

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

MEETING DATE: June 9, 2021

ITEM: **3**

SUBJECT: **Minutes for the May 12, 2021, Board Meeting**

**May 12, 2021 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 (510) 313-0610.

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

Chair James McGrath called the meeting to order at 9:03 a.m. via Zoom Virtual Meeting Platform.

Board Members Present	Board Members Absent	Status
Chair James McGrath		QUORUM
Vice-Chair Jayne Battey		
William Kissinger		
Alexis Strauss Hacker		
Andrew Gunther		
Donald Young		

Chair McGrath introduced new Board Member Donald Young.

Executive Officer (EO) Michael Montgomery thanked Jim Ponton, recently retired, for his service. Jim shared a few words to the Board and staff. Board members congratulated him on his retirement.

Item 2 – Public Forum

Rhoda Fry provided general comments pertaining to Lehigh, without addressing the pending fine.

Item 3 – Minutes of the March 10, 2021 Board Meeting

Motion to approve: Vice Chair Jayne Battey

Second: Board Member Andrew Gunther

Ayes: McGrath, Battey, Kissinger, Hacker, Gunther

Nos: none

Abstain: Young

ITEM APPROVED

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

Board Member Gunther did not have any comments.

Board Member Alexis Hacker did not have any comments.

Board Member William Kissinger did not have any comments.

Board Member Donald Young did not have any comments

Vice Chair Battey did not have any comments.

Chair McGrath shared that his mentor, Doctor Terry Young, received the Bay Hero award from the Bay Institute. He also shared details about a workshop related to the sand mining in San Francisco Bay that he attended with Board Member Gunther.

State Board Member Tam Doduc welcomed new Board Member Young and also congratulated Dr. Terry Young on receiving her award. She reported on the Governor’s declaration of a drought emergency on three additional watersheds and his budget proposal, which includes a \$5.1B package for water infrastructure and drought-related response and many other related topics. State Board Member Doduc provided a status update on the Habitat Restoration General Order. Chair McGrath highlighted the inclusion of water bill payment assistance. EO Montgomery expressed his support for the items included in the Governor’s budget.

EO Montgomery gave updates on communication between the Water Board and its partners and the US Army Corps of Engineers as it relates to beneficial reuse from dredging. He shared that he made a presentation at the SF Bay Conservation and Development Commission related to encouraging dischargers to do sea level rise vulnerability assessments. He also shared highlights from the Executive Officer’s Report. Assistant Executive Officer (AEO) Lisa Horowitz McCann gave a brief overview of the lessons learned from last year’s fire response and recovery efforts.

4A. Board Climate Action Subcommittee Status Report

Board Member Gunther provided background as to the importance of having a Climate Action Subcommittee and shared a few details about its goals. Vice Chair Battey complimented the staff team that will lead the day-to-day Climate Action efforts. Chair McGrath encouraged Board members to be actively involved on this and similar issues.

Item 5 – Uncontested Items

Chair McGrath administered the oath to persons testifying.

Board Member Kissinger recused himself from Item 5C due to potential conflict of interests.

5A. Livermore-Amador Valley Water Management Agency, Export and Storage Facilities, Pleasanton, Alameda County

5B. City of Petaluma, Ellis Creek Water Recycling Facility and Wastewater Collection System, Petaluma, Sonoma County

EO Montgomery provided background on both tentative orders.

Board Member Hacker complimented the City of Petaluma on increasing their capacity to recycle water. She inquired about the disposal of a pipeline after its use is complete.

Vice Chair Battey inquired about the amount of reuse going on throughout the region and other supporting questions. EO Montgomery provided a reply, including past activities and ideas for future reports.

Chair McGrath gave positive comments about the performance of both facilities, and the industry in general.

Motion to approve: Board Member Kissinger

Second: Board Member Hacker

Ayes: McGrath, Battey, Kissinger, Hacker, Gunther, Young

Nos: none

ITEM APPROVED

5C. General Waste Discharge Requirements for Discharges of Treated Filter Backwash from Drinking Water Treatment Facilities to Inland Surface Waters

EO Montgomery provided background on the tentative order.

Board Member Hacker commented on the quality of the work of the permit writers. She also commented on the tone of the comments specific to the General Waste Discharge Requirements as they relate to the City of San Francisco. Vice Chair Battey and Chair McGrath echoed Board Member Hacker's sentiments.

Motion to approve: Vice Chair Battey

Second: Board Member Hacker

Ayes: McGrath, Battey, Hacker, Gunther, Young

Nos: none

Abstain: Kissinger

ITEM APPROVED

Break at 10:01 a.m.

Back in session at 10:11 a.m.

Item 6 – Stevens Creek Quarry, Inc., Cupertino Quarry, Cupertino, Santa Clara County – NPDES Permit

Item 7 – Stevens Creek Quarry, Inc., Cupertino Quarry, Cupertino, Santa Clara County

Chair McGrath provided logistical details for both Item 6 and Item 7. He administered the oath.

Staff John Madigan made a presentation to the Board. He made a correction to one of the dates in the cease and desist order.

Board Member Kissinger had a series of questions for staff, relating to: flow of the stream, the treatment system, penalties for breach of limits, effluent limits in general, the move from a general permit to individual permit, the cyanide limits, and the engagement of the local water district. Staff Madigan provided responses. Attorney Yuri Won made a clarification about the inclusion of mandatory minimum penalties. Division Chief (DC) Bill Johnson, EO Montgomery, and AEO Horowitz McCann answered questions and contributed clarifying details to the discussion.

Board Member Young asked staff a question regarding the feasibility of the schedule. Staff Madigan provided a reply.

Board Member Gunther asked a series of questions related to storm events and their impact on discharge at the site. Staff Madigan provided responses. DC Johnson contributed to the discussion. Board Member Gunther emphasized the importance of strategically planning for the increased likelihood of major weather events. He continued Board Member Kissinger's line of questions related to the engagement of the local water district. AEO Horowitz-McCann provided a response.

Chair McGrath summarized the questions that had been asked. He asked about the topography of the site. Staff Madigan provided a reply.

Vice Chair Battey asked about the discharger's compliance with previous corrective actions. Staff Madigan provided a reply.

Board Member Hacker asked a series of questions related to the construction of the settling ponds and whether they would meet the storm standard set in the permit. She also asked how the permit will prevent the discharge of process water. Staff Madigan provided responses.

DC Fernandez announced the time left for the prosecution team's arguments.

Chair McGrath moved the hearing to Discharger Comments. He invited Lisa Austin, of Geosyntec, and Patrick Mitchell, of Mitchell Chadwick, to present. Both confirmed they took the oath.

Patrick Mitchell and Lisa Austin made a presentation.

Board Member Kissinger asked about the location where the treatment facility is proposed to be installed. Elai Fresco, Geosyntec, came on to provide an answer. Board Member Kissinger asked about the type of technology slated to be used at the facility. Lisa Austin provided a reply. Board Member Kissinger continued with questions pertaining the location of various features of the site. Elai Fresco provided responses.

Chair McGrath asked if records are kept from all activities related to cleaning out the quarry. Elai Fresco provided a response.

Vice Chair Battey inquired about the quarry's community engagement. Jason Voss, Stevens Creek Quarry, came online to provide a reply.

Chair McGrath moved the hearing to Public Comment. Attorney Marnie Ajello shared that late, written comments were submitted and asked the Chair to accept or dismiss them, based on his authority to do so. Chair McGrath, in keeping with Board customs, dismissed the written comments.

Kit Gordon, concerned resident, shared her concerns about the amount of sediment discharged into the neighboring reservoir and creeks. She also shared her opinion on the timing of the effluent limits.

Rhoda Fry shared her thoughts as to how the Water Board can better protect water quality, including engagement with the County.

Libby Lucas shared her comments about the potential impacts that climate change will have on sediment flows.

DC Johnson provided responses to the public comments.

Chair McGrath and Attorney Ajello discussed options on how best to proceed.

Break at 12:06 p.m.

Back in session at 12:17 p.m.

Chair McGrath solicited input from the Board members on the proceedings.

Board Member Kissinger provided guidance on the timeline, suggesting it may be too long.

Vice Chair Battey echoed Board Member Kissinger's comments about the length of the timeline but is sensitive to the staff's decision. She encouraged both staff and the discharger to be aligned with the County and addressed major storm events. She stressed that additional community engagement by the discharger could be beneficial. Vice Chair Battey concluded by thanking the public for their participation.

Board Member Hacker also echoed Board Member Kissinger's comments on the length of the timeline. She highlighted the robust data that would be available prior to the current deadline.

Board Member Gunther expressed similar concerns about the length of the timeline. He addressed the potential for major weather events that could overwhelm the existing measures. He asked about the restoration of the water bodies affected by the quarry.

Board Member Young shared his perspective on the length of the timeline, expressing more of a comfort with it as it currently stands. He speculated that extra time may be needed for implementation given current issues in the construction sector.

Chair McGrath gave thanks to all involved. Chair McGrath posed a question about the ability to restore the creeks. He asked about the need to include metrics for maintenance frequency. He concluded with a question about the ability to tease apart sediment flows from the site and general flows.

Staff Madigan provided a reply, stating the ability to restore the creek will not be affected by the requirements and treatment ordered by the permit. Watershed DC Keith Lichten added additional context.

Lunch break at 12:40 p.m.

Back in session at 1:00 p.m.

Chair McGrath solicited recommendations from the Advisory Team.

DC Fernandez provided a primary recommendation not to shorten the Cease and Desist Order (CDO), but to require a check in after Task I. A second option was to shorten the timeline to no less than 4 years. A third alternative was to adopt as is, with the already stated change to Task I. Attorney Ajello shared her screen and edits were shown in real time. The Board members and Advisory Team discussed the various options and the costs and benefits as it relates to the CDO. The consensus agreement was the Advisory Team's primary recommendation. AEO Thomas Mumley, of the Prosecution Team, provided feedback, which was incorporated into the Order.

Chair McGrath asked for a motion for the permit (Item 6) which has no changes recommended.

Motion to approve: Vice Chair Battey

Second: Board Member Kissinger

Ayes: McGrath, Battey, Kissinger, Hacker, Gunther, Young

Nos: none

ITEM APPROVED

Chair McGrath asked for a motion for the CDO (Item 7) with the recommended changes.

Motion to approve: Board Member Kissinger

Second: Board Member Hacker

Ayes: McGrath, Battey, Kissinger, Hacker, Gunther, Young

Nos: none

ITEM APPROVED

Chair McGrath thanked everyone for their participation.

Item 8 – Groundwater Management in the San Francisco Bay Region

EO Montgomery introduced the item and provided background information. Toxics Cleanup DC Alec Naugle, Staff David Tanouye, Staff Kimberlee West and Staff Nate Veale made a presentation on the topic.

Board Member Gunther asked about the criteria used to identify priority basins, specifically as it relates to basins adjacent to the Bay. EO Montgomery provided a reply. Chair McGrath contributed to the discussion.

Vice Chair Battey inquired as to how the agriculture industry is prioritized in the staff's work. DC Naugle provided a response. Vice Chair Battey asked about regulatory policies relating to injection and recharge. DC Naugle replied. EO Montgomery contributed to the discussion.

Kelly Abreu, Mission Peak Conservancy, shared his thoughts about the conditions of the urban aquifers as it relates to volume and water quality. He also mentioned PFAS levels in the aquifers. EO Montgomery gave brief feedback to Kelly Abreu.

Item 9 – PCBs TMDL Implementation

EO Montgomery introduced the item and introduced Supervisor Janet O'Hara. Supervisor O'Hara made a presentation on the topic.

Board Member Hacker inquired as to whether the Board should pursue more aggressive measures to tackle the clean-up of legacy PCB ediment sites in the region.

Board Member Gunther asked how long it would take for PCB levels to decrease in fish if all PCB inputs to the Bay were eliminated. Supervisor O'Hara provided a reply. Board Member Gunther highlighted the concern about hot spots reversing years of effort to clean the Bay. AEO Mumley contributed to the discussion. Senior Staff Richard Looker also contributed to the discussion. Chair McGrath posited questions related to run-off data, sampling and monitoring, and where sea level rise poses erosion threats. He shared a story about his work on Codornices Creek. EO Montgomery circled back to Board Member Gunther's point on hot spots from legacy sites. Board Member Gunther and Senior Staff Looker continued with the discussion. Chair McGrath asked a question pertaining to the timing of future Board discussion on the topic. AEO Mumley provided a reply.

Item 10 – Closed Session – Personnel

The Board did not meet in closed session for Personnel in this meeting

Item 11 – Closed Session – Litigation

The Board did not meet in closed session for Litigation in this meeting

Item 12 – Closed Session – Deliberation

The Board did not meet in closed session to deliberate in this meeting.

Item 13 – Adjournment

EO Montgomery concluded with a preview of the June Board Meeting.

Vice Chair Battey motioned to adjourn, and Board Member Kissinger seconded.

The meeting was adjourned at 3:25 PM

