

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY
BOARD MEETING MINUTES
February 18, 2004

Note: Copies of orders and resolutions and information on obtaining tapes or transcripts may be obtained from the Executive Assistant, Regional Water Quality Control Board, 1515 Clay Street, Suite 1400, Oakland, California 94612 or by calling (510) 622-2399. Copies of orders, resolutions, and minutes also are posted on the Board's web site (www.swrcb.ca.gov/rwqcb2).

Item 1 - Roll Call and Introductions

The meeting was called to order on February 18, 2004 at 9:05 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: Clifford Waldeck, Chair; Kristen Addicks; Doreen Chiu; Josephine De Luca; John Muller; and William Schumacher.

Board members absent: Shalom Eliahu; John Reininga; and Mary Warren.

Item 2 - Public Forum

There were no public comments.

Item 3 - Minutes of the January 21, 2004 Board Meeting

Motion: It was moved by Mrs. De Luca, seconded by Mr. Muller, and it was unanimously voted to adopt the minutes of the January 21, 2003 Board Meeting.

Mrs. Chiu and Mr. Schumacher recused themselves because they did not attend the January Board meeting.

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

Clifford Waldeck said he would attend the Chairs meeting to be held in Riverside on February 25, 2004 by teleconference.

Josephine De Luca asked Bruce Wolfe about the term Genuine Progress Indicator that was mentioned in the written Executive Officer's Report.

Mr. Wolfe said a Genuine Progress Indicator is a new economic tool that has been developed to help decision makers consider the many economic impacts of their actions. He said the GPI is calculated by starting with the Gross Domestic Product and then adding values like volunteer work and subtracting costs like pollution and lengthy commutes. He said more than 20 economic factors are taken into account and issues like water quality and wetland habitats are considered in the calculation.

John Muller congratulated Sarah Raker for her election to the Board of the Groundwater Resources Association of California. He thanked Bruce Wolfe for participating in a recent conference conducted by the California Association of Sanitation Agencies.

Mr. Wolfe briefly discussed the status of the Water Board's budget.

Kristen Addicks spoke in support of the efforts to spend less money even if Board members are affected in the process.

Item 5 - Uncontested Calendar

Mr. Wolfe recommended adoption of the uncontested calendar.

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

Item 6 – Sobrato Development Companies, 1271 Reamwood Avenue, Sunnyvale, Santa Clara County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said Sobrato Development Companies signed a waiver of the Companies' right to a hearing on the proposed MMP. He said no Board action was necessary. Mr. Wolfe said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$6,000. He said \$6,000 would be used for a supplemental environmental project.

Item 7 – Sausalito-Marín City Sanitary District, Sausalito, Marin County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

This item was continued to the March Board meeting.

Item 8 – California Department of Parks and Recreation, Angel Island State Park, Marin County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said Angel Island State Park signed a waiver of the Park's right to a hearing on the proposed MMP. He said no Board action was necessary. Mr. Wolfe said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$9,000. He said \$9,000 would be used for a supplemental environmental project.

Item 9 – Napa County Flood Control and Water Conservation District, Chevron Products Company, Bay Cities Oil Marketers, Inc., Dillingham Construction N.A., Inc., Texaco, Inc., Phillips Petroleum Company, ExxonMobil Oil Corporation, Exxon Mobil Corporation, and Atlantic Richfield Company, for the properties located at 301 River

Street, 477 Oil Company Road, 901 Eighth Street, 903 Eighth Street, 415 Oil Company Road, 385 Oil Company Road, and 100 Oil Company Road, Napa, Napa County – Amendment of Final Site Cleanup Requirements

Mary Rose Cassa said the Napa County Flood Control District is in the process of developing a flood management project along the Napa River. She said petroleum products used in the past have polluted soil and groundwater of properties adjacent to the river. She said cleaned up of the properties is necessary because the Flood District is in the process of building marsh and flood plain terraces along the river.

Ms. Cassa said the Board adopted Final Site Cleanup Requirements in 2001 for owners of four properties along the river that were formerly used as bulk fuel facilities. She said the tentative order adds dischargers for three more bulk fuel properties: Atlantic Richfield Company as a former owner of the Arco property; and ExxonMobil as a former owner of the Mobil and Exxon properties.

[ExxonMobil collectively refers to ExxonMobil Oil Corporation and Exxon Mobil Corporation. ExxonMobil Oil Corporation is successor to Mobil Oil Corporation and Exxon Mobil Corporation is successor to Exxon Company, U.S.A.]

Ms. Cassa said staff originally thought plumes migrating from adjacent properties polluted the three properties. However, she said the Flood District excavated the properties in order to build river terraces. She said excavated soils were sampled based on a grid overlay system and the samples were analyzed. She said results of the analyses showed a link between surface petroleum spills and elevated petroleum concentrations in soil and groundwater on the three properties.

Ms. Cassa said ExxonMobil claims Humble Oil only owned the Exxon property for 6 years and did not engage in activities that caused petroleum releases. She replied to the claim by saying there is a lack of information to support the idea that Humble owned a bulk fuel terminal and did not conduct on-site petroleum activities. [ExxonMobil is a successor of Humble Oil and Refining Company.]

Ms. Cassa said ExxonMobil claims pollution on the properties is consistent with activities carried out by subsequent owners. She said a roofing company and a company that stored materials related to resurfacing tennis courts and general paving activities were subsequent owners of the Exxon and Mobil properties. However, she said it is unlikely paving material and asphalt spills contributed to widespread petroleum pollution.

Ms. Cassa said ExxonMobil and Atlantic Richfield claim work under the SCRs has been accomplished because soil excavation has occurred. She replied by saying monitoring is still required and additional cleanup might be needed.

Mr. Schumacher asked if the excavated soil would be replaced after remediation.

Ms. Cassa said the soil was not replaced. She said it was removed to make space for terraces.

Heather Hoecheral, attorney for ExxonMobil, requested that the company not be named in the tentative order. She said the Water Code requires that the Board find substantial

evidence to name a discharger. She said soil analyses did not show the necessary nexus between ExxonMobil and pollution in soil and groundwater on the Exxon and Mobil properties.

Ms. Hoecheral said aerial photographs taken during Humble Oil's ownership of the Exxon property show a large portion of the property that would have been used for fuel handling and storage was overgrown with vegetation. Also, she said the contamination found on the property was consistent with land use of a later owner.

Barbara Mickelson, Action Mickelson Environmental, Inc., showed aerial photographs taken when Humble owned the property to illustrate the overgrowth of vegetation on the river side of the property. She said the vegetation indicates Humble did not use the property for bulk fuel operations. She showed aerial photographs taken before and after Humble's ownership to illustrate at those times the property was not overgrown with vegetation.

Ms. Mickelson discussed soil samples taken from some grid cells on the Mobil and Exxon properties and said analyses of the samples did not show contamination pathways from surface to groundwater.

In response to question, Ms. Mickelson said a private aerial photography company took the photographs.

In response to a question, Ms. Mickelson said she understood that the roofing company and the company that stored materials related to resurfacing tennis courts were still in business.

Heather Stanton, Napa County Flood Control and Water Conservation District, spoke in support of the tentative order. She said the District excavated contaminated properties in order to keep the flood control project on schedule. She said a lot of excavated soil, too contaminated to be remediated, was hauled to landfills. She said long-term project costs are not known.

Mrs. Addicks asked if the proposed dischargers would be responsible for past costs or future costs.

Yuri Won said the tentative order requires that the dischargers conduct monitoring on the properties. She said she understood the Flood District and the oil companies are involved in a lawsuit regarding responsibility for past cleanup.

Rick Thomasser, Registered Geologist, said he directed the District's remediation work. He said field observations showed evidence of releases of fuel and not roofing tar.

Mr. Muller spoke in support of the tentative order. He stressed the importance of former fuel owners and operators paying for past spills.

Mr. Schumacher said he thought there was substantial evidence to name the proposed dischargers to the tentative order.

In response to a question, Mr. Wolfe said staff is trying to be equitable and name all responsible parties that played a role in petroleum contamination. He said staff is not assigning percentages of responsibility among dischargers.

Ms. De Luca spoke in support of the tentative order. She stressed the importance of completing the flood control project and thanked Ms. Cassa for an outstanding presentation.

Ms. Won said only slides that Ms. Mickelson actually showed during her Power Point presentation could be submitted into evidence.

Mr. Wolfe recommended adoption of the tentative order.

Motion: It was moved by Mrs. Addicks, seconded by Mr. Schumacher, and it was voted to adopt the tentative order as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Addicks; Mrs. Chiu; Mrs. De Luca; Mr. Muller; Mr. Schumacher; and Mr. Waldeck.

No: None.

Motion passed 6 – 0.

Item 10 – Total Maximum Daily Load for PCBs in San Francisco Bay – Status Report

Tom Mumley said the Clean Estuary Project recently prepared two fact sheets: “How TMDLs Are Adopted” and “Legacy Pollution – What Does It Mean For The Health Of The Bay?” He said the Clean Estuary Project includes Bay Area Clean Water Agencies, the Bay Area Stormwater Management Agencies Association and the Water Board.

Fred Hetzel said a complete PCB TMDL will include the following elements: problem statement; numeric targets; identification of PCB sources; linkage of sources and targets; allocation of loads; and implementation and monitoring plans. He said staff has prepared a TMDL Project Report for PCBs that contains statements and recommendations for each element. He said stakeholders are reviewing the Project Report.

Dr. Hetzel said PCBs include 209 man-made compounds that are manufactured through the use of high temperature and high pressure. He said manufacture of PCBs was banned in the United States in 1979. He said some PCBs were still imported after the ban. However, he said industries are phasing out use of the compounds.

Dr. Hetzel said the main use of PCBs was in the manufacture of electronic equipment. He said PCBs are a persistent pollutant and are referred to as a legacy pollutant because most PCBs were released into the environment during industrial use in the 1970’s.

Dr. Hetzel said PCBs enter the Bay from land surfaces and adhere to sediments in the Bay. He said bottom dwelling organisms ingest PCBs; fish eat the organisms; and humans consume the fish.

Dr. Hetzel said the level of PCBs present in fish is a main concern in developing a regulatory program. He said the Project Report contains numeric targets for PCBs in sediment and in fish.

Dr. Hetzel said the following potential sources of PCBs were evaluated: atmospheric deposition; in-bay sediment hot spots; in-bay dredged material disposal; treated wastewater; Central Valley runoff; and urban runoff.

Dr. Hetzel described proposed load allocations by source categories. He said large PCB load reductions in urban runoff and dredged material disposal are proposed. He said a load reduction in PCBs in Central Valley runoff is proposed. However, he said sediment from the Central Valley is not as contaminated as the sediment in the Bay. He said achieving load reductions and PCB fish and sediment targets would take a long time.

In response to a question, Larry Kolb said P.G.& E. no longer uses PCBs in transformers.

Mr. Wolfe said small amounts of legacy pollutants like PCBs can have significant adverse environmental impacts.

Dr. Mumley said soil in areas of former industrial activity often contains high levels of PCBs and stormwater draining the soil also contains elevated levels of PCBs. He said in hindsight, regulatory programs 20 years ago should have focused on industrial activity when PCBs were being used widely.

In response to a question, Dr. Hetzel said there is evidence that PCBs that have entered the atmosphere have been distributed worldwide.

Dr. Kolb said scientific modeling indicates that if current PCB loads into the Bay were reduced, sediment would gradually get cleaner.

Dr. Hetzel said grant funds are being used to study the feasibility of achieving proposed load reductions. He said staff would work with stakeholders to understand steps that can be taken in the short term to implement reductions. He also said staff will work towards adaptive implementation to see steps taken are meaningful.

Mr. Wolfe reiterated staff is trying to identify steps that are do-able in the short term in order to move the process along. He said staff recognizes it will take many years to cleanup PCBs from the Bay.

Adjournment

The Board meeting was adjourned at approximately 10:50 a.m.

