

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

MEETING DATE: September 14, 2022

ITEM: 7

SUBJECT: **Minutes for the July 13, 2022 Board Meeting**

**July 13, 2022 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

Meeting called to order at 9:04 a.m. at Elihu H. Harris Building, First Floor Auditorium. Executive Assistant (EA) Julie Haas called the roll.

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

New Staff Introduction

Chair McGrath introduced new Board Member Alletta “Letty” Belin. Board Member Belin shared comments about her background in water rights and related environmental issues and said that she looks forward to working with this high-quality Board and staff and learning more about water quality.

Chair McGrath introduced new Executive Officer (EO) Eileen White. EO White said that it is an honor to join such a talented team and a progressive Board.

Chair McGrath recognized Interim EO Tom Mumley the Assistant Executive Officer (AEO) and thanked him for his leadership and significant contributions to water quality in the Bay. Board Members Gunther, Kissinger, Hacker, Battey and Young all added complements and appreciations, along with expressing optimism for the future as AEO Mumley and AEO Lisa Horowitz McCann will support the transition to the new EO White and the challenges ahead of us.

AEO Mumley introduced several supervisors to introduce new Scientific Aides. Supervisor Jessica Watkins introduced Marisol Castro; Supervisor Laurent Meillier introduced Adam Rueckert; Wiz Wells introduced Neva Richardson; Supervisor Kevin Lunde introduced Jazzy Graham-Davis.

AEO Mumley shared that several staff members are retiring and recognized each of their contributions. Each staff member offered comments about their work experiences over time, highlights of their career and what they will miss. AEO Mumley recognized the following staff members for their retirement: Supervisor Elizabeth Wells, Water Resource Control Engineer (WRCE) Mark Johnson, WRCE Carrie Austin, and Engineering Geologist Michael Rochette.

Item 2 – Public Forum

Chance Cutrano from the Resource Renewal Institute noted that Heal the Bay released their “Beach Bumner” report and Drake’s Estero, where dairies operate, and Heart’s Desire on Tomales Bay received Fs. He thanked the AEO for attention to these issues and oversight of the sources of pollution and asked if the Resource Renewal Institute can help. He wants the National Park Service to present a water quality improvement plan for Point Reyes and asked for an update in an EO Report with next steps and/or new water quality targets to make improvements.

Chris Koenig from Kingsland Companies, LLC commented that he recommended alternative stormwater treatment techniques at the May Board meeting related to his comments on the Municipal Regional Stormwater Permit. He asked for an update on progress about that. Chair McGrath asked EO White to bring an update to the next meeting. AEO Mumley said that staff committed to create a workgroup to consider alternative stormwater treatment techniques as recommended but formation of the group is still in progress. Chris Koenig asked to be part of the work group and AEO Mumley agreed to send communication regarding the work group activity to Mr. Koenig.

Henry Hoffman from Save the Bay commented on roadway trash reduction for Caltrans. He said Caltrans has not met its benchmark and is out of compliance with the Board’s Cease and Desist Order. He said Save the Bay has serious concerns about Caltrans ability to adequately reduce trash and noted the staff and the Board have also made these observations. He recommended that the Board reject use of hand maintenance trash removal methods as achieving full trash capture. AEO Mumley said staff will coordinate with Save the Bay in preparing decisions and updates in the fall.

Board Member Hacker asked for an EO update on the above issues raised by commentors, specifically the Point Reyes concerns, and EO White said that she will reach out to stakeholders soon and bring that report to the Board.

Item 3 – Minutes of the of June 8, 2022, Board Meeting

Chair McGrath asked for a motion to approve the minutes.

Motion: Board Member Gunther

Second: Board Member Hacker

EA Haas called the roll.

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Ayes: Board Members

Nos: none

Abstained: Board Members Belin and Battey

ITEM APPROVED

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

State Water Board Member Liaison Sean Maguire welcomed new Board Member Belin and EO White. Liaison Maguire gave an update on several items including the budget with additional investments in water resilience, water infrastructure and habitat restoration. More details will be forthcoming at the September Board Meeting. He noted the State Water Board adoption of the CalTrans Statewide MS4 permit and a time schedule order for that multi-year effort. Sean acknowledged the contributions by Interim EO Mumley and Supervisor Derek Beauduy in reaching an uncontested agreement.

Liaison Maguire said the Board is also developing the state-wide general order for sanitary sewer overflows and anticipates November for public comments and December for State Water Board consideration. He also said there is a lot of water rights activity related to the Bay-Delta Water Quality Plan for managing the Sacramento River, including incorporating the voluntary agreement approach as an alternative for the Board to consider in the Water Quality Control Plan. For the San Joaquin River, alternatives, also including a possible voluntary agreement, are in development.

Former EO Michael Montgomery commented that he wanted to welcome new EO White and offered to be available to EO White in the transition for coaching, mentoring. He also complimented staff and the Board for their work covering the gaps and hiring the incoming leadership.

Chair McGrath asked for reports from Board members. Board Member Gunther commented how extra-ordinary it is when there are wastewater treatment plant permits on the uncontested calendar and appreciated how our treatment plants and regulatory oversight is professional and effective, avoiding extreme problems as reported elsewhere. Board Member Battey commented that the Governor signed a bill on extended producer responsibility for plastic and other products because it shifts responsibility away from municipalities.

Chair McGrath acknowledged the inequities of requiring municipalities to cover the cost of something which should involve extended product liability and appreciated the update on the recent legislation. He then encouraged the Board Members to meet with key stakeholders as we begin the process of establishing our next set of priorities in a transparent manner. He shared that during the Chairs’ meeting there was good discussion on strategic priorities including climate change, racial equity and engaging affected parties that had previously been remiss.

AEO Horowitz McCann acknowledged the work of the State Water Board programs and, in particular, the leadership from the SF Bay Region on racial equity related to hiring and workforce diversification, as well as related to priorities and actions in key programs addressing water quality.

Chair McGrath also reminded the Board about the Water Quality Coordinating Committee meeting October 27 and 28 in Sacramento. The theme of the meeting is accelerating climate change action.

AEO Mumley reported on EO Report items. He called attention to aging infrastructure and adverse impacts on habitat and water quality and the item describing bridge replacements over the Guadalupe River. He also called attention to groundwater basin management and the recent public release (website and social media posting) of fact sheets on several basins, their conditions and compliance with the Sustainable Groundwater Management Act. Board Member Gunther said he would like the “behind the scenes” work to be front and center and suggested accumulating stories and accomplishments in short videos. He also said a picture is worth a thousand words and helps show changes and progress, compared to baselines. EO Mumley mentioned sharing our role in the important work our staff is doing related to projects like State Highway 37 related to climate change and wetlands protection. AEO Horowitz McCann mentioned that our recruitment and hiring teams are already working on this type of documentation for website and social media posts related to attracting new and talented staff. She suggested that we can use that as an opportunity to also improve telling these stories for the public and to track progress as suggested by Board Member Gunther.

Chair McGrath read the Oath.

Item 5 – Consideration of Uncontested Items

5A. East Bay Dischargers Authority (EBDA)– Reissuance of NPDES Permit

5B. Dublin San Ramon Services District (DSRSD), Livermore-Amador Valley Water Management Agency, East Bay Dischargers Authority; DSRSD Wastewater Treatment Plant and Collection System; Dublin, Alameda County – Reissuance of NPDES Permit

5C. City of Livermore, Livermore-Amador Valley Water Management Agency, East Bay Dischargers Authority; City of Livermore Water Reclamation Plant and Collection System; Livermore, Alameda County – Reissuance of NPDES Permit

Interim EO Mumley introduced the Items.

Jackie Zipkin from EBDA thanked staff on their expertise and collaboration. She also reported that EBDA will make the inaugural presentation to the first honoree of the Bruce Wolfe Scholarship on August 11 at the California Association of Sanitation Agencies Conference. Ms. Zipkin took the time to share her past experience working

with and for EO White in previous organizations. She noted, EO White is an incredible mentor and will serve our organization well as we look to mentor new staff.

Board Member Hacker thanked staff and permittees for their excellent performance.

Chair McGrath asked for a motion to approve the Uncontested Items.

Motion: Board Member Hacker

Second: Board Member Kissinger

EA Haas called the roll.

Ayes: all

Nos: none

ITEMS APPROVED

Item 6 – Enforcement Item

City of Pacifica and County of San Mateo, San Mateo County – Adoption of Time Schedule Order to Comply with Municipal Regional Stormwater NPDES Permit Provision C.14.b

AEO Mumley introduced the Item and Environmental Scientist (ES) Farhad Ghodrati made the presentation.

Board Member Gunther asked about indicators of progress and how we know where bacteria are coming from and whether we've reduced the loads and can focus on other sources. Environmental Scientist Ghodrati said that watershed monitoring shows reductions in levels of bacteria and supports source identification and monitoring of management practices. He also said the monitoring program is designed to be dynamic so monitoring locations and purposes (e.g., sources or practices) can be adjusted.

Board Member Gunther asked what sources are being found and Environmental Scientist Ghodrati said dogs, humans and horses are the most significant sources.

Board Member Battey asked for review of the timeline for adoption of the TMDL and other milestones leading up to the extension and how the monitoring location got moved to a new location. Environmental Scientist Ghodrati answered and explained that the entity that does beach monitoring (County of San Mateo) is different than implementer of the TMDL (City of Pacifica) and when the County changed the location, they retained the same location identification name; they should have changed the name. Staff discovered this in reviewing data and requirements for the Municipal Regional Stormwater Permit. Board Member Battey asked if the health risk has improved and/or how bad it is. Environmental Scientist Ghodrati responded that the water quality levels across most of the quarter-mile beach are good and when the water quality monitoring

station changed to be right at the creek mouth, the data indicates a higher risk and higher levels over time when previously indicated conditions were improving.

Staff Board Member Battey asked if increased use of the beach is part of the problem and if the City is managing that or if they should be. Supervisor Lunde responded that staff is considering this and, for example, encouraged the County to retain monitoring stations across the beach- both where water quality is good and where it is not, to better represent the conditions and risks.

Finally, Board Member Battey asked for a future report on the status of water quality at all the coastal beaches in the region. Supervisor Lunde said we are working with the County to better understand the issues around the creek mouth/outflow and movement of other monitoring sites to better understand source material and microbial tracking. AEO Mumley identified the challenge for our region to best understand the sources of bacterial contamination and how best to mitigate impacts. He shared that we will participate in a Bacteria Summit to be convened by the State Board this fall. Chair McGrath acknowledged that urban areas with homeless problems generate human waste bacteria and enterococci doesn't match the fecal indicators.

Attorney Yuri Won clarified that the creek TMDL timeline is not being extended; only the beach TMDL timeline is being extended.

Chair McGrath asked for a motion to approve the Adoption Order.

Motion: Board Member Hacker

Second: Board Member Gunther

EA Haas called the roll.

Ayes: all

Nos: none

Item 7 – Basin Plan

Proposed Amendment to the Water Quality Control Plan (Basin Plan) to Include Information on Climate Change and Aquatic Habitat Protection, Management, and Restoration – Hearing to Consider Adoption of Proposed Basin Plan Amendment

AEO Mumley introduced the Item and ES Specialist/Ecological Engineer (EE) Christina Toms made the presentation.

Chair McGrath asked for clarification on where and what the specific revisions include. Division Chief Xavier Fernandez and ES/EE Toms responded.

Board Member Hacker asked about comments regarding nature-based infrastructure as a higher priority and possible specific Basin Plan Amendment and about placement of

beneficially-used sediment. She also asked if in referring to the December 2017 Draft Framework Report, whether we are adequately considering the overall and current strategic and regional sediment assessment and supply needs.

Chair McGrath asked if DC Fernandez can explain the upcoming scoping session on a strategic placement pilot project. DC Fernandez responded that we are the lead agency for the project and said that we are coordinating closely with the US Army Corps of Engineers and the Bay Conservation and Development Commission.

Board Member Gunther said that he received an email extolling the expertise and effectiveness of the presentation ES/EE Toms made to elected officials recently on State Highway 37. He also asked for confirmation that we are continuing and can continue to rely on best available science in emphasizing use of nature-based solutions for climate adaptation even with a non-regulatory amendment. Board Member Kissinger asked why not make this item regulatory and when will it become regulatory. AEO Mumley responded by saying the information becomes regulatory when we issue permits. Chair McGrath stated that he sees a strategic approach to making the amendment non-regulatory, which is to facilitate funding for best projects, such as from Measure AA.

Arthur Feinstein from the Sierra Club commented that it is important to add climate change to the Basin Plan, surprised it is not already included and finds it disappointing that it is not regulatory. He said he thinks the amendment clearly asks the right questions and looks forward to increased regulations and protections for habitat from sea level rise.

Carin High from Citizens Committee to Complete the Refuge said they fully support this amendment and are disappointed that it is not regulatory. She said that this is long overdue, appreciates that the language is consistent with climate science and makes it transparent to the public and regulated community what types of projects are most protective and permissible. She thanked the staff and the Board for their efforts.

John Coleman from the Bay Planning Coalition thanked AEO Mumley for his service as Interim Executive Officer and congratulated the Water Board on the hire of EO White. "East Bay MUD's loss is your gain." He looks forward to working with EO White. Mr. Coleman remains concerned with the impacts of climate change and appreciated staff's effort to meet with and be responsive to the Coalition. He said they still have concerns about this being a non-regulatory amendment, as the language implies the potential for regulatory effects exists. He said he has concerns that this is coming outside of collaborative and region-wide efforts that Bay Conservation Development Commission and others are leading, and without those stakeholders having contributed. He suggested the Board take no action today.

Chair McGrath said that he does not think the language is or implies regulatory effects and is very concerned about sediment supply and cited early studies and project experiences he had to get policies in place to beneficially use sediment to enhance the shoreline. He was very clear the Bay Plan does not walk away from places along the

Bay and cited funding from the State on climate change, and this initiative, to help secure some of that funding. He said this is a strategic approach and thinks it's a great idea.

Board Member Belin said she thinks this is a brilliant step, should not be regulatory at this stage and is a game changer. She commended staff for this amendment and the associated work.

DC Fernandez responded to John Coleman's comments by clearly explaining that the language was deliberately written to ensure it is not regulatory, including leaving some recommendations out because we do not have the authority. He clarified that we do not have land use authority so this amendment in no way prevents or changes shoreline development. The current State Dredge and Fill Procedures already define how development proponents must address projects in waters of the state to protect beneficial uses.

Chair McGrath reiterated that the language related to "bay lands" is fully satisfying. He again said this promotes transparency and opportunity for local entities to get funding.

Vice-chair Battey asked if we have a communication plan and what it is. DC Xavier said we are developing one and Staff Engineer Sami Harper is lead.

Chair McGrath asked for a motion to approve the Basin Plan Amendment. Interim EO Mumley clarified the motion is for the Board to adopt the resolution amending the Basin Plan. Attorney Yuri Won clarified "with corrections."

Motion: Vice-Chair Battey

Second: Board Member Gunther

EA Haas called the roll.

Ayes: all

Nos: none

ITEM APPROVED

Item 8 – The Board did not meet in Closed Session

Item 9 – Adjournment at 12:31 p.m.