption of the tentative order since conditions had not changed since the April Board meeting and a settlement had not yet been secured. John Till, attorney for Mr. Burrell, stated that the parties had reached a settlement in principle, which would insure the funding of the cleanup plans, but that the order before the Board might derail the settlement. He claimed the parties would file the settlement in court in 45 days. He also said that the order could be issued to Mr. Burrell only, once the settlement was approved. Representatives for each of the parties concurred with Mr. Till. Board members asked multiple questions about the settlement conditions, the reasons adopting the order might derail the settlement, and discussed the pros and cons of adopting the order now versus later. Board members considered delegating the authority to issue the order to the Executive Officer once he receives evidence that the settlement is filed. Marnie Ajello, attorney representing the Board's Advisory Team, stated that the delegation to the Executive Officer should be explicit regarding what changes to the order the Executive Officer can approve. She recommended the Board delegate issuing the order with minor date and language changes (specified at the meeting) to just Mr. Burrell, if the Executive Officer receives evidence that the settlement is filed in 45 days, or issuing the order with minor date and language changes to all parties, as presented during this meeting, if the Executive Officer does not receive evidence that the settlement is filed in 45 days.

Chair Young called for a motion to postpone Board adoption of the order and delegate it to the Executive Officer as described above.

Board Member Kissinger moved postponement of adoption per the motion. Board Member Lefkovits seconded the motion.

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

Nos: None

ITEM ADOPTED

Board Member Battey left the meeting prior to this vote.

**Item 7 – Marinwood Plaza, LLC, for the property located at 187 Marinwood Avenue, Marinwood, Marin County – Amendment of Site Cleanup Requirements**

Mr. Wolfe introduced the item. Engineering Geologist Ralph Lambert made the presentation.

Board Member Kissinger asked questions about soil and groundwater characterizations in the CalTrans right-of-way, whether the ten-year timeframe for groundwater cleanup is aggressive enough, and if breakdown products are a result of the injection remedy or attenuation. Mr. Lambert answered that the remedy for groundwater pollution includes cleanup of breakdown products.

Board Member Lefkovits asked what it is like working with this discharger and if they are responsive. Mr. Lambert answered that he only hears from the consultant, who is very responsive. Board Member Lefkovits also asked if the discharger has been available for community engagement. Mr. Lambert stated they usually the community through Board staff.

Board Member Kissinger asked for clarification that the fundamental question between residents and Board staff is whether hot spots have been fully removed. Mr. Lambert answered that residents want faster cleanup, but current conditions show that vapor has not migrated near residences. Additional treatment is still needed and staff added tasks for this.

Vice-chair McGrath asked for verification that the plume is moving slow, and treatment trenches are at the leading edges of the plume such that staff expects it to take several years for bioremediation. Mr. Lambert verified this.

Board Member Ajami asked why treatment locations are not on all the edges of the plume. Mr. Lambert answered that the plume must be intercepted where concentrations are high enough to feed the bugs in the bioremediation and where there is preferential flow and enough water to flow through the treatment trenches. In this case, the leading edge shows very low concentrations.

Board Member Ogbu asked why no soil samples were taken in the Caltrans right-of-way originally. Mr. Lambert answered that typically soil samples are taken to determine a threat to groundwater used for drinking water or exposure in soil. Since groundwater in the area did not show any concentrations, and this area is not likely to expose people to soil contact, soil samples were not previously taken.

Jon Welner and Brian Aubry, representing Marinwood Plaza, expressed their objection to additional tasks added to the tentative order, especially with a willing party complying with the former cleanup order and agreeing to proceed with the current proposed order. He said they already have to submit a comprehensive cleanup plan. They cite that these tasks will cause a distraction from current cleanup efforts, will redirect and create increased costs of cleanup, were addressed in development of the cleanup plan, and are not necessary given that current conditions do not pose any threat to the environment or people.

Renee Silveira, representing her mother, who is the owner of the Silveira Ranch, commented that they cannot get used to the plume contours on their property and want the treatment lines increased consistent with what their consultant, Geologica, suggests. She distributed a figure that showed the currently proposed and requested revised treatment lines. Senior Engineering Geologist Laurent Meillier explained that treating lower levels is inefficient, so the lines were strategically placed to ensure successful treatment. The proposed lines were considered a starting point and can and will be extended if cleanup goals are not met. Staff agreed with the proposed phased approach but accepts that extending the lines may be more effective. Board members suggested that extending the lines on the Silveira Ranch will be more effective and achieve cleanup sooner. Vice-chair McGrath asked if it is appropriate to approve a cleanup plan that relies on natural attenuation given there is contamination on the ranch, contamination affects a drinking water well, and there is a possibility of migration to the creek.

State Board Attorney Tamarin Austin interjected that the cleanup order sets the timeframe and cleanup goals that must be met, but that the Board should not be directing how the discharger complies with the cleanup order.

Chair Young commented that staff should coordinate with parties and consultants to consider further where the treatment lines should be prior to approving cleanup plans. Board members commented that cleanup should be more conservative.

Mary Sackett, aide to Supervisor Damon Connelly, commented that the Supervisor sent a letter that did not get delivered on time. Many of the comments were addressed by the proposed changes. The Supervisor requests a community meeting to let people know what is going on.

Bill McNicholas, Cleanup Marin Now, commented that he wants the Board to reject the amended order that allows partial closure of the site and wants the site cleaned up. He submitted a slide explaining this. He also showed the Environmental Justice page of the State Water Board website and commented that the cleanup site is slated for redevelopment for low income housing.

Ann Moran, homeowner and resident of Casa Marin, said she wants the mess cleaned up. There is no testing in Casa Marin even though it is close to the site. There does not seem to be any oversight as nothing is changing at the site. She read a letter from Dan Carrier, who is also a resident, that stated that there is toxic waste at the site and the problem will not go away. He believes that the Board should address the toxic waste in soil, vapor, and groundwater and require a full cleanup.

Stephen Nestel, resident, showed photos of the site and promoted more testing in the Caltrans right-of-way since it is near the eastern hot spot. He stated that we do not know the extent of the soil vapor. Casa Marin wants complete cleanup of the contaminated soil and all source material removed. He expressed concern about the future residents of low income housing on the site.

Board members asked staff to comment on allegations that soil vapor levels near homes are unknown, as is the status of groundwater contamination in closest well to homes. Mr. Lambert responded that staff required additional sampling locations for soil vapor testing and on-going investigation of detections above drinking water in the well, MW-5.

Board Member Lefkovits asked if there are other cleanup methods that are faster than the proposed method. Mr. Lambert responded that this is a very effective method. Chair Young indicated that Board members want as much done as possible to get the most effective and quickest cleanup possible and asked staff if they can think of any changes to the order to accomplish this. Mr. Meillier said that he does not think we have any basis to change the order based on information we have, but we can respond to new information as treatment is happening to make sure remediation is effective and quicker. For example, the permeable reactive barriers can be extended or increased and a groundwater extraction system can be added to move the groundwater through the barriers faster, but this costs more. Vice-chair McGrath added that based on site conditions, such as tight lithology, this may not necessarily treat the contamination fully or faster if water movement is constrained.

Mr. Wolfe stated that this item is clearly of high interest to staff, the community, and the Board. Staff has proposed an order that is aggressive and has been revised based on listening to stakeholders and the Board members. He said since he heard nothing that informs further changes to the order, he recommended adoption of the item.

Vice-chair McGrath moved adoption of the item. Board Member Ogbu seconded the motion.

Vice-chair McGrath stated that he appreciates the community's vigilance about this site. Board Member Lefkovits commented that there is a lot of interest in community meetings and offered that Board members would attend. Chair Young asked staff to take note of the request by Supervisor Connelly's aide for a community meeting.

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

Nos: None

ITEM ADOPTED

**Item 8 – Correspondence –** There was no correspondence.

**Item 9 – Closed Session – Personnel**

The Board met in closed session to discuss personnel matters.

[Authority: Government Code section 11126(a)]

**Item 10 – Closed Session – Litigation**

The Board did not meet in closed session to discuss litigation.

**Item 11 – Closed Session – Deliberation**



The Board did not meet in closed session to consider evidence received in an adjudicatory hearing and deliberate on a decision to be reached based on that evidence.

**Item 12 - Adjournment**

Meeting adjourned at 4:10 p.m. until the next Board Meeting – August 8, 2018