

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

September 9, 2009

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Item 1 – Roll Call and Introductions

The meeting was called to order on September 9, 2009 at 9:04 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Terry Young, Vice-Chair; Shalom Eliahu; James McGrath; William Peacock; Rameshwar Singh.

Board members absent: Steven Moore. (Note: Mr. Moore arrived at approximately 9:15 a.m.)

Item 2 – Public Forum

Steven Ritchie, Executive Project Manager, South Bay Salt Pond Restoration Project, said he will be leaving the Salt Pond Project and thanked the Board for its support of the Project. He distributed a brochure describing the Salt Pond Project and gave a PowerPoint presentation to update the Board on the Project status.

Mr. McGrath discussed the complexity of the Salt Pond Project and thanked Mr. Ritchie for his work on difficult issues.

Board members, staff, and members of the audience recognized Mr. Ritchie with a round of applause.

[Mr. Moore arrived at approximately 9:15 a.m.]

Dr. Singh, Mr. Moore, Dr. Young, and Mr. Muller expressed appreciation to Mr. Ritchie for accomplishments achieved on the Salt Pond Project.

Item 3 – Minutes of the May 13, 2009 Board Meeting

Bruce H. Wolfe recommended consideration of the Minutes be continued until the October 2009 Board Meeting.

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

Mr. Wolfe addressed the Board.

#### Item 5 – 2009 Dr. Teng-chung Wu Pollution Prevention Award – Presentation of Award in Recognition of Exceptional Accomplishments in Pollution Prevention in the San Francisco Bay Area

Heather Ottaway said the Dr. Teng-chung Wu Pollution Prevention Award honors the late Dr. Wu's dedication to improving water quality through pollution prevention. She said pollution prevention involves reducing pollutants at their source rather than reducing pollutant levels through wastewater treatment processes.

Ms. Ottaway said the Board and staff were honored to have Mrs. Wu attend the Award presentation.

Ms. Ottaway announced the Bay Area Pollution Prevention Group was the recipient of the 2009 Award. She said the Pollution Prevention Group was being recognized for its leadership and regional promotion of the statewide 2008 No Drugs Down the Drain Campaign.

Jen Jackson, East Bay Municipal Utility District, and Chair, Bay Area Pollution Prevention Group, thanked the Water Board and staff for encouraging the Pollution Prevention Group's ongoing work on pharmaceutical disposal.

Sharon Newton, Environmental Services, City of San José, and Vice Chair, Bay Area Pollution Prevention Group, said this year the Pollution Prevention Group will host a Bay Area No Drugs Down the Drain Campaign during the week of September 21-27, 2009.

Mr. Muller presented an Award to Ms. Jackson and Ms. Newton.

#### Item 6 – Consideration of Uncontested Items

Mr. Wolfe said there was one action item on the uncontested calendar. He recommended adoption of Item 6A.

Dr. Young recused herself from consideration of the Item.

Motion: It was moved by Dr. Singh, seconded by Mr. Peacock, and it was voted to adopt Item 6A as recommended by the Executive Officer.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Mr. Muller

No: None

Recusal: Dr. Young

Motion passed 6 – 0.

Item 7 – Proposed Amendment to the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish a Total Maximum Daily Load (TMDL) for Sediment in the Napa River and an Implementation Plan to Achieve the TMDL and Related Habitat Enhancement Goals – Hearing to Consider Adoption of Proposed Basin Plan Amendment

Mr. Wolfe introduced the Item.

Mike Napolitano gave a PowerPoint presentation. He said in January 2007 the Board adopted a Resolution Amending the Basin Plan to Establish a Total Maximum Daily Load for Sediment in the Napa River and an Implementation Plan to Achieve the TMDL and Related Habitat Enhancement Goals. He said staff requested the opportunity to revise the Amendment because of comments received during a further stage of the approval process.

Mr. Napolitano said steelhead trout and Chinook salmon populations in the Napa River and its tributaries have declined substantially in recent decades. He said five factors contribute to the decline:

- (1) too much fine sediment in channels adversely affects fish spawning and rearing habitat;
- (2) erosion of bed and bank reduces the quantity of spawning and rearing habitat;
- (3) low levels of summer water and elevated temperatures limit the growth of juvenile fish;
- (4) a large number of road crossings and dams serve as impediments to fish migration; and
- (5) a lack of woody debris in channels reduces complex fish habitat.

Mr. Napolitano said the Basin Plan Amendment establishes a sediment Total Maximum Daily Load to address sediment impairment and a Habitat Enhancement Plan to help address other causes of decline in fish populations.

Mr. Napolitano identified five major sources of sediment to the Napa River: natural erosion; road related erosion; surface erosion; gullies associated with vineyards and intensive historical grazing; and bed and bank erosion caused by human activities.

Mr. Napolitano said the Basin Plan Amendment establishes a sediment TMDL at 125% of the natural background sediment load. He said a 50% reduction in human caused sediment loads is required to attain the TMDL.

Mr. Napolitano discussed regulatory mechanisms that will be used to achieve the TMDL. He said vineyards, grazing areas, and rural lands will be regulated under waste discharge requirements or waivers of waste discharge requirements. He said development of waiver conditions for grazing lands is underway. He said development of waiver conditions for vineyards and rural lands will be a new effort. He said staff supports collaborative restoration partnerships to address bed and bank erosion.

Mr. Napolitano discussed actions that are recommended in the Habitat Enhancement Plan. He said the first action includes development of collaborative river restoration projects as a way to improve fish habitat. He said in the second action, stakeholders are challenged to manage water resources in a way that provides adequate water for fish to thrive. He said in the third action, stakeholders are challenged to remove or modify key fish migration barriers. He said the fourth action includes items to enhance shade cover as a way to reduce water temperatures.

Mr. Napolitano discussed revisions staff made to the Basin Plan Amendment since adoption of the Board Resolution in January 2007. He said the revisions were made to address concerns about the environmental analysis conducted to comply with the California Environmental Quality Act. He said the environmental analysis is contained in the Staff Report.

Mr. Napolitano said staff made three revisions to the Basin Plan Amendment. First, he said a mitigation measure to minimize potential impacts to sensitive natural communities was added. Second, he said a performance standard to control potentially significant increases in stormwater runoff from vineyards was added. Third, he said mandatory completion dates in the Amendment were extended two years until 2014 because of delay in the approval process.

Mr. Napolitano said a Supplemental was distributed at today's hearing that included further revisions to the Tentative Resolution and to the Basin Plan Amendment.

Diane Dillon, Supervisor, Napa County Board of Supervisors, spoke in favor of adoption of the Tentative Resolution to adopt the Basin Plan Amendment. She spoke in favor of developing waiver programs for vineyards, grazing lands, rural lands, parks and open space, and municipal public works. She requested local stakeholders be involved in the waiver development process. She requested the Board consider endorsing a streamlined permitting program for restoration projects.

Mr. Muller and Mr. Moore spoke in favor of streamlined permitting.

Mr. Wolfe said streamlined permitting for restoration projects is the goal. He said staff would like to work with stakeholders to make sure applications can be approved.

In reply to comments from Dr. Young, Supervisor Dillon said local staff would be willing to suggest ways to streamline permitting.

Sandra Elles, Executive Director, Napa County Farm Bureau, said members of the Farm Bureau stand ready to work with staff to implement the TMDL. She said members are willing to help develop waivers that include reasonable requirements. She said members would like to see both the fisheries and the agricultural community thrive.

Diane Fleck, United States Environmental Protection Agency, Region IX, spoke in favor of adoption of the Tentative Resolution to adopt the Basin Plan Amendment. She said the Agency commends Board staff for its work.

Laurel Marcus, Executive Director, California Land Stewardship Institute, said the Institute runs the Fish Friendly Farming Environmental Certification Program. She gave an overview of the Program. She said she brought a handout for distribution.

Thomas N. Lippe, Legal Counsel, on behalf of Living Rivers Council, spoke against adoption of the Tentative Resolution. He expressed five concerns. First, he said the TMDL will not achieve water quality standards or protect beneficial uses because mechanisms of impact that interact with sedimentation to cause problems for fish have not been taken into account. Second, he said staff has not conducted an Environmental Impact Report level of analysis under the California Environmental Quality Act of the potential impacts that implementation of the TMDL may have on the environment. Third, he said staff has not described the waiver policy for waste discharge requirements that will be used. Fourth, he objected to using local conservation regulations as a performance standard for surface erosion in new vineyards. Fifth, he said the performance standard for attenuating significant increases in runoff from vineyards was not specific.

Joe Dillon, Water Quality Coordinator, National Marine Fisheries Service, Southwest Region, spoke in favor of adoption of the Tentative Resolution to adopt the Basin Plan Amendment. He spoke in favor of implementation actions in the TMDL.

Tyler York, Political Chair, Napa County Sierra Club, spoke in favor of adoption of the Tentative Resolution to adopt the Basin Plan Amendment. He said further delay would not be beneficial.

Timothy Stevens, Staff Environmental Scientist, California Department of Fish and Game, Bay Delta Region, said the Department was generally in favor of adoption of the Tentative Resolution to adopt the Basin Plan Amendment. He said the TMDL strikes a balance between environmental and economic considerations. He expressed concern about occasional removal of water from streams and asked whether the Board could take steps to address the issue.

Staff spoke in favor of the environmental review of the Basin Plan Amendment that was included in the Staff Report.

Mr. Napolitano said the Basin Plan Amendment acknowledges the existence of local conservation regulations to control surface erosion in vineyards. He said staff added a performance standard to the Amendment to address situations of significant increase of stormwater runoff from vineyards. He said staff is concerned that if water is removed from streams that it does not adversely affect fish. He discussed the impacts of reservoirs, types of sediment, and river restoration on sediment balance issues.

Mr. Napolitano replied to questions from Dr. Young regarding an environmental certification program.

Mr. Moore spoke in favor of adoption of the Tentative Resolution to adopt the Basin Plan Amendment. He said he saw a commitment by residents of the Napa River watershed to address the challenge of bringing back fish populations.

Mr. McGrath commended Mr. Napolitano for his work on the Basin Plan Amendment. He encouraged stakeholders in the Napa River watershed to work collaboratively on restoration.

Mr. Eliahu commended staff for excellent work.

Dr. Young spoke in favor of adoption of the Tentative Resolution to adopt the Basin Plan Amendment. She said she appreciated the fact that the Amendment included quantifiable targets. She discussed in general terms implementation of waivers of waste discharge requirements.

Mr. Muller thanked stakeholders for their comments on the Basin Plan Amendment and Mr. Napolitano and staff for their work on the Amendment.

Mr. Wolfe complimented Napa River watershed stakeholders, Mr. Napolitano, and staff for their efforts.

Mr. Wolfe said there was a Supplemental with revisions to the Tentative Resolution and to the Basin Plan Amendment. He recommended adoption of the Tentative Resolution to Amend the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish a Total Maximum Daily Load (TMDL) for Sediment in the Napa River and an Implementation Plan to Achieve the TMDL and Related Habitat Enhancement Goals.

Motion: It was moved by Dr. Young, seconded by Mr. McGrath, and it was voted to adopt the Tentative Resolution to Amend the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish a Total Maximum Daily Load (TMDL) for Sediment in the Napa River and an Implementation Plan to Achieve the TMDL and Related Habitat Enhancement Goals as supplemented and as recommended by the Executive Officer.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young;  
Mr. Muller

No: None

Motion passed 7 – 0.

The Board took a break at 11:30 a.m. and resumed the meeting at 11:36 a.m.

Item 8 – Demonstration of Updated GeoTracker, the Water Boards Primary Database for Cleanup Sites

Barbara Sieminski gave a PowerPoint presentation. She said GeoTracker is an on-line database system that allows the public to access information about soil and groundwater cleanup sites. She discussed the type of information that may be accessed. She said there is a separate regulators' version of GeoTracker that includes site cleanup information available for staff's use.

The Board went into closed session at 11:50 a.m. At 12:10 p.m., the Board concluded the closed session and the meeting was adjourned.

Item 13 – Adjournment

The meeting was adjourned at 12:10 p.m.