



San Francisco Bay Regional Water Quality Control Board

**January 13, 2016 Board Meeting
Draft Minutes for Board Consideration**

ADOPTED February 10, 2016

Note: Copies of orders, resolutions, and minutes are posted on the Regional Water Board’s website (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>
Cecilia Ogbu		QUORUM
Steve Lefkovits (arrived at 9:08)		
Newsha Ajami (left at 11:09)		
William Kissinger		
John Muller		
Vice-Chair James McGrath		
Chair Terry Young		

Chair Young presented Assistant Executive Officer Dyan Whyte with a 25-year State service award.

State Board Member Tam Doduc acknowledged Assistant Executive Officer Tom Mumley’s contribution in helping develop the Stormwater Strategy Initiative recently adopted by the State Board. She discussed the need to keep the public focused on continuing water conservation efforts in light of the winter storms. She updated the Board about significant permits that the State Board will be considering in the coming year.

Item 2 – Election of Chair and Vice-Chair

Board Member Muller conducted the election. Board members Muller and Kissinger nominated Board Member Young for Chair. Board Member Muller praised Board Member Young’s leadership and work as Chair. Board Member Muller nominated Board Member McGrath for Vice Chair. Board Member Muller called for a vote for Board Member Young to continue as Chair and Board Member McGrath to continue as Vice Chair.

Ayes: Ogbu, Lefkovits, Ajami, Kissinger, Muller, McGrath, Young

Nos: none

RESULT: Board Member Young Elected Chair And Board Member McGrath Vice Chair

Item 3 – Public Forum

No parties requested to speak.

Item 4 - Minutes of the November 18-19 and December 16, 2015 Board Meetings

Board staff distributed a supplemental that identified minor changes to the November Board Meeting Minutes. Executive Officer Bruce Wolfe recommended adoption of the minutes, as supplemented, from the November 18-19, 2015, Board Meeting and the minutes from the December 16, 2015, Board Meeting.

Vice Chair McGrath moved for adoption of the November Minutes, as supplemented, and the December Minutes; Board Member Kissinger seconded the motion.

Ayes: Ogbu, Lefkovits, Ajami, Kissinger, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

Item 5 - Chairman's, Board Members', and Executive Officer's Reports

Board Member Ajami discussed her trip to the White House in December where she participated in discussions about ways to promote innovation in the water sector. She also discussed a recent two-day meeting hosted by the National Science Foundation's Re-Inventing the Nation's Urban Water Infrastructure (ReNEWIt) Program, housed at Stanford and UC Berkeley, where there was a lot of discussion about stormwater capture and emerging technologies in the water field.

Vice Chair McGrath discussed the Bay Conservation and Development Commission's intention to begin using their meetings to serve as workshop forums for broad ranging discussion on climate change. Chair Young noted that the Board has an opening for a non-voting position on the Association of Bay Area Governments (ABAG) Executive Board. Vice-Chair McGrath further noted the importance of ABAG and issues currently being considered.

Mr. Wolfe gave an overview of this month's Executive Officer's Report. He described the mission of ReNEWIt and some of the projects the program is involved in. He highlighted his approval of Santa Clara County's policy for regulating Onsite Wastewater Treatment Systems. He briefly discussed the Point Buckler Club litigation and noted that this is an issue that will be back before the Board and that staff have separated functions on this matter. He described the San Francisco Bay Restoration Authority's property tax measure, the San Francisco Bay Clean Water, Pollution Prevention, and Habitat Restoration Measure, which will likely be on the ballot in all nine counties in June. Board Member Ajami asked clarifying questions about the type of projects that could be funded. Vice Chair McGrath asked for clarification about the water effects ratios project listed in State Board policies table. Assistant Executive Officer Mumley responded. Chair Young asked about California Land Reuse and Revitalization Act (CLRRRA) agreements. Division Chief Stephen Hill provided examples of the type of risk management measures implemented under CLRRRA agreements. Vice Chair Young suggested it would be useful to have a discussion of risk factors and how they are calculated before the Board later this year.

Consideration of Uncontested Items

Item 6A – City of St. Helena, City of St. Helena Wastewater Treatment and Reclamation Plant and Wastewater Collection System, St. Helena, Napa County — Reissuance of NPDES Permit

Item 6B – City of St. Helena, City of St. Helena Wastewater Treatment and Reclamation Plant, St. Helena, Napa County — Adoption of Cease and Desist Order

Mr. Wolfe recommended adoption of items 6A and 6B.

Board Member Ajami moved for adoption of items 6A and 6B; Board Member Ogbu seconded the motion.

Ayes: Ogbu, Lefkovits, Ajami, Kissinger, Muller, McGrath, Young

Nos: none

ITEMS ADOPTED

BREAK at 10:11 a.m.; RECONVENED at 10:22 a.m.

Enforcement

Item 7 – Mr. Frank Hamedi, former Velcon II Property, 1761 Junction Avenue, San Jose, Santa Clara County — Imposition of Administrative Civil Liability

Chair Young described the hearing procedures. Water Board Advisory Team Legal Counsel David Coupe requested that the Chair admit into the record the recently recorded deed restriction for the site. Chair Young agreed to allow this into evidence. Assistant Executive Officer Dyan Whyte introduced the Water Board Prosecution Team: herself, Legal Counsel Paul Ciccarelli, Enforcement Section Leader Brian Thompson, Toxics Division Chief Stephen Hill, Staff Engineer David Barr, and Staff Engineering Geologist Jack Gregg.

Dr. Gregg gave the presentation to the Board, describing the site history, Mr. Frank Hamedi's violation of the Board's 2001 Final Site Cleanup Requirement Order, and the basis for the proposed administrative civil liability contained in the Tentative Order before the Board.

Board Member Kissinger asked about the amount of staff time spent over the last 15 years getting to where we are today. He also asked about the history of compliance with the 2001 order from its adoption to 2011. Vice Chair McGrath asked whether the deed restriction distributed this morning complies with the 2001 order. Chair Young asked questions clarifying how the days of violation were calculated.

Mr. Jack Chevlen, attorney for Mr. Hamedi, requested the opportunity to cross examine Prosecution Team staff. Mr. Chevlen asked Dr. Gregg a number of questions about the evidence submitted by the Prosecution Team. Mr. Chevlen asked Ms. Whyte a number of questions about the Board's policies and procedures in regard to naming responsible parties.

Mr. Chevlen called the property owner, Mr. Hamedi, as his witness. Mr. Hamedi answered a

number of questions about the history of the property and conversations with Board staff regarding the deed restriction. Mr. Hamedi stated that he did not have the resources to pay the proposed civil liability. Vice Chair McGrath asked a number of questions about Mr. Hamedi's professional work and knowledge of the site.

Mr. Chevlen presented closing remarks. Board Member Kissinger asked clarifying questions. The Prosecution Team presented closing remarks: Mr. Thompson summarized staff's recent efforts to achieve compliance, Mr. Ciccarelli summarized the legal issues, and Ms. Whyte concluded the presentation. Board members asked Mr. Coupe a number of clarifying questions.

CLOSED SESSION at 12:10 p.m.; RECONVENED at 12:33 p.m.

The Advisory Team distributed a supplemental revising the Tentative Order to match wording in the Water Code and clarify citations. Mr. Wolfe summarized the arguments presented from both parties. He highlighted that the issue before the Board is whether the penalty is appropriate. He stated that contrary to the points raised by Mr. Chevlen and Mr. Hamedi, there is a clear water quality impact associated with Mr. Hamedi's violation of the 2001 order due to all the staff resources diverted to work on this enforcement case. He recommended adoption of the Tentative Order, as revised in the supplemental, with no change to the proposed penalty.

Vice Chair McGrath noted that the delay has cost the State far more than the penalty proposed. He summarized the issues pertaining to the deed restriction. He noted that he accepted the argument that Mr. Hamedi had been given ample opportunity to submit ability to pay documentation. Board Member Kissinger added that, based on the three years he has been on the Board, this hearing was unnecessary. Chair Young noted that the summary on pages 2-4 was very telling as to the number of times Board staff tried to get Mr. Hamedi to comply. She noted the long history of non-compliance and that the Prosecution Team had been lenient.

Vice Chair McGrath moved for adoption of the Tentative Order, as supplemented; Board Member Ogbu seconded the motion.

Ayes: Ogbu, Lefkovits, Kissinger, Muller, McGrath, Young

Nos: none

ITEM ADOPTED

Other Business

Item 8 –Freshwater Harmful Algal Blooms in California and the Bay Area, and Development of a Statewide Strategy by SWAMP – Status Report

Staff Scientist Karen Taberski gave the presentation to the Board. She described harmful algal blooms (HABs) and their impacts, State hot spots that have recurrent toxic blooms, local blooms and their toxicity, the forthcoming statewide strategy for addressing HABs, and next steps.

Board Member Kissinger asked about the causes of HABs. Ms. Taberski discussed the implications of increasing temperatures and climate change. Board Member Lefkovits asked

about chemical treatments. Ms. Taberski discussed the implications for nutrient controls. Vice Chair McGrath recognized Ms. Taberski's contribution to the work of the Board. Board Member Lefkovits asked if there's anything we should be doing to address HABs. Ms. Taberski noted the forthcoming workshop on HABs Board staff is planned and the upcoming release of the statewide strategy.

Matt Graul, Chief of Stewardship, East Bay Regional Park District, discussed the District's program for responding to HABs. He described the pilot treatment system they will be testing at Lake Temescal and noted that they will be installing an aeration system in Lake Anza. Board members asked clarifying questions.

This item was for informational/discussion purposes and no action was taken.

Item 12 - Adjournment

Meeting adjourned at 1:22p.m. until the next Board Meeting – February 10, 2016