

*STATE OF CALIFORNIA*

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

MEETING DATE: July 10, 2019

ITEM: **3**

SUBJECT: **MINUTES OF THE MAY 8, 2019 BOARD MEETING**

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San Francisco Bay Regional Water Quality Control Board

**May 8, 2019 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.

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 9:03 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

<b><u>Board Members Present</u></b>	<b><u>Board Members Absent</u></b>	<b><u>Status</u></b>
Chair Terry Young	Steve Lefkovits	QUORUM
Vice-Chair James McGrath		
Cecilia Ogbu (arrived at 9:12)		
William Kissinger (arrived at 9:13)		
Newsha Ajami		
Jayne Battey		

**Item 2 – Public Forum** – No members of the public asked to speak.

**Item 3 – Minutes of the April 10, 2019 Board Meeting**

Board Member Battey moved adoption of the minutes from the April 10, 2019, Board Meeting. 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**

Board Member Battey said she visited the Cargill Salt Ponds in the East Bay and did a tour with the Land Resources Manager, Ric Notini and his staff. She gave a brief history and description. She said it was interesting to see how land uses in the area have become more mixed,

including industrial, residential and commercial. She showed several photos from the tour and featured an old building, historic wood pipes and the large salt piles. She also said she attended an evening program hosted by Sustainable Conservation focusing on groundwater recharge.

Vice-Chair McGrath said he met with David Lewis of Save The Bay and discussed the need to improve messages about sea level rise. He also said he appreciated the work of our staff and Bay Conservation and Development Commission (BCDC) staff on policies related to addressing sea level rise, and particularly appreciates the coordination and cooperation. He said he noticed less trash (fewer couches) on a recent bike ride.

Chair Young said she attended the Chairs' meeting and Board members need to know that if they want to reapply for Board positions, they should put in the application before their term is up. She also said that apropos the Adaptation Atlas and its press, she asked Executive Officer Mike Montgomery to send the Adaptation Atlas press information to our contacts in the Governor's office. Board Member Ajami commented that only the San Francisco Chronicle article mentioned the Water Board and press coverage is limited about the work the Water Board is doing.

Mr. Montgomery mentioned the Executive Officer's report on enforcement actions for Hansen Aggregates and said this was for different facilities that had violations related to winter storms. Ajami asked if we can provide a list of Sanitary Sewer Overflows (SSOs) and show if SSOs have increased due to wet weather compared to drought years. She also asked if we can determine if reduction in SSOs is related to municipalities with green infrastructure. Mr. Montgomery said we can provide this, at least qualitatively.

Mr. Montgomery said he has met with people around climate change issues, including Bay Area Regional Collaborative, BCDC and the State Board Division of Financial Assistance, and discussed addressing capacity for communities and future funding for projects. He said he also met with Bay Area Watershed Network which had participation by several creek groups.

Board Member Battey asked if we have a sense of improvement or when we will see improvements with the San Vicente Water Quality Improvement Plan and are there lessons learned for other areas. Mr. Montgomery said we can follow up. Chair Young asked for a follow up report in the Executive Officer's Report that says what the timeline was that we issued to responsible parties and what the monitoring reports show.

Mr. Montgomery explained that we have been doing training with the management team. He said we did a team-building exercise with a professional facilitator where we mapped out past challenges and responses. This was to provide a step towards strategic planning and a common understanding about the background for programs and projects. He said he thought it went well and is surveying the managers about the exercise and the facilitator.

Chair Young administered the oath.

### **Consideration of Uncontested Items**

#### **Item 5 – County of Santa Clara, Oregon Expressway Underpass, Palo Alto, Santa Clara County – Issuance of Time Schedule**

Vice-Chair McGrath moved approval of the Item. Board Member Ajami seconded the motion.

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

Nos: None

ITEM ADOPTED

### **NPDES Permit**

#### **Item 6 – Nutrients from Municipal Wastewater Treatment Facilities’ Discharges to San Francisco Bay; Counties of Alameda, Contra Costa, Solano, Napa, Sonoma, Marin, San Francisco, San Mateo, and Santa Clara – Re-issuance of NPDES Permit**

Mr. Montgomery introduced the item. Mr. Montgomery said he was impressed when he reviewed this item because it is proactive, was done in collaboration with dischargers, and lays out a clear path forward and some allows for creative/market driven approaches.

Environmental Scientist James Parrish made the presentation.

Board Member Ajami said that she wants us to be mindful of population growth related to infrastructure development because water use and wastewater management has not necessarily increased due to population growth due to changes in behaviors. She also said decisions about solutions need to be collaborative and consider future economic and social considerations, such as how conservation efficiency effects wastewater flows.

Board Member Kissinger said it’s fascinating that the science remains mysterious in terms of whether we will see algae blooms in the bay from nutrients and thinks this permit is a great response. He asked whether recharging groundwater with wastewater will grow and what will happen to nutrients as it moves into groundwater. Mr. Montgomery said that if recharge will be for potable reuse the nutrients will have to be removed from wastewater. Assistant Executive Officer Thomas Mumley added that treatment for potable reuse will generate nutrients in concentrate that will need disposal. Mr. Mumley said that all the nutrients will have to be managed and our goal is to do it smartly and using best combination of practices considering all factors, such as possibility of more infrastructure and energy.

Chair Young said she thinks the permitting approach is great. She asked how we plan to address the remaining 35% of the load (that is not from wastewater treatment plants). Mr. Montgomery said inputs are almost all from wastewater in the central and south bay, and from the Delta in the north bay. He said given our understanding of sources and where they are, we are focusing on the right things. Division Chief Bill Johnson clarified the sources and geography. Chair Young said she was asking about these sources regarding future load trading possibilities or reconsidering the need to reduce load from agricultural or municipal stormwater in the future. Mr. Mumley said that the monitoring and modelling strategy is

taking all this into account and will inform our understanding of source loading. He also said that the Delta is developing a nutrient management strategy as they are experiencing harmful algal blooms. Board member Battey asked if we need to do more outreach to the agricultural community so they can participate and plan load reduction. Mr. Mumley said we have agricultural representation on the steering committee for the Science Program.

Chair Young said that she understands the baseline is from 2014-2017 for crediting early actions and she is concerned about those who were early actors prior to this baseline period. Mr. Parrish said the approach is to prioritize load reduction from those who have not taken any actions and not those who already have anytime in the past. Chair Young said that this still does not give credit to the facilities who implemented reduction historically related to baseline. Mr. Mumley explained that we must consider many factors such as large versus small volume discharges and East Bay Municipal Utility District (MUD) managing a robust organic waste management program which increases their nutrient loading. Chair Young asked if there were major take-aways from optimization studies regarding connections between nutrient management strategies and emerging contaminants management. Mr. Mumley said there are multi-benefits including related to emerging contaminants but that has not been demonstrated quantitatively. Board Member Ajami asked if studies at the Oro Loma project show removal of emerging contaminants and Mr. Mumley said yes.

Lori Schectel, Bay Area Clean Water Association (BACWA) president, thanked staff for working with dischargers. She said BACWA is committed to using science to demonstrate the need to address and solve impacts of nutrient loading in the Bay.

McGrath asked if BACWA requests any changes and Ms. Schectel said they are in support of the permit.

Eileen White, East Bay MUD Wastewater Director, said Board should know that Tom Mumley lead this collaborative effort with multiple stakeholders to address nutrients and that the national clean water agencies organization awarded this effort, lead by the Regional Water Board, for environmental achievement. She thanked staff.

Jackie Zipkin, East Bay Dischargers Authority, said they are in support of this permit and enjoyed negotiating the terms of the permit. She said staff is appropriately focused on problem solving and science-based decision-making. She thanked staff for their commitment.

Mr. Mumley added that Naomi Feger, former Planning Division Chief, played a key role in development of the nutrient strategy and should also be acknowledged.

Vice-Chair McGrath supports the permit and credits staff and the discharger community. He also recognized Naomi Feger, and Luisa Valiela from USEPA who promoted multi-benefit options.

Board member Ajami moved adoption of the permit. Board Member Kissinger seconded the motion.

Board Member Battey said this was a great effort and it makes her hopeful about addressing climate change. She said maybe this provides a model for collaboratively addressing infrastructure around the Bay.

All Board members said they appreciate staff addressing protection of the Bay practically and collaboratively.

Mr. Montgomery recommended adoption of the permit. Chair Young asked for a vote.

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

Nos: None

ITEM ADOPTED

Mr. Mumley noted that we are getting a lot of attention nationally about how we do this collaboratively. He said the requirement to seek nature-based solutions will be realized in part by enhancing the Adaptation Atlas. He also said the focus in this year's Pulse of the Estuary will be about sources of pollutants to the Bay and how this information informs regulatory approaches.

Vice-Chair McGrath said funding in Measure AA is available for the multi-benefit projects. He also said that BCDC is amending their Bay fill policy to facilitate projects. Mr. Mumley added that the studies required by the permit will provide planning for pilot projects. Board Member Ajami added that the permit will set up a possible cap and trade model which also might create funding opportunities.

## **Other Business**

### **Item 7 – Impacts of Bay Area Development Boom on Board's Cleanup Programs and Our Proposed Responses – Status Report**

Mr. Montgomery introduced the item. Senior Engineer Cheryl Prowell made the presentation.

Board Member Ogbu said she is glad we are looking at this topic and considering the tension between development of housing in urban areas with contamination clean up. She asked how much we know about the fee structure for these sites related to staff resources and if they should be reevaluated to address issues in the Bay Area such as intense redevelopment and shallow groundwater. Ms. Prowell said there are no set fees for cleanup sites but we set up reimbursement agreements to review sites and could consider developer funding for staff. Board Member Ogbu also asked for clarification about the long period of cleanup and noted that even if staff responded faster or addressed more sites we can't really move the needle on the time to cleanup since that is site-related. Board Member Kissinger said it seems like the part that takes too long is doing the remedial investigation and getting to the remedy. He

asked if staff is considering additional attention to expediting investigations. Ms. Prowell said yes and Division Chief Stephen Hill said we are encouraging higher resolution techniques to shorten investigation time.

Board Member Ajami asked about using online automation technologies for reporting and data gathering in addition to updating our guidance documents. Mr. Montgomery said we may be able to address some process improvement, but we are gaining benefits with our guidance and are unique in that we take that on in our region. Ms. Prowell mentioned GeoTracker as a database for uploading reports and information. Board Member Ajami said we should consider outreach so perspective residents will know what they are getting into. Ms. Prowell and Mr. Hill explained how we try and inform people and how we work to prevent exposure so people are safe, even if they do not know about potential exposure.

Board Member Battey asked about developer-funded staffing and if that is available. Mr. Montgomery said that we are challenged to predict the amount of workload which drives the amount of reimbursement funds for staff. He said we also must manage developers' desire to get out after the property is developed and leaves the owners to manage monitoring and risk management into the future. Board Member Battey said we should also see how it goes with non-profit and other owner/developer entities. She said outreach is so important and maybe we should put out a message on our website about the development boom and its relationship to our work, how we are managing this and maintaining a high bar for protecting human health. Mr. Montgomery said we are doing a lot of outreach to developers and consultants to tell them why and how we approach cleanup sites to prevent environmental and human health impacts and manage risk for the long term based on science.

Chair Young asked about the vapor intrusion framework and its uniqueness and if there are other regional guidance documents. Ms. Prowell said that we are unique and on the forefront of the state. Mr. Hill said that we have a disproportionate amount of redevelopment in the state which is why we have the greatest burden, and this drove us to develop guidance. Chair Young asked staff to clarify the goals of interim remedies. Ms. Prowell responded that there are three goals to interim remedial action: removing contaminant mass, demonstrating that the site is clean enough to proceed with development, and preventing exposure until long term remedies are fully effective. Mr. Montgomery added that we seek to cut off exposure first then clean up. Chair Young thanked staff for this structural response to this challenge.

#### **Item 8 – Correspondence –**

Mr. Montgomery presented a letter he received from several property owners about Cordonices Creek.

#### **Item 9 – Closed Session – Personnel**

The Board did not meet in closed session to discuss personnel matters.

**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 deliberate.

**Item 12 - Adjournment**

Meeting adjourned at 11:36 a.m. until the next Board Meeting – June 12, 2019