

Adopted as Supplemented in Accordance with the Board's Direction at the
December Board Meeting – January 23, 2007

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY
BOARD MEETING MINUTES

November 13, 2006

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.waterboards.ca.gov/sanfranciscobay).

Item 1 - Roll Call and Introductions

The meeting was called to order on November 13, 2006 at 10:02 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Mary Warren, Vice-Chair; Margaret Bruce; Shalom Eliah; Clifford Waldeck.

Board member absent: None.

Terry Seward and Chuck Headlee introduced new staff: Lindsay Whalin and Ralph Lambert.

Item 2 – Public Forum

Amy Chastain, San Francisco Bay Keeper, thanked staff for including an update in the Executive Officer's Report on a study Bay Area refineries are conducting about the fate of mercury in air emissions. She recommended the study include analyses of additional pathways and of the amount of mercury in the refineries' crude oil. She requested material related to the study be distributed to the public.

Mr. Wolfe said staff would provide, at the December Board meeting, a schedule outlining when the refineries would submit reports on the air emissions study.

Item 3 – Minutes of the October 11, 2006 Board Meeting

Motion: It was moved by Mrs. Warren, seconded by Mr. Eliah, and it was unanimously voted to adopt the minutes of the October 11, 2006 Board meeting.

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

Mark Rentz, Deputy Director, California Department of Pesticide Regulation, thanked Tom Mumley for inviting him to address the Board and said he would discuss two topics. He said in September 2006 DPR initiated a reevaluation of hundreds of pyrethroid based products. He said the reevaluation focuses on products that pose risk of toxicity to waters.

Mr. Rentz said DPR is studying ecological impacts of paints used on the bottom of boats to inhibit growth of organisms. He said DPR has taken preliminary steps to identify alternatives to the paints that boat owners could use to manage pest related problems.

Mrs. Bruce congratulated DPR for its work on reevaluation of pyrethroid based products.

Mr. Wolfe said staff very much appreciates DPR’s efforts to address pesticide use in urban settings and thanked Mr. Rentz for his comments.

Gary Wolff, State Board member, said the State Board is working on reissuing the General Industrial Storm Water Permit and has begun the process to establish sediment quality objectives. He described efforts being taken by the State Board and the Air Resources Board to address common concerns.

Mr. Muller reported the January Board meeting would be held on Tuesday, January 23, 2007.

Shalom Eliahu reported attending the recent WQCC meeting held in Sacramento.

Clifford Waldeck said he was not able to attend the October Board meeting and would like to express his farewell to Josephine De Luca as she leaves the Board. He said he will miss Mrs. De Luca’s expertise and problem solving skills and wished her good health and happiness in her future endeavors.

Mrs. Bruce and Mr. Wolfe reported attending the Bay Area Climate Protection Summit hosted by the Bay Area Air Quality Management District on November 10, 2006 in San Francisco.

Mr. Wolfe said two entities in the Region recently received national awards from U.S. EPA: the City of San Leandro for its pretreatment program and the Santa Clara Valley Urban Runoff Pollution Prevention Program for its stormwater management activities. He congratulated both award recipients.

Mr. Wolfe said on November 15, 2006 and November 26, 2006 staff will conduct workshops with stakeholders on a preliminary draft of the Regional Municipal Stormwater Permit.

Yuri Won discussed the settlement of a lawsuit against the State and Regional Boards regarding the California Public Records Act. She reported the Water

Boards have adopted new Public Records Act Guidelines that may be found at www.waterboards.ca.gov/public_records/public_recordsact_guidelines.pdf

Item 5 – Consideration of Uncontested Items Calendar

Mr. Muller said speakers wished to be heard on Item 5B.

Mr. Wolfe recommended Item 5B be taken off the uncontested calendar.

Motion: It was moved by Mrs. Warren, seconded by Mrs. Bruce, and it was unanimously voted to remove Item 5B from the uncontested calendar.

Mr. Wolfe recommended adoption of the uncontested calendar.

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

Item 5B – Cosentino Winery, Cosentino Winery, LLC, and Cosentino Winery Wastewater Treatment System, Napa County – Reissuance of Waste Discharge Requirements

Mr. Wolfe said a staff presentation on the item had not been prepared.

Giovanna Scruby, speaking on her own behalf, said her home is located adjacent to the permittee's property. She expressed concern that stormwater might come in contact with the permittee's industrial activity. She said such stormwater would be collected in a catch basin and it could contaminate her drinking water well. She said the stormwater could drain onto her property if it were released on the north side of the catch basin.

In reply to a question, Blair Allen said the permittee is regulated under the General Industrial Stormwater Permit. He said the Tentative Order requires the permittee to submit an updated Storm Water Pollution Prevention Plan that takes into account the new systems to be developed for process wastewater and sanitary wastewater. He said he is not aware of health problems associated with stormwater from the permittee's property.

Alicia Stamps, Staff Engineer, Project Consultant, Kennedy/Jenks Consultants, said the permittee has stormwater controls on the property.

In reply to a question, Mr. Allen described the process wastewater pond to be developed.

Mr. Wolfe said the Tentative Order requires the permittee conduct groundwater monitoring in four wells.

Mr. Wolfe recommended adoption of the Tentative Order. He recommended the last sentence of Finding 54 read "The Board has considered the Negative

Declaration and finds that the project as mitigated will not have a significant effect on the environment."

Motion: It was moved by Mr. Eliahu, seconded by Mrs. Warren, and it was voted to adopt the Tentative Order as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Bruce; Mr. Eliahu; Mr. Waldeck; Mrs. Warren; Mr. Muller

No: None

Motion passed 5 – 0.

Item 6 – Chevron Products Company, Castro Cove Sediment Remediation Project, Richmond, Contra Costa – Approval of Mitigated Negative Declaration

Item 7 – Chevron Products Company, Castro Cove Sediment Remediation Project, Richmond, Contra Costa County – Adoption of Site Cleanup Requirements and Clean Water Act Section 401 Water Quality Certification

Beth Christian gave one presentation covering both Items 6 and 7.

Ms. Christian said Chevron proposes to remove pollutant laden sediment from 20 acres of intertidal mudflats in Castro Cove. She said the sediment would be pumped to an upland disposal site that was formerly used by Chevron as an oxidation pond. She said the disposal site is about 66 acres in size.

Ms. Christian said Chevron has installed a Groundwater Protection System around the former oxidation pond in order to keep contaminants from being released to the Bay. She said the system includes trenches, wells, and a barrier wall.

Ms. Christian said the Board regulates the former oxidation pond as a waste disposal unit. She said the former pond needs to be capped and closed. She said sediment from Castro Cove will be mixed with cement and other materials to form a foundation for the cap. She said the foundation will be covered with a layer of soil and planted with grass.

Ms. Christian said under the California Environmental Quality Act, the Board is designated the lead agency for the cleanup and disposal project. She said staff identified potentially significant project impacts to biological resources in Castro Cove. She said Chevron agreed to mitigate the impacts as part of the project design.

Ms. Christian said fact sheets describing the project were mailed to community residents. She said staff held a public meeting in the City of Richmond on October 4, 2006. She said the Mitigated Negative Declaration and the Tentative

Order for Site Cleanup Requirements were distributed for a 30 day public review period.

Ms. Christian said staff received letters from residents who expressed concern about the project. She said commentors suggested contaminated sediment deposited in the former oxidation pond might create a public health risk. In reply, she said the former pond is a regulated waste management unit that is not accessible to the public. She said the former pond is located more than a mile away from the closest residence and using Castro Cove sediment to produce a cap would not create a health risk.

Ms. Christian said commentors asked whether sediment in Castro Cove and in the former oxidation pond contains hazardous waste. In reply, she said the sediment does not contain hazardous waste as defined under State and Federal criteria. She said commentors asked whether sediment will be chemically treated at the time the cap is constructed. She replied in the negative and said sediment will go through a stabilization process to ensure the structural soundness of the cap.

Gayle McLaughlin, Mayor-Elect, City of Richmond, speaking on her own behalf, recommended staff prepare a full Environmental Impact Report. She expressed concern that the public had not been given enough time to review the project. She suggested a North Richmond Shoreline Community Advisory Group be formed to monitor project development.

Sandia Potter said staff did not receive requests to extend the 30 day review period that is required under the California Environmental Quality Act.

Jim Bates, Executive Director, Council of Industries, spoke in favor of the cleanup program and the transfer and secure containment of sediment on Chevron's property.

Gerald O'Regan, Project Manager, Chevron, said the company is looking forward to working with the community and with staff on the Castro Cove cleanup project.

Gina Hagg, City of Richmond resident, said under the proposed project plan, sediment containing up to 190 pounds of mercury would be deposited in the former oxidation pond. She said the disposal pond is located close to the City of Richmond.

Ellen Johnck, Executive Director, Bay Planning Coalition, spoke in favor of the proposed project.

Joe Robinson, City of Richmond resident, expressed concern that polluted sediment would be used to cap the former pond. He said a major earthquake could damage the structural integrity of the cap. He recommended the sediment be hauled away to another location.

Sherry Padgett said she is employed in the City of Richmond. She recommended staff develop a more inclusive public participation process. She requested staff

prepared a full Environmental Impact Report. She recommended sediment be hauled to another location.

Craig Johns, Partnership for Sound Science in Environmental Policy, spoke in favor of the proposed project and said a substantial amount of mercury would be removed from Castro Cove.

Sandia Potter said Chevron evaluated various ways of disposing of the sediment. She said trucking the sediment offsite was associated with human health risks related to dust, noise, diesel, and traffic. She said no identifiable human health risks were identified with disposing the sediment at the former oxidation pond.

Ms. Christian said dredged sediment would have to be dewatered before being trucked. She said dewatering sediment at Castro Cove would be difficult. She said monitoring reports have consistently shown that the Groundwater Protection System has contained groundwater beneath the former pond.

Mr. Muller said a number of state and federal agencies have had an opportunity to review the proposed project.

Mr. Wolfe said staff believes the former oxidation pond is an appropriate site to place the dredged sediments. He reiterated the fact that the former pond is a regulated disposal facility that needs to be capped and closed. He said sediment is needed to produce the cap.

Mr. Wolfe recommended adoption of the Resolution to Adopt the Mitigated Negative Declaration in Item 6.

Motion: It was moved by Mrs. Warren, seconded by Mrs. Bruce, and it was voted to adopt the Resolution to Adopt the Mitigated Negative Declaration as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Bruce; Mr. Eliah; Mr. Waldeck; Mrs. Warren; Mr. Muller

No: None

Motion passed 5 – 0.

Mr. Wolfe recommended adoption of the Tentative Order for Item 7.

Motion: It was moved by Mrs. Warren, seconded by Mrs. Bruce, and it was voted to adopt the Tentative Order as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Bruce; Mr. Eliah; Mr. Waldeck; Mrs. Warren; Mr. Muller

No: None

Motion passed 5 – 0.

Item 8 – Proposed Amendment to the Water Quality Control Plan (Basin Plan) to the San Francisco Bay Region to Establish a Napa River Watershed Pathogen Total Maximum Daily Load (TMDL) and Implementation Plan – Hearing to Consider Adoption of Proposed Basin Plan Amendment

Mr. Wolfe said after the Board adopted the Napa River Watershed Pathogen TMDL and Implementation Plan at its June meeting, staff found that a necessary notice was not published in a newspaper of general circulation. He said staff has re-noticed the TMDL, with the required newspaper publication and with a new 45 day comment period.

Dyan Whyte said E. coli, fecal coliform, and total coliform are used in the TMDL to indicate pathogen presence. She said the level of pathogen impairment in the watershed is moderate, and impairment generally is localized in specific areas. She discussed actions parties will be required to take to reduce pathogen levels.

Ms. Whyte said staff recently received a comment letter from Living Rivers Council. She said the Council recommended the TMDL and Implementation Plan provide greater specificity on enforcement procedures. In reply, Ms. Whyte said the Board's enforcement policy is described in the written Response to Comments. She said staff looks forward to working with the Council and other stakeholders to implement programs.

Ms. Whyte recommended correction of two typographical errors in Appendix A, Exhibit A, Table 7-d on page 5. She said for the City of Calistoga, the first column, geometric mean, should read less than 126. She said for all listed facilities, the second column, 90th %ile, should read less than 409.

Mr. Wolfe recommended adoption of the Resolution to Establish the TMDL and Implementation Plan for Pathogens in the Napa River Watershed. He recommended Table 7-d be corrected as recommended by Ms. Whyte.

Motion: It was moved by Mrs. Bruce, seconded by Mr. Waldeck, and it was voted to adopt the Resolution to Amend the Water Quality Control Plan for the San Francisco Bay Region to Establish a Total Maximum Daily Load and Implementation Plan for Pathogens in the Napa River Watershed as corrected by Ms. Whyte and recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Bruce; Mr. Eliahu; Mr. Waldeck; Mrs. Warren; Mr. Muller
No: None

Motion passed 5 – 0.

Adjournment

The Board meeting was adjourned at approximately 12:50 p.m.

