

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY  
BOARD MEETING MINUTES  
May 22, 2002

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Item 1 - Roll Call and Introductions

The meeting was called to order on May 22, 2002 at 9:05 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Clifford Waldeck, Vice-Chair; Josephine De Luca; John Reininga; William Schumacher; and Mary Warren.

Board members absent: Kristen Addicks; Doreen Chiu [Note: Mrs. Chiu arrived at 10:00 a.m.]; and Shalom Eliahu.

Lila Tang introduced two new staff in the NPDES Permit Division: Robert Schlipf and Daniel Leva.

Item 2 - Public Forum

There were no public comments.

Item 3 – Minutes of the April 17, 2002 Board Meeting

Ms. Barsamian noted supplemental corrections to the minutes. She recommended adoption of the minutes as supplemented.

Motion: It was moved by Mrs. De Luca, seconded by Mrs. Warren, and it was unanimously voted to adopt the minutes as supplemented and recommended by the Executive Officer.

Item 4 – Chairman's, Board Members' and Executive Officer's Reports

John Muller noted press clippings for the week of May 19 contain an interesting discussion on managing California's groundwater.

In response to a question from Mr. Muller, Ms. Barsamian said some cities covered under the Los Angeles stormwater permit filed a petition for review with the State Board. She said the cities also requested implementation of the permit be stayed until the State Board made a decision on the petition. She said the State Board denied the request to stay

implementation of the stormwater permit, but agreed to expedite its review of the petition.

Ms. Barsamian reported Governor Davis recently appointed Gary Carlton to the vacant professional engineer position on the State Board. She said Mr. Carlton has served as the Executive Officer of Region 5.

Clifford Waldeck reported Governor Davis recently appointed Nancy Sutley, Deputy Secretary at the California Environmental Protection Agency, to the California Water Commission. Ms. Barsamian noted the California Water Commission works with the Department of Water Resources.

Ms. Barsamian said she and Bruce Wolfe met with San Mateo County city managers to discuss stormwater issues. She said they discussed the countywide stormwater permit and an anticipated permit amendment that would include provisions covering new and redevelopment performance standards. She said the city managers raised questions about the timing as to when the provisions must be implemented and their flexibility in implementing them. She said questions also were raised about the availability of public resources. She noted the meeting was very productive.

Mr. Reininga commented favorably upon the willingness of municipalities to work with staff on the proposed provisions.

Ms. Barsamian noted dischargers in the Bay Area understand the importance of controlling pollutants. She said staff is working with dischargers to address concerns such as flexibility and timing of the provisions.

Mr. Muller said he and Bruce Wolfe recently attended a meeting in Concord with persons concerned with pest control application.

#### Item 5 - Uncontested Calendar

Ms. Barsamian recommended adoption of the uncontested calendar.

Motion: It was moved by Mrs. De Luca, seconded by Mr. Waldeck, and it was unanimously voted to adopt the uncontested calendar as recommended by the Executive Officer.

#### Item 6 – Proposed Amendments to the Water Quality Control Plan (Basin Plan) for San Francisco Bay to Establish Site-Specific Water Quality Objectives and Water Quality Attainment Strategies for Copper and Nickel in South San Francisco Bay, South of the Dumbarton Bridge – Hearing to Consider Adoption of Proposed Amendments

Richard Looker gave the presentation. He said the Board is being asked to adopt a resolution to amend the Basin Plan: (1) to establish site-specific water quality objectives for copper and nickel in Lower South San Francisco Bay; and (2) to include an implementation plan in order to maintain existing water quality.

Mr. Looker said current water quality objectives for copper and nickel in Lower South San Francisco Bay were developed by USEPA. He said they do not take site-specific

conditions into consideration. In contrast, Mr. Looker said the proposed Basin Plan amendment includes copper and nickel limits that are based on the specific metal chemistry in Lower South San Francisco Bay. He said the proposed limits for copper and nickel are protective of beneficial uses even though they are higher than national objectives.

Mr. Looker said the proposed amendment includes an implementation plan to ensure that the current quality of water in Lower South San Francisco Bay is maintained. He said POTWs and the Urban Runoff Program are required to conduct ongoing monitoring and to implement various actions.

Mr. Looker said after the resolution to amend the Basin Plan is adopted by the Board, the Basin Plan amendment would be forwarded to the State Board for approval, and after that forwarded to the State Office of Administrative Law for approval. Lastly, he said the amendment would be forwarded to USEPA for approval. He said the proposed amendment would become effective after this process is followed and USEPA gives the final approval.

Mr. Looker said a supplement to the proposed resolution has been prepared in order to recognize the effective stakeholder process that led to the proposed amendment.

Mr. Schumacher asked about the sources of copper and nickel entering the Bay. Mr. Looker said wastewater treatment plants and stormwater runoff are the main sources. He noted if the amount of copper and nickel in the Bay remains at current levels, these metals would not threaten to impair the Bay.

Mr. Waldeck discussed site-specific objectives for copper as compared to nickel. He said the chronic objective for copper is 6.9 micrograms per liter and the acute objective is 10.8 micrograms per liter. He said the chronic objective for nickel is 11.9 micrograms per liter and the acute objective is 62.4 micrograms per liter. He asked why there was such a discrepancy between acute and chronic toxicity for nickel.

Mr. Looker said the data shows that copper can be acutely toxic to organisms while it appears nickel is not as acutely toxic.

Mrs. Warren asked how violations of the site-specific objectives would be calculated. Mr. Looker said the state implementation plan sets out a procedure for translating a water quality objective for receiving water into an NPDES permit limit for a POTW. He said the procedure would be used when NPDES permits are reissued to POTWs. He said the Urban Runoff Program would be required to comply with the implementation plan that is part of the proposed Basin Plan amendment. He said compliance with the implementation plan is equivalent to reducing the metals to the maximum extent possible.

Mr. Muller thanked Tom Mumley and Richard Looker for their work in preparing the proposed amendment.

Mr. Reininga concurred. He noted the noncontroversial nature of the amendment and commended staff for working with stakeholders to reach consensus.

Ms. Barsamian noted issues surrounding copper and nickel in Lower South San Francisco Bay have been among the most controversial with which staff have worked. She said stakeholders worked incredibly hard to reach consensus. She recognized the City of San Jose for funding millions of dollars to pay for the preparation of technical studies. She added the City funded the scientific studies without knowing what the final result would be.

Mrs. De Luca thanked staff for their outstanding effort and said all parties are winners.

David Tucker, City of San Jose, recommended adoption of the proposed Basin Plan amendment. He encouraged staff to use information developed in the amendment process to remove copper from the 303(d) list in the South Bay.

Adam Olivieri, Program Manager of the Santa Clara Valley Urban Runoff Program spoke in support of the proposed Basin Plan amendment. He thanked Tom Mumley and Richard Looker for their work with stakeholders in the South Bay.

Ms. Barsamian recommended adoption of the tentative resolution as supplemented.

Motion: It was moved by Mr. Reininga, seconded by Mrs. De Luca, and it was voted to adopt the tentative resolution as supplemented and recommended by the Executive Officer.

Roll Call:

Aye: Mrs. De Luca, Mr. Reininga, Mr. Schumacher, Mr. Waldeck, Mrs. Warren, and Mr. Muller

No: none.

Motion passed 6 – 0.

Item 7 – C & H Sugar Company, Crockett, Contra Costa County – Hearing to Consider Imposition of Administrative Civil Liability or Referral to the Attorney General for **Pre-January 2000** Violations of NPDES Permit Resulting in the Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said C & H Sugar signed a waiver of its right to a hearing on the proposed ACL. She noted no Board action was necessary. Ms Barsamian said the discharger agreed to pay an Administrative Civil Liability in the amount of \$367,000. She said \$245,500 of the ACL would be used for a supplemental environmental project and \$100,000 would be used for a compliance project.

Item 8 – C & H Sugar Company, Crockett, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for **Post-January 2000** Violations of NPDES Permit Resulting in the Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said C & H Sugar Company signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$30,000, of which \$6,000 will be used for a supplemental environmental project or a pollution prevention plan.

Item 9 – Hanson Aggregates, Mid-Pacific Inc., San Francisco Sand Yard, Pleasanton, Alameda County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said Hanson Aggregates, Mid-Pacific Inc. signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$84,000, of which \$3,000 will be used for a supplemental environmental project.

Item 10 – City and County of San Francisco, Southeast Water Pollution Control Plant, City and County of San Francisco – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Loretta Barsamian said the City and County of San Francisco signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$3,000, all of which will be used for a supplemental environmental project.

Item 12 – Update on Peer Review of Technical Reports Produced for the San Francisco International Airport Runway Reconfiguration Project – Information Item, No Action Required

Item 12 was heard next.

Lee Halterman, consultant to San Francisco International Airport, said technical experts are completing an examination of environmental impacts that might result from the construction of a runway reconfiguration project. He said the examination includes study of sediment transport, biology, hydrology, and water quality.

Mr. Halterman said a panel of experts working for the National Oceanic and Atmospheric Administration would review the examination of environmental impacts. He said the NOAA panel would conduct a review of environmental data to ensure scientific validity. He said a public meeting would be held in September 2002 to discuss the panel's peer review and findings.

Mr. Halterman said four alternative reconfiguration projects are under consideration. He noted three alternatives involve construction and the fourth does not. He said airport staff and consultants would use the scientific review and findings of the NOAA panel in selecting one of the alternatives.

[Mrs. Chiu arrived at 10:00 a.m.]

Mr. Halterman said a draft environmental impact report would be prepared by January 2003. He noted the San Francisco voters are required to approve projects that involve more than 100 acres of bay fill. He said the smallest construction project would fill about 400 acres.

Mr. Schumacher asked about San Francisco's budget to fund consultant work. Mr. Halterman discussed airport activities and the budget process.

Mr. Waldeck asked several questions about the multiagency task force.

Mr. Halterman said the task force helps San Francisco and the Federal Aviation Administration understand concerns that the member agencies have regarding potential reconfiguration projects. He said San Francisco's Office of Environmental Regulation would prepare an environmental impact report on the project and FAA would prepare an environmental impact statement. He said the task force agencies still retain their individual permitting and regulatory authority regarding approval of the final reconfiguration project that the airport selects.

Mr. Muller asked whether participants in the NOAA panel had experience with other airport construction projects. Mr. Halterman said the panel members were chosen because of expertise in subjects like hydrology, biology, sediment transport, and scientific modeling.

Ms. Barsamian said the Regional Board is not an active member of the task force because the Board does not have enough staff to undertake technical reviews. She said Board staff would become more involved when the reconfiguration proposal is developed in further detail. She said we might ask the airport for financial resources to cover staff costs.

#### Item 11 – Status Report on Alameda Countywide Clean Water Program and its 2000-2001 Annual Report

Myriam Zech gave the staff presentation. She said the program includes 17 co-permittees: Alameda County, Alameda County Flood Control District, Zone 7, and 14 cities.

Overall, Ms. Zech said the co-permittees' compliance with the NPDES municipal stormwater permit is good. She described two components of the permit: (1) industrial and commercial inspections and (2) public information and participation. She said co-permittees are required once every 5 years to inspect facilities that pose a significant potential to contribute to stormwater pollution. She said co-permittees are required to inspect annually facilities that impose the most significant threats to stormwater pollution. She described public information material that has been prepared.

Gary Grimm, Legal Counsel for Alameda Countywide Clean Water Program, noted the Program's accomplishments during the last 10 years. He complimented Board staff for working cooperatively with the Program.

Jim Scanlin, Manager of Alameda Countywide Clean Water Program, said ACCWP spends \$2.1 million annually on program activities for stormwater. He said these general programs activities are in addition to tasks undertaken by co-permittees.

Mr. Muller asked about the regulatory authority of co-permittees to enforce stormwater provisions.

Mr. Scanlin said all co-permittees have passed ordinances to allow their staff to inspect businesses. He said stormwater enforcement procedures vary among the co-permittees.

Ms. Barsamian said the stormwater program includes an enforcement provision.

Mr. Muller noted several cities in Alameda County had not shown much activity in inspecting facilities and carrying out enforcement actions. Mr. Scanlin said co-permittees are responsible for carrying out their own enforcement programs.

Mrs. Warren commented upon stormwater runoff in an area in Oakland.

In response to a question from Ms. Barsamian, Mr. Scanlin said the Program helps plan the countywide stormwater program, and coordinates reporting, monitoring, and public information activities. He said individual co-permittees carry out implementation of the activities.

In response to a question from Mr. Muller, Mr. Grimm commented upon the response of some Southern California counties to stormwater problems and regulatory requirements.

Mr. Reininga asked why stormwater provisions created controversy in the Southern California counties. He noted a more positive response in the Bay Area.

Mr. Grimm said many Bay Area jurisdictions have taken a proactive attitude toward environmental concerns like stormwater. Ms. Zech concurred.

Ms. Barsamian said Bay Area counties like Alameda County have carried out stormwater activities for 10 years under two NPDES permits. She said such counties are at the point of receiving their third 5-year NPDES stormwater permit. Dale Bowyer noted Southern California jurisdictions may not have been as involved with stormwater activities during the last 10 years as jurisdictions in the Bay Area.

### Adjournment

The meeting was adjourned at 10:55 a.m.