

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

April 11, 2007

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## Item 1 - Roll Call and Introductions

The meeting was called to order on April 11, 2007 at approximately 9:06 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Mary Warren, Vice-Chair; William Peacock; Clifford Waldeck; Terry Young.

Board members absent: Margaret Bruce and Shalom Eliahu.

## Item 2 – Public Forum

Roger James, speaking on his own behalf, said many Bay Area creeks contain too much trash. He urged the Board to take regulatory action to reduce trash levels. He asked if the Board had issued cleanup and abatement orders or notices of violation of stormwater permits against municipalities that have creeks with excessive trash.

David Lewis, Executive Director, Save the Bay, said the organization is launching a region-wide pollution prevention advertising campaign. He said animals that live in the Bay will be featured polluting at on-shore locations where people live and play. He said the campaign is intended to encourage people to protect the Bay from pollutants like trash. He said advertisements will be displayed in public transit stations and on public carriers.

## Item 3 – Minutes of the March 13 – 14, 2007 Board Meeting

Motion: It was moved by Mrs. Warren, seconded by Mr. Peacock, and it was unanimously voted to adopt the minutes of the March 13 – 14, 2007 Board Meeting.

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

Mr. Muller said a number of Board members and staff attended funeral services held for Dr. Teng-Chung Wu on April 7, 2007.

Mr. Wolfe said last month the Board passed a motion requesting staff establish an award in the name of Dr. Wu that will serve to honor his many accomplishments at the Water Board.

Mr. Muller reported attending a U.S. EPA Local Government Advisory Committee meeting. He said the Committee released a DVD that highlights work communities are doing to address aging sewer, wastewater, and water systems.

Mr. Muller circulated a written summary of pending legislation to Board members. Board members and staff discussed legislation and the legislative process.

Mr. Wolfe described steps being taken to update the State and Regional Board's Strategic Plan. He said a statewide stakeholder summit was held on March 12 – 13, 2007 in Sacramento. He said a summit for Regional and State Board staff will be held on April 16 – 17, 2007 in Sacramento. He said a regional stakeholder outreach meeting will be held during the afternoon of June 13, 2007 in the State Building in Oakland.

Mr. Wolfe said Dorothy Rice recently began serving as Executive Director of the State Water Resources Control Board. He said Jonathan Bishop had been appointed Chief Deputy Director of the State Board.

Mr. Wolfe elaborated on an item in the Executive Officer's Report.

Mr. Wolfe said he and Mr. Muller plan to attend the Bay Planning Coalition's Decision Makers Conference that will be held on April 12, 2007. Mr. Wolfe said Shin-Roei Lee and Ben Livsey also will attend and will help conduct discussion groups on stormwater and stream and wetland policy.

#### Item 5 – Consideration of Uncontested Items Calendar

Mr. Wolfe said a speaker wished to be heard on Item 5A and recommended it be removed from the uncontested calendar. He recommended adoption of the uncontested calendar with the exception of Item 5A.

In reply to a question from Clifford Waldeck pertaining in general to landfill regulation, Mr. Wolfe discussed the Board's role in regulating closed landfills.

Motion:           It was moved by Mr. Peacock, seconded by Mrs. Warren, and it was unanimously voted to adopt the uncontested calendar as recommended by the Executive Officer.

#### Item 5A – Republic Services, Inc. – Solano Garbage Company Landfill, Suisun City, Solano County – Updated Waste Discharge Requirements and Rescission of Orders No. 86-65 and 95-229

Keith Roberson said the former landfill has been regulated by Waste Discharge Requirements since 1986. He said his presentation would focus on monitoring that has occurred at the landfill and proposed revisions to the monitoring program.

Dr. Roberson said the permittee, in order to comply with existing WDRs, installed seven monitoring wells on the landfill perimeter. He said the groundwater gradient runs from the southeast corner to the northwest corner of the landfill. He said leachate containing volatile organic compounds was detected above concentration limits in two wells located near the northwest corner of the landfill.

Dr. Roberson said in 1996 the permittee installed nine wells near the northwest corner. He said the wells, referred to as sentry wells, were located on adjacent property. He said quarterly monitoring data did not indicate chemicals from the landfill impacted the sentry wells. He said the wells were removed in 2004.

Dr. Roberson said the seven perimeter wells have been monitored quarterly for 20 years. He said samples have been tested for VOCs, general water quality parameters, and other constituents of concern. He reiterated that VOCs have been detected in two wells. He said concentration limits for other pollutants have not been exceeded in any of the wells.

Dr. Roberson said the Revised Tentative Order requires the permittee to monitor six additional wells located within the northwest corner of the landfill. He said the six wells, plus the two northwest perimeter wells, will be monitored for VOCs semiannually during the months of May and November.

Dr. Roberson said the Revised Tentative Order requires the permittee to monitor the perimeter wells, including the two wells in the northwest corner, once a year for general water quality parameters and VOCs. He said the permittee will be required to monitor the perimeter wells once every five years for metals and constituents of concern.

Dr. Roberson said staff received one comment letter on the Revised Tentative Order. He said the commentor recommended the Tentative Order require sampling of wells in the northwest corner during the winter and summer to understand pollutant concentrations in groundwater in wet and dry seasons. In reply, he said groundwater levels in the Bay Area generally are highest in the spring and lowest in the fall and that these are the best times to sample. He reiterated the wells will be sampled during May and November.

Dr. Roberson said the commentor recommended the permittee be required to monitor surface runoff from the landfill. In reply, he said pollutants from the landfill have not been detected in water samples taken from Union Creek which is located to the north of the landfill. He said monitoring data from sentry wells did not indicate pollutant migration from the landfill.

Mr. Wolfe said this morning staff received a comment letter that Mrs. June Guidotti sent by facsimile. He said the letter was received after the deadline for written comments and recommended Mrs. Guidotti orally state her concerns.

June Guidotti, speaking on her own behalf, read the letter she sent by facsimile. She said her family owns a ranch located near the landfill and uses groundwater

for domestic and agricultural uses. Mrs. Guidotti read nine concerns that she had listed in her letter. She requested staff confirm her understanding of provisions in the Revised Tentative Order. She requested copies of charts and tables used by staff to reply to her March 2007 letter.

Further, Mrs. Guidotti requested staff's analyses of monitoring data for some wells. She requested the Board issue an NPDES permit if surface waters from the landfill are released to Union Creek and Hill Slough. She asked whether the permittee would be required to track tide levels as part of the monitoring program.

David Tam, Sprawldef, requested staff reply to Mrs. Guidotti's concerns.

Curtis Scott said surface water does not have contact with fill material because the landfill is covered. He said an NPDES permit is not required in such a situation. He discussed several other concerns the Speaker addressed.

Mr. Wolfe said staff fully evaluated the potential impacts of the landfill to waters. He recommended adoption of the Revised Tentative Order.

Mr. Waldeck made a motion to adopt the Revised Tentative Order as recommended by the Executive Officer. Mrs. Warren seconded the motion.

Mr. Muller said he understood the landowner's proximity to the landfill presented a difficult situation. He spoke in favor of the Revised Tentative Order because it includes monitoring provisions that address potential pollution from the landfill.

In reply to a question, Mr. Wolfe said the Speaker and staff have discussed many issues over the past months. He said he did not recommend continuing the item for further discussion.

Roll Call:

Aye: Mr. Peacock; Mr. Waldeck; Mrs. Warren; Dr. Young; Mr. Muller

No: None

Motion passed 5 – 0.

Item 6 – City of San Mateo, Wastewater Treatment Plant, San Mateo, San Mateo County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said the City of San Mateo Wastewater Treatment Plant signed a waiver of the right to a hearing on the proposed MMP and no Board action was necessary. Mr. Wolfe said the City agreed to pay a Mandatory Minimum Penalty in the amount of \$9,000. He said \$9,000 may be used for a supplemental environmental project.

Item 7 – Valero Refining Company, Valero Benicia Refinery, Benicia, Solano County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said the Valero Refining Company, Valero Benicia Refinery signed a waiver of the right to a hearing on the proposed MMP and no Board action was necessary. Mr. Wolfe said Valero Refining Company agreed to pay a Mandatory Minimum Penalty in the amount of \$18,000. He said up to \$16,500 may be used for a supplemental environmental project.

Item 8 – C&H Sugar Company, Inc. and Crockett Community Services District, C&H Sugar Refinery and Philip F. Meads Water Treatment Plant and Its Collection System, Crockett, Contra Costa County – Reissuance of NPDES Permit

Tong Yin said C&H Sugar Company owns and operates a sugar refinery located in Crockett. She said once-through cooling water from the refinery is released to Carquinez Strait through a deep water outfall.

Ms. Yin said C&H Sugar Company and Crockett Community Services District jointly own the Philip F. Meads Water Treatment Plant in Crockett. She said C&H Sugar Company operates the plant. She said the plant provides secondary treatment to sugar refining process wastewater and municipal wastewater. She said wastewater from the plant is released to Carquinez Strait through another deep water outfall.

Ms. Yin said C&H Sugar Company, Crockett Community Services District, Baykeeper, and Environmental Law Foundation submitted written comments on the Tentative Order. She replied to issues commentors' discussed in their comments.

Ms. Yin said the Crockett Community Services District objected to the inclusion of numeric limits for dioxins. She said the District commented that the Basin Plan's narrative bioaccumulative objective applies only to controllable water quality factors.

Ms. Yin said, in reply, numeric limits are necessary because the pollutants are impairing the Bay and dioxins have been detected in the permittee's effluent. She said U.S. EPA placed San Francisco Bay on the 303(d) list of impaired waters due to concentrations of dioxins in fish. She said dioxins are considered controllable under U.S. EPA's interpretation of the Basin Plan's narrative bioaccumulative objective.

Ms. Yin said Baykeeper objected to the legal basis for inclusion of compliance schedules in the Tentative Order. In reply, she said staff reevaluated its interpretation of regulatory decisions and believes the interpretation is reasonable and consistent with the regulatory decisions.

Ms. Yin said Baykeeper commented that the cooling water intake structure was not described adequately and appropriate restrictions pursuant to Clean Water

Act Section 316(a) were not imposed. She said, in reply, a description of the structure had been added to the Fact Sheet. She said previous 316(b) studies indicated the intake structure reflected Best Available Technology and the Tentative Order requires C&H Sugar Company to update the studies.

Ms. Yin said Environmental Law Foundation commented that the Tentative Order does not adequately address anti-degradation policy. She said, in reply, staff believes changes to effluent limits for copper, oxygen demand, and solids will not cause measurable degradation of receiving water. She said Carquinez Strait currently is not listed as impaired by the pollutants. She said copper effluent concentrations are not likely to change. She said increases in oxygen demand and solids are anticipated to be small and incremental.

Marc Bruner, Attorney, Bingham McCutchen, representing C&H Sugar Company, Inc., thanked the Board and staff for their work on the Tentative Order. He expressed hope that the permittee's wasteload allocation in the mercury TMDL will be based on complete data for the facility. He expressed concern that the permittee would be required to comply with final limits for dioxins. He said dioxins are a multimedia problem that should be addressed on a region wide basis.

Amy Chastain, Staff Attorney, Baykeeper, thanked staff for work done in preparing the written Response to Comments and the Tentative Order. She expressed concern that the Order includes compliance schedules. She expressed concern that the compliance schedules do not require the permittee to identify actions to meet final limits, other than source control actions, until less than a year before limits become effective.

Kent Alm, Attorney, Meyers Nave, representing Crockett Community Services District, reiterated the District's objection to final numeric limits for dioxins. He said the Tentative Order requires the permittee to control sources of dioxins and monitor influent for the pollutant. He said testing influent samples for dioxins is expensive, particularly for a small district, and requested the monitoring requirement be reconsidered.

Dan Gildor, Staff Attorney, Environmental Law Foundation, questioned whether present water quality in Carquinez Strait is the baseline that should be used for an anti-degradation analysis. He said State policy provides the baseline should be the best water quality in waters since 1968. He said the Tentative Order includes effluent limits for some pollutants that have not been regulated previously and the limits might have been more stringent if staff used the proper baseline.

Mr. Wolfe said staff has met with the Bay Area Clean Water Agencies to begin discussing regional approaches to reducing pollutants like dioxins. Also, he said for many years wastewater permittees have been required to meet requirements that have become increasingly more stringent. He said water quality is better today than in 1968 because permittees have complied with the requirements.

In reply to a question from Clifford Waldeck, Mr. Wolfe discussed

anti-degradation and anti-backsliding policies.

Dr. Young asked if staff could use Regional Monitoring Program data to understand whether pollutant concentrations in various areas of the Bay have increased or decreased over the years.

Lila Tang said the RMP was initiated in 1993 at stations located in the Bay and in 2000/2001 the locations of some monitoring stations were changed. She said staff analyzed copper concentration data from the station located closest to C&H Sugar Company and did not find a trend from the data.

Mr. Wolfe recommended adoption of the Revised Tentative Order.

Mr. Waldeck made a motion to adopt the Revised Tentative Order as recommended by the Executive Officer. Mrs. Warren seconded the motion.

Dr. Young said she felt comfortable with the process staff established to deal with permittees' compliance with whole effluent chronic toxicity. She said when a trigger level is exceeded, a permittee is required to identify the problem, address it, and monitor effluent. She said a permittee is required to repeat the process if a problem persists. She expressed hope permittees will not be required to repeat the process multiple times.

Dr. Young said she was comfortable with staff's use of compliance schedules in the Tentative Order. She said during the first two years of the three year compliance schedule, the permittee is required to implement source reduction activities. She said a permittee is not required to implement other activities until some time in the third year. She said staff might choose to be sensitive to the issue when developing future tentative orders.

Ms. Tang, in reply to Dr. Young's questions, said permittees that have exceeded whole effluent chronic toxicity triggers generally have done a good job at identifying the cause of the toxicity. She referred to compliance schedules in the Tentative Order and said staff anticipates the final mercury limit will be established through the TMDL process and site specific objectives will be used to establish the final cyanide limit.

Roll Call:

Aye: Mr. Peacock; Mr. Waldeck; Mrs. Warren; Dr. Young; Mr. Muller

No: None

Motion passed 5 – 0.

Item 9 – General Waste Discharge Requirements for Discharges of Low-Level, Incidental, Potentially Contaminated or Uncontaminated Groundwater, and

Discharges of Reverse Osmosis Concentrate Resulting from Treatment of Groundwater by Reverse Osmosis – Issuance of New General NPDES Permit

Farhad Azimzadeh said the Revised Tentative Order regulates three categories of groundwater discharges: (1) brackish water from aquifer protection wells; (2) reverse osmosis concentrate from aquifer protection wells; and (3) structural dewatering from systems under or around buildings.

Mr. Azimzadeh said staff changed the Revised Tentative Order in response to written comments received. He said the threshold for structural dewatering projects regulated under the Order was changed from 50,000 gallons a day to 10,000 gallons a day. He said monitoring requirements for structural dewatering projects were reduced.

Lila Tang said staff deleted a salinity trigger from the Monitoring and Reporting Program, Attachment E to the Revised Tentative Order. She requested two remaining references to the trigger be deleted: the second sentence under Table E.4 on page E-8 and Note 3 on page E-10.

In reply to a question from Clifford Waldeck, Mr. Wolfe said reverse osmosis is a treatment process that is frequently used for small discharges. He said the process is effective in removing small particulates.

Steve Dennis, Environmental Compliance Officer, Alameda County Water District, thanked Mr. Azimzadeh, Ms. Tang, and Christine Boschen for their work on the Revised Tentative Order. He said the Water District discharges groundwater from aquifer protection wells.

Mr. Dennis said Table E.2 in the Revised Tentative Order would establish monitoring levels for groundwater discharged from aquifer protection wells and structural dewatering projects. He said this morning he learned staff prepared a Supplemental that would add a new Table E.2. He said the new table would provide for reduced monitoring levels for structural dewatering projects. He requested reduced levels also apply to groundwater discharged from aquifer protection wells.

Geoff Brosseau, Executive Director, Bay Area Stormwater Management Agencies Association, thanked staff for working with BASMAA in developing the Revised Tentative Order and hoped a similar collaborative process will be used to develop the municipal regional permit. He said many cities and counties have facilities within their jurisdictions that require dewatering. He said groundwater from structural dewatering discharged into storm drains is a non-stormwater discharge regulated by stormwater permits.

Tom Dalziel, Assistant Program Manager, Contra Costa Clean Water Program, spoke in favor of the Revised Tentative Order and thanked staff for preparing it. He said the number of structural dewatering projects is likely to increase as more buildings with underground parking are developed.



Ms. Tang replied to the request that monitoring levels for groundwater discharged from aquifer protection wells be reduced to levels proposed for structural dewatering projects. She said much more groundwater is discharged on a daily basis from the wells than from structural dewatering projects. She recommended monitoring levels for discharges from the wells remain as proposed and said the monitoring information will give parties a chance to develop a data base.

Mr. Azimzadeh said staff issues an authorization letter to a party that files a Notice of Intent to discharge groundwater. He said staff may have an opportunity to customize monitoring programs when authorization letters are issued.

Mr. Wolfe recommended adoption of the Revised Tentative Order as supplemented and as modified by Ms. Tang.

Motion: It was moved by Mr. Peacock, seconded by Mrs. Warren, and it voted to adopt the Revised Tentative Order as supplemented, modified by Ms. Tang, and recommended by the Executive Officer.

Roll Call:

Aye: Mr. Peacock; Mr. Waldeck; Mrs. Warren; Dr. Young; Mr. Muller

No: None

Motion passed 5 – 0.

[The Board took a recess at 11:24 a.m. and resumed the meeting at 11:35 a.m.]

[Mrs. Warren left the meeting at approximately 11:30 a.m.]

Item 10 – Letter to Petroleum Refineries Requiring Technical Reports on the Mass Balance and Fate of Mercury in Crude Oil – Status Report on Intent to Issue CWC 13267 Letter

Staff said that a quorum of Board members was not present.

Richard Looker said crude oil processed by the five Bay Area petroleum refineries contains mercury. He said the Board adopted a TMDL that required the refineries to investigate the environmental fate of mercury in the crude oil they process.

He said in February 2005 the Executive Officer issued a Water Code Section 13267 letter to the refineries that required them to conduct an air emissions study. He said the purpose of the study was to calculate how much mercury the refineries emit into the air. He said the refineries were not able to meet the study deadline because of technical difficulties.

Mr. Looker showed a slide that illustrated the amount of mercury in the refineries' input and output. He estimated the refineries' input at about 1700 kilograms of mercury a year. He estimated the refineries mercury output as follows:

1. Direct air emissions – unknown,
2. Auto fuels – about 5 kilograms a year,

3. Other petroleum products – unknown,
4. Solid waste – maybe 400 kilograms or more a year,
5. Wastewater – 1 kilogram a year.

In reply to a question from John Muller, Mr. Looker said most solid waste is hauled from the refineries for disposal. He said there may be air emissions of mercury when accumulated solid waste is cleaned from equipment.

Mr. Looker said staff proposes to issue a Revised 13267 letter to the refineries. He said the letter would require the refineries to calculate a mercury mass balance. He said the inputs shown on the mass balance can be used to verify the outputs.

Terry Young said different sources of crude oil contain very different mercury concentrations. She asked if the refineries are being required to record amounts of mercury in crude oil from different sources.

Mr. Looker answered in the affirmative.

Mr. Waldeck asked if the refineries agree with staff's estimate that the facilities input 1700 kilograms a year.

Mr. Looker said he is responsible for the estimate. He said he obtained from the California Energy Commission (1) the number of barrels of crude oil Bay Area refineries process each year and (2) the percentage of the barrels that are produced in California (40%) and the percentage that are produced outside the state (60%). He said he obtained mercury concentrations in crude oil produced in California and in crude oil produced outside the state from a technical paper. He said mercury concentrations for each type of production were multiplied by the number of barrels used.

Mr. Looker said mercury concentrations in crude oil produced in California are about ten times higher or more than concentrations in crude oil produced outside the state.

Kevin Buchan, Western States Petroleum Association, said one refinery was chosen as a pilot site to test fuel sampling equipment for the air emissions study. He said refineries operate with flammable gases 24 hours a day and the sampling equipment had to meet stringent safety requirements. He said equipment that was brought in to sample fuel lines had to be redesigned. He said the redesign process took time and completion of the air emission study fell behind schedule.

Mr. Buchan said sampling equipment currently is being set up at the other refineries. He said lessons learned at the pilot site will be applied at the other facilities. He estimated the study will cost between \$500,000 and one million dollars to complete.

Mr. Buchan said the Revised 13267 letter requires that the refineries calculate mercury inputs. He asked how calculating inputs will help staff understand what

outputs reach the Bay. He said the refineries have agreed to study mercury outputs that are released through air emissions. He said the refineries do not have confidence in staff's estimate that crude oil processed in Bay Area refineries contains 1700 kilograms of mercury a year.

Mr. Buchan said the refineries submitted a letter to staff requesting a time extension to complete the air emissions study. He requested the Board accept the request. He said staff proposes to expand requirements refineries must meet.

In reply to a question from Clifford Waldeck, Mr. Wolfe said the letter Mr. Buchan referred to is not part of the Board packet.

Walt Gill, Government Affairs Manager, Chevron Richmond Refinery, said the refineries put a lot of effort into designing the fuel sampling process. He said refineries operate in an environment of combustible materials and safety is a major concern.

Mr. Gill said the Revised 13267 letter requires the refineries to expand the work they have been doing. He said mercury from the refineries potentially may be released through air emissions. He asked that the Board narrow the Revised 13267 request to the air emissions study.

Amy Chastain, Staff Attorney, Baykeeper, commended staff for requiring that the refineries prepare a mercury mass balance. She said calculation of a mass balance analysis will allow parties to compare mercury inputs against mercury outputs. She said the analysis will also help verify if staff's estimate of the refineries' input is accurate.

Ms. Chastain thanked Mr. Buchan for his presentation. She requested that the Board hold future public meetings on the status of the refineries' mass balance analysis. She requested staff consider imposing a civil liability on the refineries if deadlines for the analysis are not met.

In reply to a question from Bill Peacock, Ms. Chastain said U.S. EPA and the American Petroleum Institute are preparing a study of concentrations of mercury in crude oil processed by petroleum refineries in the United States.

Mr. Peacock asked what would be the greatest amount of mercury that Bay Area refineries might input, assuming 40% of their input is produced in California and 60% is produced outside the state. He asked how much the amount would exceed staff's estimate of 1700 kilograms a year.

Ms. Chastain deferred to staff to answer the question.

In reply to the question, Mr. Looker said he would need to know actual mercury concentrations in crude oil processed by Bay Area refineries in order to calculate the greatest amount of mercury that the refineries might input.

In reply to the question, Tom Mumley gave a rough estimate based on limited data.

Mr. Wolfe said staff needs information from the refineries in order to calculate mercury inputs more completely.

In reply to a question from Clifford Waldeck, Ms. Chastain expressed confidence in the refineries to complete technical work required in the Revised 13267 letter. She reiterated her request that the Board hold future public meetings to discuss progress on the mass balance analysis.

Steve Overman, Senior Staff Engineer, Shell Martinez Refinery, said the refineries have spent time developing monitoring protocols for the air emissions study. He said the study will help implement the mercury TMDL. He said staff's estimate of the refineries' mercury input was based on limited data. He requested the refineries not be required to conduct an input analysis at this time.

Andria Ventura, Program Manager, Clean Water Action, and also on behalf of Environmental Justice Coalition, spoke in favor of requiring a mass balance analysis. She said an input analysis would determine if staff's estimate of 1700 kilograms a year is correct. She encouraged staff to impose civil liability if requirements in the Revised 13267 letter are not met.

Craig Johns, Program Manager, Partnership for Sound Science and Environmental Policy, said the Water Code may not give staff the authority to require that refineries conduct a mass balance analysis. He said the statute authorizes the Board to require parties produce reports regarding discharge of wastes. He said mercury inputs do not appear to be wastes and products the refineries produce do not appear to be wastes.

Mr. Johns requested the refineries be allowed to complete the air emissions study before being required to conduct additional studies. He spoke against requiring that refineries complete a mercury input analysis.

Mr. Waldeck said one way to estimate mercury concentrations in the refineries' input would be to sample 20 barrels of crude oil produced from 20 different sources.

Mr. Wolfe said it is important staff understands the mercury mass balance before requiring the refineries to take action to reduce mercury outputs. He said staff would like to see a study on the refineries' mercury inputs conducted in parallel with the air emissions study. He said understanding the range of mercury concentrations in the refineries' input would be helpful.

Dr. Young spoke in favor of requiring the refineries complete a mass balance analysis. She said a mass balance involves an accounting process that allows for the accuracy of inputs and outputs to be checked against the other. She expressed hope that a mass balance would not be too complex and time consuming to complete.

Dorothy Dickey said Section 13267 of the Water Code allows the Board to require reports on discharges of waste that affect water quality. She said today's discussion illustrates reasons why Board members may consider that there is a relationship between the refineries' inputs and outputs and that wastes discharged affect water quality.

Mr. Peacock asked if staff prepared an estimate of the cost to complete a mercury input analysis.

Mr. Wolfe estimated the cost would be much less than the cost of developing the air emissions study.

In reply to a question from John Muller, Mr. Wolfe said as Executive Officer, he is authorized to issue the Revised 13267 letter.

In reply to a question from Clifford Waldeck, Mr. Wolfe said the letter includes a paragraph about the Board's authority to issue fines for failure to comply with the letter. He said the paragraph is included in all 13267 letters.

Mr. Peacock asked if the 13267 statute requires staff to prepare a cost estimate of the work the refineries are requested to complete. He said an estimate would help Board members discuss the issue.

Ms. Dickey said the statute does not require that the Board review an economic analysis before considering a 13267 letter. She said the statute requires that the burden to comply with the 13267 request must bear a reasonable relationship to the need for the work and the benefit obtained.

Mr. Muller asked if the Board could override the Executive Officer's decision to issue the Revised 13267 letter.

Ms. Dickey said today's agenda included an item on the status of the Revised 13267 letter. She said the Board could take action on the letter at a future meeting if a quorum was present and an action item was placed on the meeting agenda.

Mr. Wolfe said it sounded like Board members had some ambivalence that the letter should be issued.

Mr. Waldeck said ambivalence might not be the right word. He said a mass balance analysis would provide a way to check the accuracy of inputs and outputs. He said it would be helpful to understand that the refineries' cost to complete the mass balance would be in the reasonable range.

Mr. Wolfe said the Revised 13267 letter requires the refineries submit a revised air emissions sampling plan by May 31, 2007 and a final sampling plan by July 31, 2007. He said, after reviewing the final sampling plan, staff could make a status report to the Board. He said modifications to the letter that staff might suggest could be discussed at that time.

Dr. Young said she understood the Board was giving the Executive Officer a general sense that it was comfortable the Revised 13267 letter would be issued. She said she understood the Board would like the refineries to give staff an estimate of the cost to complete a mass balance analysis. She said she understood, based on the information, the Board and staff could make mid course corrections.

Mr. Wolfe concurred with Dr. Young's statements.

Mr. Muller reiterated that the Board agreed the Revised 13267 letter would be issued, staff would obtain information from the refineries, and staff would make a report to the Board in about two to three months.

Mr. Wolfe said staff would make a report at the August or September Board meeting.

#### Item 11 – Web-Based Wetland Tracker Pilot Project – Status Report

Michael May, San Francisco Estuary Institute, said SFEI has developed a web-based GIS database known as Wetland Tracker. He said the Tracker eventually will include information on projects located throughout California. He said the Tracker currently is being used for projects located in Region 2.

Mr. May described information stored in the Tracker: project location; existing habitat; planned habitat impacts; planned habitat mitigation; and success criteria. He showed slides of examples of maps included in the Tracker.

Mr. May described how the Wetland Tracker will benefit the Water Board and stakeholders. He thanked Andrée Breau and Shin-Roei Lee for their help in developing and piloting the Tracker.

Susan Schwartz, President, Friends of Five Creeks, said the Wetland Tracker is the best database with which she deals. She said it is important that information be exchanged among the six similar databases in the Bay Area. She said she did not encourage spending money on wetland databases until there is a realistic plan that allows for the exchange of information among them.

#### Item 13 Closed Session – Personnel

This item was continued to a future Board meeting.

#### Adjournment

The Board meeting was adjourned at 1:30 p.m.

