

October 12, 2022 Board Meeting
Adopted Minutes

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 (510) 313-0610.

Note: **Bold text** in paragraphs for each item represent topics Board members focused on and were discussed more extensively than others.

Item 1 – Roll Call and Introductions

Meeting called to order at 9:02 a.m. at Elihu H. Harris Building, First Floor Auditorium.

Board Members Present	Board Members Absent	Status
Chair Jayne Battey		QUORUM
Vice-Chair Alexis Strauss-Hacker		
William Kissinger (arrived at 9:11)		
Dr. Andrew Gunther		
Donald Young (arrived at 9:08)		
Letty Belin		

New Staff Introductions

The following new staff joined the SF Bay Water Board team and were introduced. First, Division Manager Xavier Fernandez introduced D’Andre Alejandro, a graduate student intern, who joined the Planning Division. Then Section Leader Nathan King introduced Senior Engineering Geologist Amelia Perry who joined the Groundwater Protection Division, followed by Section Leader Laurie Taul who introduced Scientific Aide Luigi Zialcita who joined the Planning Division. Finally, Division Manager Keith Lichten introduced Environmental Scientist Holly Garber and Scientific Aide Alicia Pisani who joined the Watershed Management Division.

Item 2 – Public Forum

Bill McNicholas, Clean Up Marinwood Plaza Oversight Committee, stated that the discharger has delayed cleanup by not paying bills. He complained that no punishment has occurred. Executive Officer Eileen White stated that there is a detailed status update in the Executive Officer’s Report and that we don’t talk about pending enforcement in the Board Meeting.

Stephen Nestel, Clean Up Marinwood Plaza Oversight Committee, said they are before the Board to try and get the site cleaned up. He said he thinks the responsible party should post a performance bond with a date to achieve compliance because they are

avoiding and delaying cleanup. He said the Board should use police power to make them cleanup.

Josh Quigley, Save the Bay, said he is raising the issue of CalTrans' non-compliance with trash control requirements. He explained in detail which requirements remain unmet and said that the methods CalTrans is implementing are inadequate. He also complained that the Board is holding municipalities accountable to control trash but not CalTrans. Executive Officer White reminded the Board that staff is reviewing a recent report from CalTrans, as well as inspecting field conditions, and will decide whether CalTrans trash control is adequate and compliant. Staff will present findings at the December Board Meeting.

Item 3 – 2022 Dr. Teng-Chung Wu Pollution Prevention Award

Executive Officer White introduced the item and Environmental Scientist Alessandra Moyer made the presentation. Jen Jackson and Tyrone Jue from the SF Environment Department accepted the award, thanked their staff, other agencies that collaborated with them, and shared resources for individuals or agencies to reduce PFAS in the environment.

Item 4 – Minutes of the of September 14, 2021, Board Meeting

Chair Battey asked for a motion to approve the minutes.

Motion: Board Member Gunther

Second: Board Member Kissinger

Ayes: all

Nos: none

Item 5 – Chair's, Board Members' and executive Officer's Reports

Chair Battey asked for reports from each of the Board Members, starting with Sean Maguire, who is the State Water Board Liaison for the SF Bay Region.

State Water Board Liaison Maguire shared that this is a year of anniversaries- 50th anniversary of the Clean Water Act, where California was a leader, 10th anniversary of the Human Right to Water. He said we have come along way and have a long way yet to go to provide clean and safe drinking water for all Californians. He also mentioned the upcoming Water Quality Coordinating Meeting for all Board Members, which will focus on accelerating responses to climate change.

Vice Chair Hacker said she heard that some states have changed their definition of "disadvantaged community" related to infrastructure funds, and wonders if California changed their definition to be consistent with new definition from the United States Environmental Protection Agency. State Water Board Liaison Maguire said he assumes so but will have to check.

Chair Battey asked for a drought update. State Water Board Liaison Maguire said we anticipate another dry year, and we don't really know so we have to continue to be prepared.

Board Member Gunther mentioned that Julie Beagle presented the United States Army Corps of Engineers' Strategic Placement Project, at a recent Bay Conservation and Development Commission (BCDC) meeting. He said he knows our staff has been supportive of this and we need to stay involved. He expressed concern that only one round of piloting planned, in the Spring, in the South Bay. He thinks we need multiple tries. He also mentioned that he has heard about advanced technology to harness geothermal power as a climate action, "fracking to the rescue." He said that we have learned from technology advances from fracking rock.

Chair Battey mentioned her tours with Santa Cruz Mountain Network and said she toured Pescadero and Butano Creek Watersheds recently. She said what struck her during the tour was the collaborative nature of the watershed work amongst government agencies, nonprofits, and landowners.

Executive Officer White mentioned the Crockett Wastewater Treatment Plant (WWTP) operational problems that resulted in odors in the community, which smelled like rotten eggs from hydrogen sulfide. She said the WWTP lost power last week and had another hydrogen sulfide release. She said the Bay Area Air Quality Management District issued a notice of violation. The WWTP staff are addressing the problem. Water Board staff inspected the facility for proper operation and observed episodic odors. She mentioned there will be a public meeting on Thursday evening to hear from regulatory agencies and conditions in the community. Board Member Kissinger asked if there was any untreated wastewater released. Executive Officer White said that staff are waiting for analytical reports to indicate if any water quality violations occurred.

Executive Officer White made a presentation to acknowledge staff efforts to cleanup Arroyo Viejo Creek as part of Creek Cleanup Day, inspired by Environmental Scientist Kristina Yoshida and organized by Water Resources Control Engineer Samantha Harper.

Chair Battey asked if any Board members had any questions about items in the Executive Officer Report. Board Member Kissinger asked about the content of the report we are waiting on that will describe cleanup progress for Marinwood Plaza. Toxics Cleanup Division Manager Alec Naugle explained that we have photos and verbal information that the soil excavation occurred, but we do not have evidence of what extent of contamination was addressed, which is why we sent a Notice of Violation for failure to submit that report. Board Member Kissinger and Vice Chair Hacker indicated that they expect a strong response by the Board, and soon, such as by December, if the parties do not quickly come back into compliance and continue cleanup.

Board Member Gunther stated that he received an email from President of Save Our Seashore rebutting the Executive Officer Report on Point Reyes bacteria. He said he

wanted to note challenges with sampling and monitoring while encouraging citizen's science and asked if staff can distribute information for members of public to learn how to contribute data and information that is valid. Executive Officer White said she will look into that. Chair Battey asked for an update on the Point Reyes Bacteria status sometime this winter. She also amplified the section in the Executive Officer Report about the effectiveness and improvements in San Francisco Bay and other rivers as a result of the Clean Water Act.

Item 6 – Consideration of Uncontested Items

6A. City of Pacifica, Calera Creek Water Recycling Plant, Pacifica, San Mateo County – Reissuance of NPDES Permit – Kerry O'Connor

Executive Officer White introduced the items.

Chair Battey asked for a motion to approve Item 6.A.

Motion: Vice Chair Hacker

Second: Board Member Gunther

Ayes: all

Nos: none

6B. East Bay Regional Park District, Union sanitary District and East Bay Dischargers Authority, Hayward Marsh, Hayward, Alameda County – Recission of NPDES – James Parrish

Board Member Kissinger asked where the treated water went before it went to the marsh and was there tidal action there. NPDES Division Manager Bill Johnson explained that the treated water is diverted from the existing deep-water outfall to the Bay, how the wetland and ponds operates, and improvements for treatment and the tidal influence.

Chair Battey asked for a motion to approve Item 6.B.

Motion: Board Member Gunther

Second: Vice Chair Hacker

Ayes: all

Nos: none

Item 7 – Long-term Flood Protection Considerations at 16 Closed and Operating Municipal Solid Waste Bayfront Landfills – General Amendment to Waste Discharge Requirements – Alyx Karpowicz

Executive Officer White introduced the item. Environmental Geologist Alyx Karpowicz made the staff presentation.

Julia Dowell, San Francisco Baykeeper, introduced herself and said Baykeeper is part of The San Francisco Bay Shoreline Contamination Cleanup Coalition. She said she supports and is glad that public participation will be implemented as part of the program, and that the requirement for adaptation plans matches the current sea level rise projections. She also said she hopes to see more orders like this that address sea level and groundwater rise impacts on contamination.

Environmental Geologist Karpowicz responded that staff provided an extended public comment period on the Order and based the requirements on the latest Ocean Protection Council (OPC) guidance. Assistant Executive Officer Lisa Horowitz McCann added that staff can also facilitate opportunities for community members to engage with the landfill owners and operators as they comply with the requirements.

Board Member Gunther asked if the Order asks permittees to consider scenarios recommended by the OPC council and if we will have to update the requirements when OPC updates their guidance. Environmental Geologist Karpowicz responded that's already built into the Order. Vice Chair Hacker said she liked the suggestion in comments to update our website with the landfills, requirements and schedules for additional planning. Board Member Kissinger asked about the workload to establish the plans and acknowledged that the Order requires a long-term planning effort. Chair Battey asked if we have adequate regulatory authority for this and other facilities. Assistant Executive Officer Horowitz McCann responded that we do have regulatory authority and Attorney Teresita Sablan concurred.

Sally Tobin retired developmental biologist, Citizens for East Shore Parks representative to the SF Bay Shoreline Contamination Cleanup Coalition, said she is concerned about underestimating sea level rise. She referred the Board to the provisions referenced in the comment letter submitted by the Coalition. She highlighted that capping is not effective without complete containment so requested a review of all bayfront facilities and the remedies proposed that are under Water Board jurisdiction. She also asked for more public engagement and for staff to make easy to understand information available.

Chair Battey asked for a motion. Vice Chair Hacker moved to approve the item with changes in the errata sheet.

Motion: Vice Chair Hacker

Second: Board Member Kissinger

Ayes: all

Nos: none

Item 8 – Informational Item – Shoreline Adaptation Regional Planning – Update on Partnerships and Financing – Bay Adapt Joint Platform and Bay Area Regional Collaborative Work Plan

Executive Officer White introduced the item. Assistant Executive Officer McCann, BCDC Planning Director Jessica Fain and Bay Area Regional Collaborative (BARC) Executive Director Allison Brooks made the presentation.

Kelly Abreu commented that there are several specific projects happening around the Bay, such as nitrogen removal and using freshwater and salt marshes for treatment, and we should coordinate these projects.

Vice Chair Hacker said one of our challenges is reaching working people, non-English speakers, and asked how we will do effective community engagement given attention on equity. BCDC Planning Director Fain said that they are doing alternative communication and coordination to reach this broader group of community members. BARC Executive Director Brooks mentioned resourcing, paying community partners to participate and get involved early in planning processes.

Board Member Gunther encouraged the regional and sub-regional planning even in the face of uncertainty about what level to plan, and the need to be bold and flexible, and suggested pushing on non-traditional collaborations. He asked if OLU, Operational Landscape Units (OLUs), would be a good planning level. BCDC Planning Director Fain said they can be, there are a lot, and they cross traditional jurisdictions such as counties. Assistant Executive Officer Horowitz McCann pointed out that the Water Board has the authority to issue permits based on OLUs, like existing watershed permits if science and regulatory context supports that. Board Member Gunther also mentioned the need to get funding for planning and projects from infrastructure bills and funding and other sources.

Item 9 – Closed Session – The Board did not meet in closed session.

Item 10 – Adjournment 12:09