

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

MEETING DATE: February 9, 2022

ITEM: 4

SUBJECT: **Minutes for the December 15, 2021, Board Meeting**

**December 15, 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 **9:02 a.m.** via Zoom Virtual Meeting Platform.

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

Executive Officer (EO) Michael Montgomery introduced Supervisor Liz Morrison who introduced Erin Fairley; Erin Fairley joined the Watershed Management Division as an Environmental Scientist.

Item 2 – Public Forum

Steven Nestel, Marinwood Plaza Cleanup, commented that he is concerned about delays and urged the Board to get the Marinwood Plaza site cleaned up without delay.

Renee Silveira, Silveira Ranch, and Bill McNicholas, Marinwood Plaza Cleanup, echoed the comments made by Steven Nestel.

Item 3 – 2021 Dr. Teng-Chung Wu Pollution Prevention Award

Supervisor Jessica Watkins made the presentation of the award to the California Association of Sanitation Agencies (CASA). Adam Link, Executive Director of CASA, thanked the Water Board for the award and introduced Jessica Gauger, Director of Legislative Advocacy & Public Affairs for CASA, and acknowledged that Director Gauger is responsible for the legislation requiring labelling and education to prevent flushing wipes to prevent impacts to sewer systems and the environment.

Board Member Hacker asked EO Montgomery to use the award to publicize the message “Do Not Flush.”

Chair McGrath appreciated the work of CASA and suggested the Water Board craft a thank you letter to Assemblyman Bloom.

Item 4 – Minutes of the November 10, 2021, Board Meeting

Motion: Vice Chair Jayne Battey

Second: Board Member Andrew Gunther

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

Nos: none

ITEM APPROVED

Item 5 – Chair’s, Board Members’ and Executive Officer’s Reports

State Water Board (SWB) Member Sean Maguire reported that SWB recently advanced drought planning (conservation and wasteful water use regulations), and expanded consideration of the Bay-Delta Water Quality Control Plan and future water management, and microplastics.

Board Member Battey commented that the recent rains were beneficial.

Chair McGrath reported that he met with the Margaret Bruce, Joint Powers Authority, about the San Francisquito Creek flood control project needs, and with the new chair of the Central Valley Water Board. He mentioned good progress by the Port of Oakland on the Middle Harbor Shoreline Park.

EO Montgomery reported that he was on a panel about the federal infrastructure bill’s impact on agencies and said we can expect double the amount of money for grants and loans through State Revolving Fund and Brownfield cleanup and recycling. He reported that Martha Guzman was announced as the new Regional Administrator for US Environmental Protection Agency, Region 9.

Board Member Gunther reported the Lower Walnut Creek levee breach demonstrated how unique and remarkable it is; he said it was because the Flood Control District had the vision and worked on this for decades. Chair McGrath gave credit to Mitch Avalon specifically.

Item 6. Uncontested Items

Item 6A- Crockett Cogeneration LLP, Crockett Cogeneration Plant, Crockett, Contra Costa County

Item 6B- Mt. View Sanitary District, Wastewater Treatment Plant and Wastewater Collection System, Martinez, Contra Costa County

Item 6C- Rescission of Certain Individual Orders Upon the Regulated Facilities' Enrollment Under the State Water Resources Control Board Order WQ 2014-0153-DWQ General Waste Discharge Requirements for Small Domestic Wastewater Treatment Systems

EO Montgomery introduced the Uncontested Items.

Board Member Hacker asked about pretreatment requirements and if any effluent is being recycled for Mt. View Sanitary District. Senior Robert Schlipf and DC Bill Johnson said all effluent is discharged to wetlands.

Board Member Gunther asked about discharges to treatment wetlands and the future of that. DC Johnson responded.

Vice-Chair Battey asked if staff promotes recycled water at all facilities when permits reissued. DC Johnson and Assistant Executive Officer (AEO) Thomas Mumley offered examples of documenting and promoting recycling.

Board Member Hacker suggested adding a finding in all permits about status of recycled projects in the works or considerations. She also asked about Item 6C, why it takes several years for the transition to General Order and how we track transitions and ensure compliance. DC Lichten and Staff Melissa Gunter responded that staff works individually with each facility and evaluates compliance status prior to enrolling a facility in the General Order.

Chair McGrath asked for a motion to approve the uncontested items.

Motion: Board Member Young

Second: Vice Chair Battey

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

Nos: none

ITEM APPROVED

NPDES Permits

Item 7 - Tesoro Refining and Marketing Company, Tesoro Martinez Facility, Martinez, ContraCosta County

EO Montgomery introduced the item and Staff Engineer Guarav Mittal made a presentation. The refinery will be producing biofuel rather than refining petroleum.

Board Member Gunther asked if load reduction of pollutants is based on less activity at the facility or is it because the biofuel processing produces less contamination per barrel of product than petroleum. Staff Engineer Mittal and DC Johnson responded that it is likely both but primarily the latter and that we will learn more about the treatment and pollutant reduction since this is a new process and permit.

Board Member Battey asked if Tesoro has experience converting to biofuels.

Amber Larsen, Tesoro representative, said they have experience in a pilot plant and another operating plant that has been transitioned from a petroleum to a biofuel refinery. Amber Larsen also explained why they are transitioning at this time.

Board Member Hacker asked about phase two and operating new pretreatment unit, and if Board will have opportunity to review pretreatment requirements. Staff Engineer Mittal said the pretreatment requirements are built into the permit and the effluent limits are set with pretreatment expectations.

Chair McGrath asked about treatability of source products compared to standard petroleum products. Amber Larsen said it will be easier to treat and treatment processes will rely more on biological treatment methods than chemical. DC Johnson commented that the permit is conservative and can be modified later.

Board Member Gunther asked where the feedstocks come from and where are they going now/where would they go. Amber Larsen said, for example, there is currently a source of soybean oil that is a waste product from processing that is stored in tanks that does not have a home. She also explained that the waste from animal fats currently goes to landfills or into hot dogs.

Board Member Battey commented about composting expanding and making sure that waste that can be refined for fuels at a facility like Tesoro doesn't end up in compost. She also requested a tour of this facility.

Chair McGrath asked for a motion.

Motion: Board Member Gunther

Second: Board Member Hacker

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

Nos: none

ITEM APPROVED

Item 8 – Amendment of Monitoring and Reporting Provisions for Municipal Wastewater Dischargers

EO Montgomery introduced the item.

Board Member Hacker asked if there will be a gap in time between provision of recently adopted toxicity provisions and these new provisions. DC Johnson explained there will not be. DC Johnson and AEO Mumley explained additional aspects of these provisions. Chair McGrath mentioned that our Regional Monitoring Program is well-known by many scientists and that he appreciates the program.

Chair McGrath asked for a motion.

Motion: Board Member Gunther

Second: Board Member Young

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

Nos: none

ITEM APPROVED

Item 9 - California Department of Transportation, Update on the Department's Clean California Program and Compliance with Cease and Desist Order No. R2-2019-0007

EO Montgomery introduced the item and Senior Engineer Beauduy made a presentation. Hardeep Takhar, Caltrans, also made a presentation about Caltrans' implementation status. Kenneth Johansson, Caltrans, made a presentation about CalTrans' Clean California Campaign and new funds.

Henry Hoffman, Save the Bay, commented that they do not expect the Caltrans efforts sufficient to achieve trash reduction.

EO Montgomery commented that staff is closely tracking and has seen progress.

Board Member Gunther said he can't tell how the Governor's beautification funds will get trash out of the Bay and commented that the current infusion of funds provides great opportunity to direct funds to solve the trash problem.

Board Member Hacker asked if we have a current list of the local projects. EO Montgomery answered that we do. Board Member Hacker asked for it to be circulated.

Chair McGrath commented that he is pleased with the additional funds and investments.

EO Montgomery, Hardeep Takhar and Kenneth Johansson responded with information about how the funds will pay for trash control measures.

Vice Chair Battey commented that it is good that so much money is planned to address trash, and that we also need to keep a close eye on compliance. She asked what we

are doing about controlling trash at the source.

Kenneth Johansson described the multi-pronged approach to source control, including addressing homelessness.

Item 10 - Amendment of Cease and Desist Order for California Department of Transportation

EO Montgomery introduced the item and Senior Engineer Derek Beauduy made the presentation.

The amendment will extend the due date of an updated Visual Trash Assessment report by one year to allow Caltrans time to improve its visual trash assessment methodology that includes incorporating innovative artificial intelligence and machine learning technology in partnership with Google and its Litter Insights platform.

Chair McGrath asked if this extension would delay any other compliance activities. Senior Engineer Beauduy explained it will not.

Henry Hoffman, Save the Bay, commented that more precise assessments are good but insists that no further delays occur in other compliance activities.

Hardeep Takhar, Caltrans, also clarified that this will not delay compliance activities and will help identify additional areas to apply best practices for trash control.

Board Member Hacker appreciates the consistent effort to address this problem and suggests that staff, Caltrans and Save the Bay meet soon to discuss issues and expectations for improved collaboration.

Staff counsel Yuri Won informed the Board members that they need four votes because this is an amendment to the Cease and Desist Order.

Chair McGrath commented that communication amongst parties is important. He asked for a motion to approve.

Motion: Board Member Young

Second: Board Member Hacker

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

Nos: none

ITEM APPROVED

Item 11 - Enforcement Actions and Priorities for Fiscal Year 2021/22

EO Montgomery asked if Board members have questions on this report.

Board Member Hacker asked if in the future we can review inspection data and not just enforcement information; she expressed interest in the relationship between inspections

and compliance. EO Montgomery responded.

DC Johnson added that staff has been out in the field doing inspections more this year than the previous year due to the pandemic.

Item 12 - Status update from 2020 Strategic Priorities

EO Montgomery introduced the item and made a presentation on organizational development. Assistant Executive Officer Lisa Horowitz McCann made a presentation on progress with climate action. Division chiefs made presentations on progress on priority projects in their respective divisions.

Board Member Battey said it is wonderful to hear progress and all the work that has gone on. She also said she appreciates the strategic thinking about equity and climate change and thinking ahead, especially given the pandemic was going on. She asked how the team is doing in terms of morale and working remotely. EO Montgomery responded that people are comfortable working remotely but are also looking forward to some in-person, in-office opportunities.

Board Member Gunther also said progress is impressive and including targets and meeting them. He specifically commented about increasing beneficial reuse and responsiveness to Sediment for Survival report, the biosolids work, and permitting success (whether it is due to cooperative dischargers). DC Johnson said it is relationships, on-going engagement and great staff.

Board Member Hacker also offered thanks to management team and staff for efficiencies and innovations this past year.

Chair McGrath echoed appreciation and the value of the clear and terse report. He asked if we have engaged East Bay Regional Parks District related to the San Leandro Bay planning effort. He mentioned the work to close sites with residual contamination. He commented that we've probably done better than people think and suggested we improve how we to tell our story about that to communities.

Division Chief Xavier Fernandez explained the partners and planning effort for San Leandro Bay. Division Chief Keith Lichten mentioned regular coordination with East Bay Regional Parks District. Division Chief Alec Naugle talked about studies about groundwater rise and our effort to review whether cases closed are adequate for environmental and health protection in the future and how we will handle active and future cases relatedly. AEO McCann explained her and Staff Engineering Geologist Alyx Karpowicz's involvement in a recent workshop with environmental justice advocates, scientist and state agencies about impacts of sea level and groundwater rise along the shoreline where there is residual contamination in place or contamination that is in investigation and active cleanup.

Chair McGrath reopened the public forum item for additional public comment.

Kelly Abreu commented on Turk Island Landfill development. He said we are seeing a pattern of development that shifts liability for flooding to individual homeowners or

government and that we should not be doing that as it creates problems for future generations.

Item 13– Correspondence

No correspondence

Item 14 – Closed Session – Personnel

Attorney Yuri Won, Attorney Marnie Ajello and Chair McGrath discussed the logistics of the Closed Session. The Board met in closed session for Personnel in this meeting.

Item 15 – Closed Session – Litigation

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

Item 16 – Closed Session – Deliberation

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

Item 17 – Adjournment

Board Member Gunther motioned, and Board Member Kissinger seconded.

The meeting was adjourned at 3:50 PM