

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

December 10, 2008

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Item 1 – Roll Call and Introductions

The meeting was called to order on December 10, 2008 at 9:04 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.

Board members absent: William Peacock and Rameshwar Singh.
[Note: Dr. Singh arrived at approximately 9:29 a.m.]

New staff was introduced. Gina Kathuria introduced Claudia Villacorta and Christine Boschen introduced Wendy Katayanagi.

Bruce Wolfe welcomed Sandi Potter back to Region 2 from an assignment at the State Water Resources Control Board.

Item 2 – Public Forum

David Lewis, Executive Director, Save the Bay, addressed the Board regarding marine trash and legislation creating a wetland habitat restoration authority.

Mark Verwiell, Director, Groundwater Protection, Waste Management, Inc., Redwood Landfill, said he would reply to questions regarding the Landfill.

Staff recommended discussion regarding the Redwood Landfill take place under Item 4.

Item 3 – Minutes of the August 13, 2008 Board Meeting

Mr. Moore made a motion to adopt the Minutes of the August 13, 2008 Board meeting.

Mr. McGrath seconded the motion.

Staff replied to a question from Mr. Eliahu.

A vote was taken on the motion. The motion passed unanimously.

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

Mr. McGrath and Mr. Moore reported meeting recently and discussing issues regarding trash reduction in Bay waters, particularly reduction of persistent plastics.

[Dr. Singh arrived at approximately 9:29 a.m.]

Mr. Muller said on November 18, 2008 Mr. Wolfe and he attended a meeting of the San Mateo County Board of Supervisors' Environmental Quality Committee. He said Mr. Wolfe gave a presentation.

Mr. Muller said on December 9, 2008 Board staff Jill Marshall and he attended a meeting of the Pescadero Marsh Forum.

Mr. Wolfe said the written Executive Officer's Report included an item on the Redwood Landfill. He said several people would like to speak regarding the Landfill.

Bruce Baum, Susan Brown, and Dr. Douglas Kerr, all representing Green Coalition for Responsible Waste/Resource Management addressed the Board regarding the Redwood Landfill. Mr. Baum showed some power point slides.

Jessica Jones, District Manager, Redwood Landfill and Recycling Center, also addressed the Board concerning the Landfill.

Item 5 – Consideration of Uncontested Non-Enforcement Items

Mr. Wolfe said there were no changes to the uncontested items.

Motion: It was moved by Mr. McGrath, seconded by Mr. Eliahu, and it was unanimously voted to adopt the uncontested items.

Mr. Moore commended staff for its work on the uncontested items.

[The Board took a break at 9:54 a.m. and resumed the meeting at 10:02 a.m.]

Item 6 – Proposed Amendment to the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish a Total Maximum Daily Load (TMDL) for Sediment in Sonoma Creek and an Implementation Plan for the TMDL and Related Habitat Enhancement Goals – Hearing to Consider Adoption of Proposed Basin Plan Amendment

Tina Low said the Board held the first hearing on the proposed Basin Plan Amendment in April 2008. She said at the conclusion of today's hearing, the Board would consider adoption of a Resolution to amend the Basin Plan to include the TMDL and Habitat Enhancement Plan.

Ms. Low said since the 1940's, there has been a decline in the number of steelhead trout in Sonoma Creek. She said Creek conditions contributing to the decline include: (1) excessive amounts of fine sediment; (2) erosion of bed and banks; (3) low amounts of water during the summer; (4) barriers to fish passage; and (5) lack of woody debris.

Ms. Low said the TMDL will address sediment impairment in the Sonoma Creek watershed. She said, however, addressing only sediment impairment will not fully conserve the native fish population. She said the Habitat Enhancement Plan will address stressors on fish other than sediment.

Ms. Low said the Habitat Enhancement Plan will provide a framework that encourages collaborative stream restoration projects. She said groups in the watershed are actively involved with restoration projects.

Ms. Low said sediment reaches Sonoma Creek and its tributaries through natural processes and human actions. She said sources of sediment from human actions are: bed and bank erosion; roads/crossings; surface erosion; urban stormwater; and landslides.

Ms. Low said to reduce sediment loads from upland sources, owners of vineyards, grazing lands, and parcels with roads will be required to comply with Waste Discharge Requirements or Conditional Waivers of WDRs. She said channel incision will be addressed through regulatory programs of upland sources and through stream habitat enhancement projects.

Ms. Low briefly described comments staff received on the Basin Plan Amendment and staff's replies.

Mr. McGrath requested that persons testifying at the hearing discuss priorities for sediment management and stream restoration activities.

In reply to a question from Dr. Singh, Ms. Low said the proposed maximum sediment load is expressed as an annual load, averaged over five to ten years, because sediment loads depend upon seasonal factors. She said the annual load may be divided by 365 days to calculate an average daily load.

In reply to a question from Dr. Young, Ms. Low said staff changed the performance standard for road-related sediment delivery to channels from a numeric standard to a narrative standard. She said the narrative standard is more in line with staff's current knowledge.

Diane Fleck, TMDL and Water Quality Standards Liaison to Water Board Region 2, U.S. Environmental Protection Agency, Region IX, spoke in favor of the Board's adoption of the Basin Plan Amendment.

John Guardino, Agricultural Scientist, Southern Sonoma County Resource Conservation District, thanked staff for its work on developing the Sediment TMDL and Habitat Enhancement Plan. He said at the present time, opportunities exist to integrate implementation of the Basin Plan Amendment with existing planning efforts developed by local stakeholders. He recommended parties work in a coordinated way to achieve the goal of creating a healthy environment.

In reply to questions from Dr. Young, Mr. Guardino said there are sediment erosion problems on some properties. He said not all properties have sediment erosion problems.

In reply to questions from Mr. McGrath, Mr. Guardino said efforts could be made to restore natural function in the watershed, such as restoring flood plains or retentions areas. He said stream function that is similar to natural function also could be developed.

Laurel Marcus, Executive Director, California Land Stewardship Institute, said the Institute operates the Fish Friendly Farming environmental program. She discussed the Fish Friendly Farming program.

In reply to a question from Mr. Moore, Ms. Marcus discussed monitoring to assess effectiveness of best management practices.

In reply to a question from Dr. Young, Ms. Marcus said Fish Friendly Farming staff works with property owners to prepare Farm Plans. She discussed certification of Farm Plans.

Tito Sasaki, member of the North Bay Ag Alliance, the Sonoma County Farm Bureau, and the Sonoma Creek Sediment TMDL Steering Committee, requested the Board not adopt the Basin Plan Amendment at the present time. He requested time to review documents adequately and to discuss concerns with stakeholders and staff. He suggested a committee of the Board meet to consider concerns with policy issues and technical issues.

There was discussion between Dr. Singh and Mr. Sasaki.

In reply to a question from Mr. Moore, Ms. Low said staff changed the sediment wasteload allocation for an NPDES permittee from the allocation presented at the April 2008 Board meeting. She said the change was based on updated information.

Mr. Moore recommended against allowing more time for review of the Basin Plan Amendment. Staff said public notice was given for two 45-day review periods on the proposed Amendment.

Joe Dillon, Water Quality Coordinator, National Marine Fisheries Service, Southwest Region, spoke in favor of Board adoption of the Basin Plan Amendment. He said an adopted TMDL can provide a competitive advantage for stakeholders seeking funding for projects.

In reply to questions from Mr. McGrath, Mr. Dillon expressed a willingness to work with Water Board staff to ensure landowners' sediment control actions are focused on problem areas and to help in the adaptive management of projects to ensure limited resources have environmental benefits.

In reply to a question from Mr. Moore, Mr. Dillon discussed the benefits of having both a Sediment TMDL and a Habitat Enhancement Plan.

Mr. Dillon replied to a question from Dr. Singh regarding the erosive power of water.

Mr. Moore, Dr. Singh, and Mr. Eliahu spoke in favor of adoption of the Basin Plan Amendment. Dr. Singh thanked speakers for their testimony. Dr. Singh and Mr. Eliahu said obtaining funding for projects will be important to achieve success.

Mr. McGrath spoke in favor of adoption of the Basin Plan Amendment. He recommended priority be given to projects that restore stream habitat.

Dr. Young spoke in favor of adopting the Basin Plan Amendment. She recommended staff minimize reporting requirements for parties that are basically in regulatory compliance. She recommended staff consider allowing a landowner to demonstrate compliance by showing land use practices did not result in an increase in erosion or sedimentation. She recommended staff develop quantitative benchmarks to clarify expectations and to reduce uncertainty for landowners.

Mr. Muller spoke in favor of adoption of the Basin Plan Amendment.

Mr. Wolfe said staff appreciated the comments from stakeholders and Board members. He said staff will work with the community to implement the Basin Plan Amendment.

Mr. Wolfe recommended adoption of the Resolution Amending the Water Quality Control Plan for the San Francisco Bay Region to Establish a Total Maximum Daily Load for Sediment in Sonoma Creek, and an Implementation Plan to Achieve the TMDL and Related Habitat Enhancement Goals.

Motion: It was moved by Dr. Singh, seconded by Dr. Young, and it was voted to adopt the Resolution Amending the Water Quality Control Plan for the San Francisco Bay Region to Establish a Total Maximum Daily Load for Sediment in Sonoma Creek, and an Implementation Plan to Achieve the TMDL and Related Habitat Enhancement Goals as recommended by the Executive Officer.

Roll Call:

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

No: None

Motion passed 6 – 0.

Item 7 – Advalloy, Inc., East Charleston, Inc., and Fairchild Semiconductor Corporation, for the property located at 844 East Charleston Road, Palo Alto, Santa Clara County – Adoption of Final Site Cleanup Requirements

Laurent Meillier discussed the Staff Summary Report and Appendices to the Report. Mr. Meillier distributed a paper copy of his power point presentation to Board members.

Mr. Meillier replied to a question from Mr. McGrath.

Mr. Meillier testified further.

Staff replied to questions from Dr. Young and Mr. McGrath.

Staff replied to questions from Dr. Singh.

Staff answered questions from Mr. Moore and Dr. Young.

There was discussion by staff.

Jan Greben, Legal Counsel, and Peter Krasnoff, Principal Engineer, WEST Environmental Services & Technology, Inc., testified on behalf of East Charleston, Inc. Mr. Krasnoff distributed a paper copy of his power point presentation to Board members.

Mr. Krasnoff replied to questions from Dr. Young, Mr. McGrath, and Mr. Moore.

Rick Coffin, Legal Counsel, testified on behalf of Fairchild Semiconductor Corporation and Schlumberger Technology Corporation. He requested a written summary he prepared be distributed to Board members.

There was discussion among staff, Mr. Coffin, and Mr. Muller.

Mr. Muller allowed distribution of the summary.

Mr. Muller and Mr. Coffin replied to a question from Mr. Eliahu.

Mr. Coffin testified.

Staff replied to questions from Mr. McGrath.

Mr. McGrath commented.

There was discussion between Mr. Eliahu and staff.

There was discussion among Dr. Singh, Mr. Coffin, and staff.

There was discussion between Mr. McGrath and Mr. Coffin.

Mr. Coffin replied to a question from Mr. Moore.

Mr. Moore commented.

In reply to a question from Mr. Moore, Mr. Coffin asked Richard Weiss, Weiss Associates, to testify.

Mr. Weiss testified on behalf of Fairchild Semiconductor Corporation and Schlumberger Technology Corporation.

Mr. Moore commented.

Mr. Weiss testified further.

Mr. Muller commented on the length of the hearing and said he would bring the hearing to a close soon.

Mr. Weiss testified further. He referred to several power point slides that had been shown by Mr. Meillier.

Mr. Muller requested that Mr. Weiss conclude.

Mr. Weiss testified and concluded.

There was discussion between Mr. Moore and staff.

Staff replied to a question from Mr. McGrath.

Mr. Muller commented.

Mr. Wolfe recommended the Board adopt the Revised Tentative Order.

Mr. McGrath made a motion to adopt the Revised Tentative Order as recommended by the Executive Officer.

Dr. Singh seconded the motion. He commented.

Mr. Eliahu spoke against adoption of the Revised Tentative Order.

A vote was taken on the motion.

Roll Call:

Aye: Mr. McGrath; Mr. Moore; Dr. Singh; Mr. Muller

No: Mr. Eliahu; Dr. Young

Motion passed 4 – 2.

[The Board took a break at approximately 1:20 p.m. and resumed the meeting at 1:27 p.m.]

Item 8 – Web-Based Wetland Tracker Pilot Project – Status Report

Shin-Roei Lee said the Wetland Tracker is a web-based geographic information system that stores maps and data on water quality certification projects. She said the Water Board issues water quality certifications for projects that involve dredging or filling waters of the State. She said an applicant for a fill project must demonstrate that the project is unavoidable, its impacts will be minimized, and compensatory mitigation will be developed to ensure there is a net gain in habitat quality and quantity.

Andrée Greenberg said most parties that receive water quality certification permits for projects are required to complete a form and information from the form is entered into the Wetland Tracker. She analyzed data that was entered into the Wetland Tracker for forty-five projects that were permitted between August 2006 and December 2007. She presented the status and trends of habitat losses and gains for the projects.

Ms. Lee and Dr. Greenberg answered questions from Board members.

Ms. Lee discussed how staff can use information in the Wetland Tracker to guide management decisions regarding the water quality certification program.

Item 13 – Adjournment

The Board meeting was adjourned at 1:50 p.m.