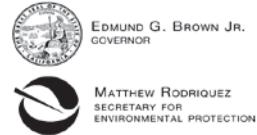




Water Boards



## San Francisco Bay Regional Water Quality Control Board

### May 13, 2015 Board Meeting Draft Minutes for Board Consideration

ADOPTED June 10, 2015

Note: Copies of orders, resolutions, and minutes are posted on the Regional Water Board's website ([www.waterboards.ca.gov/sanfranciscobay](http://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 (415) 457-4417.

#### Item 1 - Roll Call and Introductions

Meeting called to order at 9:04 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Status</u>
Newsha Ajami	Steve Lefkovits	QUORUM
William Kissinger	Margaret Abe-Koga	
John Muller		
Vice-Chair James McGrath		
Chair Terry Young		

State Board Member Tam Doduc updated the Board about drought activities, including adoption of emergency regulations to achieve the Governor's 25% conservation requirement and desalination amendments. She also discussed the State Board's upcoming workshop on water rights issues related to drought response.

Supervising Engineer Terry Seward introduced new Scientific Aids Katrina Kaiser and Tina Ures. Senior Engineer Bill Hurley introduced the San Francisco Estuary Partnership's new Environmental Engineer Christina Toms, who will be assisting on projects in Marin.

#### Item 2 - Public Forum

Renee Silveira, property owner near the former Prosperity Cleaners PCE cleanup site in Marinwood, requested that the Board amend its order on the site to require corrective action sooner. She distributed a map with water and soil sampling data. Bill McNicholas, a Marinwood resident, requested prompt corrective action. Stephen Nestel, a Marinwood resident, expressed concern about contamination levels at the Prosperity Cleaners cleanup site. He requested that the study area include areas to the south of the site. Elizabeth Gelen, a Marinwood resident, discussed a cancer cluster in the Marinwood area. Division Chief Stephen Hill gave the Board a brief update on the status of the site cleanup. He noted that Board staff will be reviewing all recent site data and will evaluate the necessity and feasibility of requiring cleanup plan submittal sooner. Vice-Chair McGrath requested a report back on next steps in the next Executive Officer's Report. Board staff Ralph Lambert answered questions regarding the data

presented to the Board.

Jennifer Strohfus, a Milpitas resident, raised the issue of groundwater beneath the Newby Island and Zanker Road landfills in northern Santa Clara County. She requested that groundwater be sampled beneath the Newby Island landfill. Aihma Zhn, representing the Silicon Valley Odor Group, discussed groundwater quality concerns. Executive Officer Bruce Wolfe stated that staff will review the files and monitoring data on these landfills and report back to the Board.

Len Materman, Executive Director of the San Francisquito Creek Joint Powers Authority (JPA), expressed his thanks to the Board that he received water quality certification for the JPA's flood control project on April 7. However, he noted that there are four items of concern to the JPA in the certification: 1) a requirement to remove an abandoned gas pipeline beneath the creek that will be costly to implement; 2) general concern that 19 of the certification's 35 conditions require further approval by the Executive Officer; 3) the requirement to submit a review of the project's operation and maintenance every 5 years without an end date; and 4) the need to revise information previously submitted by the JPA on project impacts and required mitigation. He requested that the Board direct Mr. Wolfe to work with the JPA to address these concerns and place the item on the June 10 Board Meeting Agenda. Mr. Wolfe noted that there are still five agencies reviewing the JPA's project, and he recommended waiting until the other agencies finish their reviews so that all appropriate amendments to the certification can be made at once. Mr. Wolfe also agreed to draft a letter in response to the JPA's May 7 correspondence. Board Member Kissinger asked for more detail on the issue of removing the gas pipeline. Chair Young noted that she did not support adding this item to the June Board meeting, but she welcomed an update in the June Executive Officer's Report.

### **Item 3 - Minutes of the April 8, 2015 Board Meeting**

Mr. Wolfe recommended adoption of the Minutes from April 8, 2015, Board Meeting.

Vice Chair McGrath moved for adoption of the Minutes; Board Member Kissinger seconded the motion.

Ayes: Ajami, Kissinger, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

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

Board Member Kissinger reported on a San Francisco Bay Joint Venture-led May 7 tour of wetland restoration projects in San Francisco he took with the Executive Officer. Vice Chair McGrath reported on four meetings: a May 5 technical workshop on policies pertaining to a rising Bay, and three meetings to look at ways to fund maintenance of stormwater facilities that would also manage trash. Board Member Muller discussed a coordination meeting that he and Chair Young attended with Region 1 Board Members and staff on the vineyard regulatory program. He also discussed attending the Lehigh settlement press event on April 29. Chair Young also discussed the vineyard meeting with Region 1. She reported on the April 20 Board Chairs'

meeting and the presentation she made at the meeting on the water quality issues related to homelessness. She noted that State Board is working on regulations pertaining to direct potable reuse of recycled water.

Mr. Wolfe gave an overview of this month's Executive Officer's Report. He discussed the Lehigh settlement announced at the April 29 media event and noted that the Board is involved in many aspects of the Lehigh facility in Cupertino. He also discussed the ground-breaking ceremony for the Oro Loma Ecotone Demonstration Project on April 9 and local efforts to address water supply and drought-related issues. He noted that the tentative order for reissuance of the Municipal Regional Stormwater Permit is available for public comment and described the trash workshop scheduled for the July Board Meeting and that other components of the tentative order will be subject of a workshop to be held at the June Board Meeting. Board Member Ajami asked about recycled water usage in small communities and water supply issues.

RECESS at 10:47 a.m.; RECONVENE at 10:59 a.m.

#### **Consideration of Uncontested Items**

**Item 5A – East Bay Municipal Utility District, Special District No. 1 Main Wastewater Treatment Plant and Interceptor Conveyance System, Oakland, Alameda County** – Reissuance of NPDES Permit

**Item 5B – Tomales Village Community Services District, Tomales Village Community Services District Wastewater Treatment Plant, Tomales, Marin County** – Update of Waste Discharge Requirements

**Item 5C – Projects under the Voluntary Habitat Restoration Program administered by Alameda County Resource Conservation District, Alameda County** – Issuance of General Waste Discharge Requirements

Mr. Wolfe recommended adoption of items 5A, 5B (as supplemented), and 5C.

Vice Chair McGrath moved for adoption of items 5A, 5B and 5C; Board Member Ajami seconded the motion.

Ayes: Kissinger, Ajami, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

#### **NPDES Permit**

**Item 6 – Las Gallinas Valley Sanitary District, Sewage Treatment Plant and Wastewater Collection System, San Rafael, Marin County** – Reissuance of NPDES Permit and Rescission of Cease and Desist Order

Staff Engineer Marcia Liao gave the presentation to the Board. She first gave a brief introduction on the Board's toxicity testing program and then gave an overview of the facility, permit

requirements, comments received, and response to comments. Board Member Kissinger asked about toxicity units and the differences in acute versus chronic toxicity tests. Division Chief Lila Tang explained that there are no units used for acute toxicity, only chronic. Assistant Executive Officer Tom Mumley described the Basin Plan as the Board's regulatory foundation for toxicity testing.

Chair Young asked for clarification on the State Board's stance on narrative versus numeric toxicity limits. Legal Counsel Yuri Won provided background on this issue. Board Member Kissinger asked about the differences in the discharger's suggested effluent limits versus staff's recommendation. Board Member McGrath asked about the statistical approach referred to in the derivation of the limits. Section Leader Bill Johnson described staff's approach for deriving the limits. Board Member Kissinger asked about the consequences of exceeding a limit. Ms. Tang described enforcement consequences. Mr. Mumley explained why, given the history of toxicity violations, this permit requires a limit. Vice Chair McGrath asked about receiving water considerations. Board Member Kissinger asked about how much certainty there is in the identification of pyrethroids as the source of the toxicity.

Robyn Stuber, representing U.S. EPA, testified in support of the proposed permit. Board Member Kissinger asked about toxicity limits in permits nationwide. Ms. Stuber stated that the Water Board is behind the rest of the nation in regard to these limits. Board members asked additional clarifying questions.

Mr. Wolfe summarized the discussion, noted the reopen if State Board policy comes into effect, and recommended adoption of Item 6 as supplemented. Vice Chair McGrath described his rationale for supporting staff's recommendation. Ms. Tang proposed alternative language that the Board discussed and that Ms. Won advised against. Board members asked a number of questions regarding enforcement discretion. Mr. Wolfe reiterated his recommendation to adopt Item 6 as supplemented.

Vice Chair McGrath moved for adoption of Item 6; Board Member Ajami seconded the motion.

Ayes: Kissinger, Ajami, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

RECESS at 1:11 p.m.; RECONVENE at 1:52 p.m.

### **Waste Discharge Requirements**

#### **Item 7 – U.S. Army Corps of Engineers, San Francisco District – Certification of Environmental Impact Report for 2015-2019 Maintenance Dredging Program**

Staff Engineer Elizabeth Christian gave a combined presentation to the Board on items 7 and 8. Vice Chair McGrath disclosed that he has not directly worked with the Army Corps of Engineers for over 10 years, has not discussed the item as part of his Bay Conservation and Development

Commission responsibilities, and noted he can act in a fair and balanced manner to consider items 7 and 8. Chair Young asked if anyone in the audience had any objections to Vice Chair McGrath's participation. No one responded. Lieutenant Colonel Czekanski, representing the Army Corps gave a presentation to the Board describing dredging practices and consequences associated with the Board adopting the permit as proposed. He put forth recommendations that would allow for more flexibility in dredging operations. Board Member Ajami asked about the differences in cost between hopper and clamshell dredging. Jessica Burton Evans, the Army Corps' Navigation Program Manager, described dredging practices and constraints. Division Chief Naomi Feger asked Lieutenant Colonel Czekanski to talk about the Army Corps dredging plans for 2015. Ms. Burton Evans clarified available funds and discussed the appropriations process. Chair Young asked for clarification in regard to State versus federally-listed species.

George Torgun, representing San Francisco Baykeeper, summarized their written comments. Chair Young asked for clarification regarding Baykeeper's desire to have the Board reevaluate the no project alternative. John Rosenfield, representing the Bay Institute, read a letter into the record, clarifying risks to listed species. Vice Chair McGrath asked for clarification on work windows. Jim Haussener, CMANC Executive Director, discussed timing needs for dredging and dredging costs. He requested that the Board consider recognizing the addition of sediment back into the Bay as a beneficial reuse.

Vice Chair McGrath summarized his thoughts on the issues. He described the Sonoma Baylands project. He asked for further clarification on work windows. Mr. Wolfe summarized the comments and recommended adoption of Item 7. He noted that the supplemental includes Baykeeper's comments and that staff's responses to these comments were part of the staff presentation.

Board Member Muller moved for adoption of Item 7; Board Member Ajami seconded the motion.

Ayes: Kissinger, Ajami, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

**Item 8 – U.S. Army Corps of Engineers, San Francisco District – Adoption of Reissued Waste Discharge Requirements and CWA Section 401 Certification for 2015-2019 Maintenance Dredging Program**

See Item 7.

Mr. Wolfe recommended adoption of Item 8.

Vice Chair McGrath moved for adoption of Item 8; Board Member Ajami seconded the motion.

Chair Young expressed grave concern for the longfin and delta smelt and noted her assumption

that the Army Corps will be working hard to secure the funds necessary to comply with the Board's requirements. She further noted the importance of continuing to study the sediment budget and sediment dynamics of the Bay.

Ayes: Kissinger, Ajami, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

#### **Other Business**

#### **Item 9 –Actions to Address the Adverse Water Quality Impacts of Homeless Encampments – Adoption of Resolution**

Division Chief Keith Lichten read into the record notes submitted by Maura Mooney representing Save the Bay. Vice Chair McGrath noted appreciation for the Chair in guiding this effort. He further noted his recognition of the City of Oakland's letter and the City's ongoing efforts. Board Member Kissinger asked about driving forces behind the resolution. Chair Young noted that we are putting everyone on notice about the water pollution aspects of the problem. Board members further discussed the problem and asked clarifying questions.

Vice Chair McGrath moved for adoption of Item 9; Board Member Kissinger seconded the motion.

Ayes: Kissinger, Ajami, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

#### **Item 12 - Adjournment**

Meeting adjourned at 3:49 p.m. until the next Board Meeting – June 10, 2015