

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

MEETING DATE: December 14, 2022

ITEM: 3

SUBJECT: Minutes for the November 9, 2022, Board Meeting

November 9, 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 9:05 a.m. at Elihu H. Harris Building, First Floor Auditorium.

| Board Members Present | Board Members Absent | Status |
|----------------------------------|-----------------------------|---------------|
| Chair Jayne Battey | William Kissinger | QUORUM |
| Vice-Chair Alexis Strauss-Hacker | | |
| Dr. Andrew Gunther | | |
| Donald Young | | |
| Letty Belin | | |

New Staff Introductions

Executive Officer Eileen White introduced Section Leader John Wolfenden who introduced Jeff Gunderson, a new Engineering Geologist in the Toxics Cleanup Division. In addition, she introduced Division Manager Anna Torres who introduced our new Information Technology staff person, Karen Gon. And finally, Executive Officer White, introduced Division Manager Jessica Watkins who announced the promotion of Engineering Geologist Celina Hernandez to Section Leader in the Groundwater Protection Division.

Item 2 – Public Forum

Josh Quigley, Save the Bay, commented that Caltrans is still not meeting trash reduction benchmarks. He said he is concerned with assessment methods, full trash capture devices, and use of funds for trash controls. He also said he is pleased with Caltrans' new approach to how trash capture projects are funded. He noted Save the Bay looks forward to an update on Caltrans performance at the December Water Board Meeting. Executive Officer White said staff is meeting with Save the Bay tomorrow and reviewing the Caltrans report and looks forward to bringing the status of Caltrans work to the Board in December.

Bill McNicholas, Clean-up Marinwood Plaza Now Oversight Committee, commented that it is two months past issuance of the letter to responsible parties stating a violation for not submitting reports. He said he is aware of a meeting with Supervisor Connelly

and Supervisor-elect Sackett at which the discharger said they don't have money and he doesn't believe this is the case. He said nothing is happening and he recently heard that the property owner wants to put housing in that location, which will be exempt from environmental review even with contamination still measured. He asked what the staff is going to do to enforce this.

Stephen Nestel, Clean-up Marinwood Plaza Now Oversight Committee, said he wanted to add that the Board should do everything they can to get the site cleaned up and it is disappointing that the Board seems to be fine with the status and pace of cleanup. He claimed that the responsible party is not serious about cleanup and is playing games with finances.

Chair Battey said she can assure community members that staff and Board take these cleanups seriously and they can take a long time but staff is on it.

Executive Officer White said that important cleanup progress has been made and we are committed to protecting the community and looking at potential enforcement options that we have.

Item 3 – Minutes of the October 12, 2022, Board Meeting

Chair Battey asked for a motion to approve the minutes.

Motion: Board Member Belin

Second: Board Member Young

Ayes: all

Nos: none

Item 4 – Chair's, Board Members', and Executive Officer's Reports

Chair Battey asked for reports from each of the Board Members.

Board Member Gunther reported that he, Vice Chair Hacker, and Jay Davis of San Francisco Estuary Institute, prepared an op-ed on water quality in the Bay on the anniversary of the Clean Water Act, in context of this past summer's algal bloom; the op-ed has not been published but is a good reminder of what we need to do moving forward. He reinforced the need to address climate change as fast as possible due to rising temperatures. He cited the inequity of energy use across developing and developed countries. He said that the Bay Conservation and Development Commission (BCDC) formed a sediment and beneficial reuse workgroup of commissioners per their USEPA-funded project to bring more soil to the edge of the bay and into wetland restoration efforts. He said he will be chair and will also work closely with San Francisco Bay Regional Water Board (SF Bay Water Board) staff, including Planning Division Manager Xavier Fernandez.

Chair Battey reported that all the SF Bay Water Board members attended the Water Quality Coordinating Council (WQCC) in Sacramento. She said drought and climate change were the main topics and it was good to know that many of the challenges we

face in our region are similar to challenges in other regions. Vice Chair Hacker observed that the Executive Officers form a cohort of leadership for Board business, external and internal. She also said there is a forecasting need to permit many upcoming large projects and a need to do so efficiently. Chair Battey mentioned that the chairs of all the Regional Water Boards meet monthly and there is interest in Board members having more coordinating meetings each year.

Executive Officer White said it was a pleasure to have such a committed Board and appreciated that all the SF Bay Water Board members attended the WQCC. She highlighted the Executive Officer's Report Items including the problems with odors discharged from the Crockett Wastewater Treatment Plant and the value of the public meeting held in response. She said the plant resolved the odor problems and is working on plant operational improvements. She also noted that the experience highlights staff's responsiveness and the need for SF Bay Water Board staff to continue to use our permitting authority to protect water quality.

Executive Officer White then presented the Superior Accomplishment Award to Section Leader Kevin Lunde. She said that Section Leader Lunde received the award in recognition of his achievement, effectively coordinating and negotiating an increase in beneficial reuse of sediment and in-bay disposal of sediment generated from dredging by the US Army Corps of Engineers. She said he did this with concurrence and approval by the US EPA and BCDC (over and above doing his regular job duties). Board members congratulated Section Leader Lunde, commented on the significance of this change and improvement, and asked for a report back to the SF Bay Water Board on how the project and annual dredging activities turn out, both to satisfy Board member interest and to inform the public.

Board Member Gunther complimented the effort to evaluate the extensive data set associated with identifying impaired waters.

Item 5 – Consideration of Uncontested Items

Gonsalves & Santucci, Inc., Conco Industrial Subdivision Project, Unincorporated Contra Costa County – Issuance of Waste Discharge Requirements (WDRs) Katie Hart

Executive Officer White introduced the item.

Vice Chair Hacker commented that the final order needs an address correction in the draft deed restriction document before it is finalized. (Attachment 1, Article VII)

Chair Battey asked for a motion to approve the item.

Motion: Vice Chair Hacker

Second: Board Member Gunther

Ayes: all

Nos: none

Item 6 – Martinez Refining Company LLC, Martinez Refining Company, Martinez, Contra Costa County – Reissuance of NPDES Permit, Gaurav Mittal

Executive Officer White introduced the item and Guarav Mittal made the presentation.

Board Member Gunther asked if the reductions in selenium noted by staff member Mittal were expected. Assistant Executive Officer Thomas Mumley said the reductions were expected in response to refinery permit adjustments prior to developing the Total Maximum Daily Load (TMDL) and that the TMDL then recognized sufficient load reductions from those facilities. Board Member Gunther asked about the differences in bioavailability or toxicity in the refinery discharges versus selenium entering the Bay from the Delta. Assistant Executive Officer Mumley and Section Leader Robert Schlipf explained that the refinery selenium is in the selenite form which is more bioavailable. They explained that the permit reductions achieved load reduction and reduction of more problematic forms of selenium. Vice Chair Hacker asked about the function of the sand filters and staff responded that the requirement is to ensure refineries manage proper functionality of treatment systems.

Ian Wren, Baykeeper, commented that refinery discharges of selenium continue to cause adverse biological impacts and the permit documents do not acknowledge this issue. He provided reference to studies and observations of large numbers of dead fish during the summer algal bloom. He said it is irresponsible to wait for USEPA to establish new criteria. He is disappointed that the SF Bay Water Board has let this issue go on this long and does not think the controls in this permit are adequate; he urged the Board to reject the permit.

Michael Marlow, Martinez Refinery Company, stated that the company is working collaboratively with regulatory agencies for all permits needed for the facility. Once the permits are in place, selenium reduction will be addressed.

Board Member Gunther asked if additional permits for refineries will always have enhanced requirements for selenium control. Division Manager Bill Johnson said each refinery will be addressed individually based on their selenium loads and unique situations. The Martinez refinery had a high load of selenium which is the basis for the enhanced requirements. Assistant Executive Officer Mumley reminded Board members that two out of five refineries are converting to biofuel processing, so we anticipate reduced selenium load to the Bay in the future.

Vice Chair Hacker asked what else staff can do besides issuing permit requirements to control selenium loading and impacts. Assistant Executive Officer Mumley said that the next triennial review is an opportunity to evaluate changes to the Basin Plan, the TMDL and hold a workshop on the current science and loading of selenium in the Bay. Vice Chair Hacker and Chair Battey said they would like a board item next summer, after submittal and review of the June 2023 report, that includes the USEPA process and what more SF Bay Water Board staff can do to address selenium, including consideration during the triennial review.

Chair Battey asked for a motion to approve the item.

Motion: Board Member Belin

Second: Vice Chair Hacker

Ayes: all

Nos: none

Item 7 – Supporting Local Climate Adaptation Planning: Update on Partnership to Create and Implement a Climate Action Plan for the Oakland Alameda Estuary,
Xavier Fernandez

Executive Officer White introduced the item and turned it over to Planning Division Manager, Xavier Fernandez, who made a brief introductory presentation and introduced other presenters who explained the planning project.

Danielle Mieler, City of Alameda, presented the background, explanation, and status of the partnership to create and implement a climate action plan for the Oakland Alameda Estuary.

Ellen Plane, San Francisco Estuary Institute, presented goals, processes and recommended adaptation approaches for the adaptation pathways project that applies to the San Leandro Operational Landscape Unit (OLU) and subunits. Example recommendations include protect the infrastructure in place, expand marsh migration space early, or reconnect marsh to the Bay.

Vice Chair Hacker asked about areas of contaminated sediment in this OLU and how those fit into workgroup planning. Division Manager Fernandez said the planning is done via subgroups and staff is aware of the sediment that is contaminated, sediment that needs to be removed and sediment that will be factored in to localized planning and actual projects.

Board Member Gunther wants to know if there is anywhere that planning on an OLU-basis is not working since it seems that it is an effective planning unit in many places. He also asked Danielle if we need more resources and how we can expand what the city is doing. He also complimented the group's leadership in this area and specifically Danielle's contribution.

Board Member Gunther expressed interest in an accounting or a report back to the Board about the status of planning in each OLU and recommended a workshop where the OLU planning groups can exchange best practices. He also expressed interest in knowing how much money has been invested for the planning efforts. Ellen said that this OLU is the farthest along but agrees that bringing leadership and workgroups of OLUs together to share best practices would be very useful. Danielle agreed with both and asked for agency and funding support to expand efforts and support workgroups and planning. She complimented the SF Bay Water Board for doing so and for their support. Division Manager Fernandez indicated that it is premature to do a workshop because there are not enough mature local planning efforts to create an exchange at this time. Assistant Executive Officer Mumley mentioned that our climate action basin plan amendment explicitly indicates the risks and need for considering cumulative

impacts to ensure best planning and projects for shoreline adaptation. He also said that this planning and future implementation requires commitments by communities and, like the evolution of the storm water program, communities with leadership and early adopters in this area advanced the regional efforts.

Item 8 – Closed Session – Personnel

The Board did not meet in closed session for Personnel in this meeting

Item 9 – Closed Session – Litigation

The Board did not meet in closed session for Litigation in this meeting

Item 10 – Closed Session – Deliberation

The Board did not meet in closed session to deliberate in this meeting

Item 11 – Adjournment 11:45 am