

San Francisco Bay Regional Water Quality Control Board

September 11, 2013 Board Meeting Minutes

Adopted October 9, 2013

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Item 1 - Roll Call and Introductions

Meeting called to order at approximately 9:00 am in the Elihu M. Harris Building, First Floor Auditorium.

Board Members Present

James McGrath
Newsha Ajami
Margaret Abe-Koga
Vice-Chair Terry Young
Chair John Muller

Board Members Absent

William Kissinger

Status

QUORUM 9:00 am - 9:27 am
and after 10:50 am

Chair Muller left at 9:27 am,
leaving the Board in
subcommittee mode.

Vice-Chair Young assumed
Chair duties at 9:27 am.

Board Member Abe-Koga
arrived at 10:47 am to give the
Board full quorum status again.

Water Board Staff Anna Torres introduced new administrative support staff Victor Aelion and Louis Ruffin to the Board.

Water Board Executive Officer Bruce Wolfe made an introduction to the Board about the work of Water Board Staff Roger Paper and why he was chosen as one of the Staff Superior Accomplishment Award recipients. Chair Muller presented the Staff Superior Accomplishment Award to Mr. Papler.

Item 2 - Public Forum

No parties requested to speak.

(Item 3 was tabled until after second quorum could be reached at 10:50 am. Item 4 was

moved ahead of Item 3 in the Agenda.)

Item 3 - Minutes of Board Meetings

Minutes of the August 14, 2013; August 8, 2012; September 12, 2012; and November 14, 2012 Board Meetings.

Board Member McGrath moved for adoption of items 3A, 3B, 3C, and 3D;
Board Member Abe-Koga seconded the motion.

Ayes : McGrath, Ajami, Abe-Koga, Vice-Chair Young

Nos: None

ITEMS ADOPTED

Item 4 – 2013 Dr. Teng-Chung Wu Pollution Prevention Award – Presentation of Award to the City of Palo Alto

Water Board Staff Dylan Garner described the spirit of the award and why the City of Palo Alto was chosen as this year's recipient. Chair Muller presented the award to Palo Alto Associate Engineer Karin North who accepted on behalf of the City of Palo Alto. Ms. North gave the Board a brief overview of Palo Alto's pollution prevention program and thanked the Board.

Chair Muller left at approximately 9:25 a.m. and Vice-Chair Young chaired the meeting as a workshop and noted that there would not be a quorum until Board Member Abe-Koga arrived. She also noted that items would be moved around such that information items not requiring a quorum would be heard until Board Member Abe-Koga arrived.

Item 5 - Chairman's, Board Members', and Executive Officer's Reports

Mr. Wolfe made an introduction to the Board about the work of Water Board Staff Christine Boschen and why she was chosen as one of the Staff Superior Accomplishment Award recipients. Vice-Chair Young presented the Staff Superior Accomplishment Award to Ms. Boschen.

Tam M. Doduc, State Water Board Member and liaison to the San Francisco Bay Region, addressed the Board. She discussed pending legislation of interest and State Water Board priorities including updating the Industrial Stormwater General Permit, and developing a statewide desalinization policy and wetland policy, and evaluating the Anti-Degradation Policy.

Board Member McGrath discussed Board priorities and suggested a workshop so that there could be a transparent discussion about priorities. Vice-Chair Young discussed the recent Chairs' call and WQCC logistics.

Mr. Wolfe gave an overview of his report for this month.

Item 9 – Cleanup Program for Departments of Defense and Energy Facilities – Accomplishments and Status – Information Item

Water Board Staff Alec Naugle and David Elias made a presentation to the Board. They gave an overview of the program's scope and accomplishments and provided examples of recent cleanup actions.

This item was for discussion purposes only and no action was taken.

The Board took a brief break. Board Member Abe-Koga arrived at 10:47 am, giving the Board full quorum status. The Board reconvened the meeting at 10:50 am.

Item 6 – Consideration of Uncontested Items

Item 6A – Bottling Group, LLC, Bottling Group Plant at 29000 Hesperian Boulevard, Hayward, Alameda County – Reissuance of NPDES Permit

Mr. Wolfe recommended adoption of the uncontested item.

Board Member Abe-Koga moved for adoption of Item 5A;
Board Member McGrath seconded the motion.

Ayes: McGrath, Ajami, Abe-Koga, Vice-Chair Young

Nos: None

ITEM ADOPTED

Item 7 – Moonlite Associates, LLC, and United Artists Theatre Circuit, Inc., for the property located at 2640 El Camino Real, Santa Clara, Santa Clara County – Adoption of Site Cleanup Requirements

Mr. Wolfe noted that staff had separated functions on this item and that he would be leading the Advisory Team for this item.

As Cleanup Team lead, Assistant Executive Officer Dyan Whyte introduced the Cleanup Team.

Cleanup Team Nathan King made a presentation to the Board. He discussed the history of dry cleaner spills in the Bay Area and the threat that PCE spilled at dry cleaner sites caused to groundwater and drinking water supplies. Mr. King further discussed the site history of Moonlite Dry Cleaners, the site's water quality concerns, the tentative order, comments received on the tentative order, and why the Cleanup Team recommended that both Moonlite Associates and United Artists be named as dischargers. Mr. King also answered a number of technical questions posed by Board members.

United Artists Theatre Circuit, Inc. (UATC), legal counsel Scott Reisch and Erler & Kalinowski, Inc., Vice President Carey Peabody addressed the Board. Mr. Reisch presented a legal argument as to why his client should not be named as a discharger. Ms. Peabody presented technical arguments that the PCE release at the site occurred post 1978. Board members asked a number of clarifying questions.

Moonlite Associates, LLC, Attorney Lori J. Gualco and West Environmental Principal Engineer Peter Krasnoff addressed the Board. Ms. Gualco presented the history of the site

and legal arguments why UATC should be named as a discharger. Mr. Krasnoff presented technical information supporting an argument that there are multiple lines of evidence that releases occurred at the site during the 1960's and 1970's. Mr. Krasnoff responded to a number of clarifying questions posed by Board Member McGrath.

The Board went into closed session to discuss the case with the Advisory Team at 1:32 pm. The Board re-convened the meeting in open session at 2:24 pm.

Vice-Chair Young called for closing remarks by both parties. Each of the parties presented closing and summary remarks.

Mr. Wolfe recommended that the Board adopt the Revised Tentative Order with the revised due dates as noted in the supplemental. The Board discussed the various arguments presented and the evidence before them.

Board Member McGrath moved for adoption of Item 7 as supplemented;
Vice-Chair Young seconded the motion.

Ayes: McGrath, Ajami, Abe-Koga, Vice-Chair Young

Nos: None

ITEM ADOPTED

OTHER BUSINESS

Item 8 – The Regional Monitoring Program: What It Is and Where It's Headed – Update by Program Manager Meg Sedlak

San Francisco Estuary Institute staff and Regional Monitoring Program (RMP) Program Manager Meg Sedlak gave an overview of the RMP.

This item was for discussion purposes only and no action was taken.

The Board convened a closed session at 3:22 pm.

Item 12A – Closed Session – Litigation

The Board met to discuss ongoing litigation against East Bay MUD and the East Bay Communities.

[Authority: Government Code sections 11126(e)(1) and 11126(2)(B)-(C)]

Item 14 - Adjournment

Meeting adjourned at approximately 4:15 pm until the next Board Meeting – October 9, 2013