

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

August 13, 2008

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Item 1 – Roll Call and Introductions

The meeting was called to order on August 13, 2008 at 9:05 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Terry Young, Vice-Chair; Shalom Eliahu; James McGrath; Steven Moore; William Peacock; Rameshwar Singh.

Board members absent: none.

Gary Wolff, State Board liaison to Region 2, addressed the Board.

Item 2 – Public Forum

Kevin Buchan, Western States Petroleum Association, said in May 2007 the Executive Officer issued a Water Code Section 13267 letter to Bay Area petroleum refineries requiring them to conduct a mercury mass balance study. He discussed the refineries' progress in complying with the letter.

Bruce Wolfe said staff will discuss the mass balance study with the Board after the refineries submit a final study report.

Item 3 – Minutes of the March 11 and 12, 2008 Board Meeting

Motion: It was moved by Dr. Singh, seconded by Dr. Young, and it was unanimously voted to adopt the minutes of the March 11 and 12, 2008 Board Meeting.

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

Steve Moore said he attended a meeting regarding development of a policy for stream and wetland systems.

Rameshwar Singh said he attended a meeting in Almaden Valley where the proposed Total Maximum Daily Load and Implementation Plan for Mercury in Waters of the Guadalupe River Watershed was discussed.

Yuri Won recommended at the next hearing on the TMDL, Dr. Singh disclose what he learned and what he communicated at the meeting.

Bruce Wolfe briefly discussed aspects of the budget process.

Item 5 – Consideration of Uncontested Non-Enforcement Items

Mr. Wolfe said staff distributed a Supplemental for Item 5E that included material that was posted on-line but was not included in the paper package.

Mr. Wolfe recommended adoption of the Uncontested Non-Enforcement Items with the following modifications: inclusion of a Supplemental for Item 5E and continuance of Item 5G.

Motion: It was moved by Mr. Peacock, it was seconded, and it was voted to adopt the Uncontested Non-Enforcement Items as recommended by the Executive Officer.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young; Mr. Muller

No: None

Motion passed 7 – 0.

Item 6 – Alum Rock School District, San José, Santa Clara County – Order Setting Administrative Civil Liability for Late Submittal of Annual Monitoring Report Required Under the Statewide NPDES General Permit for Discharges of Storm Water Associated with Industrial Activity

Tom Mumley and Cecilio Felix served as prosecutorial staff. Bruce Wolfe and Yuri Won served as Board advisory staff.

Dr. Mumley and Mr. Felix gave presentations and answered questions from the Board.

Alum Rock School District representatives, Gil Candelaria, Administrator of Transportation, and Neil Rauschhuber, Chief Bonds Officer and former Director of Maintenance, Operations, and Transportation, testified on behalf of the permittee. Mr. Candelaria and Mr. Rauschhuber answered questions from the Board.

There was discussion between the Board and Ms. Won. There was discussion among Board members.

Motion: It was moved by Dr. Singh, seconded by Mr. Peacock, and it was voted to impose an Administrative Civil Liability in the amount of \$3,100.

Roll Call:

Aye: Mr. Peacock; Dr. Singh

No: Mr. Eliahu; Mr. McGrath; Mr. Moore; Dr. Young; Mr. Muller

Motion denied: 2 – 5.

Mr. Wolfe recommended the Board impose an Administrative Civil Liability in the amount of \$9,175 with \$4,600 payable in thirty days and with \$4,575 to be used for a Supplemental Environmental Project. He recommended the permittee submit a SEP proposal to staff within thirty days.

Ms. Won recommended the Item be tabled for one month to allow the permittee and staff to work out an SEP proposal.

Motion: It was moved by Mr. McGrath, and seconded by Mr. Peacock, to table the Item to allow the permittee and staff to consider whether or not an SEP proposal was appropriate.

Several Board members spoke in favor of the motion.

Mr. Wolfe said the motion would allow the Item to be continued to the September Board meeting and would allow the permittee and staff to work out an SEP proposal.

A vote was held on the motion. By voice vote, the motion passed unanimously.

Item 7 – Hammon Plating Corporation, Palo Alto, Santa Clara County – Order Setting Administrative Civil Liability for Late Submittal of Annual Monitoring Report Required Under the Statewide NPDES General Permit for Discharges of Storm Water Associated with Industrial Activity

Mr. Wolfe said the permittee signed a waiver of the right to a hearing on the proposed ACL and no Board action was necessary.

Item 8 – VVP American, Inc., Santa Clara, Santa Clara County – Order Setting Administrative Civil Liability for Late Submittal of Annual Monitoring Report Required Under the Statewide NPDES General Permit for Discharges of Storm Water Associated with Industrial Activity

Mr. Wolfe said the permittee signed a waiver of the right to a hearing on the proposed ACL and no Board action was necessary.

[The Board took a break at 10:52 a.m. and resumed the meeting at 11:06 a.m.]

Item 9 – U.S. Fish and Wildlife Service and California Department of Fish and Game, South Bay Salt Pond Restoration Project (SBSPRP), Phase I – Issuance of Waste Discharge Requirements

Andrée Greenberg and Robert Schlipf gave staff presentations. They said the Restoration Project includes former salt producing ponds and adjacent habitat. They said the total area of the Project is 15,100 acres.

Mr. Schlipf said in 2004 the Board issued Waste Discharge Requirements for the permittees to implement their Initial Stewardship Plan. He said the Plan provides for a transition between phasing out salt production and restoring pond areas to tidal marsh.

Dr. Greenberg said the Tentative Order will regulate:

- (1) Phase I of the Project Area – which is tidal marsh restoration and pond management of 3,069 acres;
- (2) management of ponds that remain in other parts of the Project Area; and
- (3) ongoing operation and maintenance.

Dr. Greenberg described goals to be achieved during Phase I:

- (1) restoration of salt ponds to a mix of habitats, especially tidal marsh;
- (2) provision of flood protection to nearby communities; and
- (3) provision of public access and recreation in the Project Area.

Dr. Greenberg said restoring tidal marsh and reconfiguring ponds will be the focus of actions taken during Phase I. She said ponds may be reconfigured to include islands that provide bird habitat. She said the ponds will be part of an experiment to determine whether there is a bird preference for various water depths, island shapes, and degrees of salinity.

Dr. Greenberg and Mr. Schlipf said permittees will be required to monitor and adaptively manage actions during Phase I. They described parameters that will be monitored.

Mr. Schlipf said flood control studies conducted during the term of the permit could affect the pace of restoration efforts.

Mr. Schlipf said the Tentative Order also requires that the permittees manage former salt producing ponds that are not located in Phase I of the Project Area. He said the ponds will continue to be managed as they were under the Initial Stewardship Plan. He said under past management, water was circulated through ponds (1) to prevent salinity build up, (2) to provide shallow water habitat for birds, and (3) to protect water quality. He said past management has been successful in preventing salinity build-up and providing bird habitat.

Mr. Schlipf said protecting water quality has been challenging. He said excessive algae growth in ponds has caused problems with dissolved oxygen levels. He said fish have died in several ponds because dissolved oxygen was depleted severely.

Mr. Schlipf said the Tentative Order requires permittees monitor water quality conditions within ponds. He described how dissolved oxygen data may be used to adaptively manage ponds.

In reply to a question from Dr. Singh, Mr. Schlipf said ponds are large in size and simple operational changes have not improved dissolved oxygen levels significantly. He said modifications such as constructing levees and changing water residence time may be required.

In reply to a question from Mr. Moore, Mr. Wolfe said Phase I of the Project is significant and staff oversight will be made available.

In reply to a question from Mr. Moore, Mr. Schlipf said increasing salinity in ponds may affect plant species that cannot tolerate the increase.

Steven Ritchie, Executive Project Manager, South Bay Salt Pond Restoration Project, and representing U.S. Fish & Wildlife Service and California Department of Fish & Game, thanked Mr. Wolfe, Dr. Greenberg, Mr. Schlipf and Brian Wines for their work on the Tentative Order.

Mr. Ritchie said implementation of Phase I will begin in about two months and the implementation process will include an experimental component. He said studies associated with Phase I will help answer the question whether birds prefer salt ponds or mudflats. He discussed funding available for applied studies.

In reply to a question from Dr. Young, Mr. Ritchie reiterated that restoration work and pond management will include an experimental component. He said permittees and staff acknowledge that there are water quality problems that present challenges. He said the fact that the problems and the challenges are acknowledged is helpful.

In reply to a question from Mr. McGrath, Mr. Ritchie discussed production of methylmercury in pond and tidal marsh systems.

Mr. Muller spoke in favor of adoption of the proposed Order.

Mr. McGrath said he participated in stakeholder forums for the South Bay Salt Pond Restoration Project before becoming a member of the Water Board. He said Phase I of the Project is important and requested monitoring results be reported to the Board.

Mr. McGrath made a motion to adopt the Revised Tentative Order.

Mr. Moore thanked Mr. Ritchie for his leadership in work to manage and restore the former salt ponds. Mr. Moore said he helped prepare the permit the Board adopted in 2004 for the Project Area.

Mr. Moore seconded Mr. McGrath's motion.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young;
Mr. Muller

No: None

Motion passed 7 – 0.

[At approximately 12:00 p.m., the Board convened in closed session. At approximately 12:30 p.m., the Board completed the closed session.]

Item 14 – Adjournment

The Board meeting was adjourned at approximately 12:30 p.m.