

STATE OF CALIFORNIA

**REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

MEETING DATE: June 13, 2018

ITEM: **3**

SUBJECT: **MINUTES OF THE MAY 9, 2018 BOARD MEETING**



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

May 9, 2018 Board Meeting **ADOPTED June 13, 2018**

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 (415) 457-4417.

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: a.m. in the Elihu M. Harris Building, First Floor Auditorium.

Board Members Present

Chair Terry Young
Vice-Chair James McGrath
Cecilia Ogbu
Newsha Ajami
William Kissinger
Jayne Battey

Board Members Absent

Steve Lefkovits

Status

QUORUM

Groundwater Protection Division Chief Terry Seward introduced Engineering Geologist Katrina Kaiser has who moved from a limited term position into a permanent position in the Division.

State Board Member Tam Doduc addressed the Board and mentioned that the State Onsite Wastewater Treatment System policy update was adopted; the following plans and policies will be out for public comment soon: Bay Delta Water Quality Control Plan Phases 1 and 2, and the Dredge and Fill and Toxicity policies; and commented that these are commonly circulated with consensus amongst all Regional Water Boards.

Item 2 – Public Forum

David Lewis, Executive Director, Save the Bay, thanked the Board for directing staff to prepare an enforcement order for Caltrans regarding trash control and discharge. He said the direction is already influencing Caltrans; State senators during budget hearings asked Caltrans about its compliance issues. He also said he hopes the order will include specific short-term actions and longer-term actions, timeline for the actions, and reporting requirements so the public knows when data will be available to show how much trash has been collected and controlled and how Caltrans will pay for implementing actions. He said they do not expect Caltrans to comply since it has not complied with previous orders, so he wants a specific order that insures

Caltrans has capacity to budget and plan for compliance and that the Water Board can track specific compliance.

Item 3 – Minutes of the April 11, 2018 Board Meeting

Executive Officer Bruce Wolfe recommended adoption of the Minutes from the April 11, 2018, Board Meeting.

Chair Young asked if all were in favor of adoption of the minutes. Vice Chair McGrath moved adoption and Board Member Ajami seconded it. Chair Young then asked if anyone was opposed - none opposed; all ayes.

ITEM ADOPTED

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

Vice-Chair McGrath attended the Oro Loma Sanitary District’s open house and toured the District’s horizontal levee and pilot scale nitrification and denitrification facility. He said he found the plant well-run and the grounds well-kept. He also observed that the District’s cost per household is low and affordable for Alameda County, which shows you can run a high-performing treatment plant on a limited budget. He requested a future report on how the horizontal levee removes nutrients. Mr. Wolfe said that this will be included in a report on status of implementation of the San Francisco Bay Nutrient Management Strategy.

Chair Young reported she attended the annual Chairs’ meeting. Chair Young informed other Board members that the Governor’s appointments secretary, Kristin Stauffacher, requested that Board members let her know when they receive applications from the State Senate regarding Senate Rules hearings. She mentioned that the Los Angeles Water Board spoke about their challenges with implementing the General Industrial Stormwater Permit due to the number of facilities in the region, so that they decided to focus on auto dismantlers. They successfully shut down many facilities discharging pollutants to storm drains. The Los Angeles Water Board is working with municipalities to have them require a Stormwater Permit be obtained from the Board for every dismantling business, before the business can get an operating permit from the municipality. Mr. Wolfe added that there is also the requirement that the Department of Motor Vehicles has that all dismantlers have a permit through the Water Boards.

Chair Young said she met with Andrea Ventura, of Clean Water Action, and Erica Maharg, of San Francisco Baykeeper, with telephone call-ins from Colin Bailey of the Environmental Justice Coalition for Water, and Sherry Norris of the California Indian Environmental Alliance, about a potential pathway to getting tribal beneficial uses and subsistence fishing beneficial uses listed for the Bay in our Basin Plan. Participants are interested in pursuing this as a long-term process to expose the risks of mercury impacts on their communities and do not want to interrupt our current policies, plans, and TMDLs regarding mercury. Assistant Executive Officer Thomas Mumley joined Chair Young in the meeting.

Mr. Wolfe told the Board members that the Triennial Review priorities will be before the Board this year. He said staff sent out a public notice and will hold a public workshop in May to garner input and then will incorporate that into the proposed priority projects that will be brought to the Board. He also mentioned that eight projects were adopted for Measure AA funds and a ninth is pending. The Restoration Authority Advisory Committee discussed lessons learned about the solicitation process when they met last week. They specifically discussed how to make projects that include land acquisition and mitigation eligible for funding, as the legislation does not specifically account for these components. The Montezuma Wetlands Restoration Project was partially funded but not the beneficial reuse of dredge materials due to challenges relating the project to other restoration projects. Mr. Wolfe inserted into their discussion that agencies like ours hope that these projects can be funded in the future. Mr. Wolfe also mentioned the Coastal Conservancy has a process proposed to get permitting faster for these projects. Board members asked some questions and commented on funding and permitting for these types of projects. Vice Chair McGrath asked a question about Senate Bill 1304. Mr. Wolfe said the focus of the bill has changed from a mechanism to expedite stormwater and infrastructure projects to a mechanism to fund agencies to permit new projects.

Mr. Wolfe gave an overview of this month's Executive Officer's Report. He specifically mentioned the Alameda Creek Rubber Dam Fishway that is part of several projects intended to improve fish passage and restore historic fish migration. He mentioned some administrative items to Board members including submittal of Statement of Economic Interest, NPDES Conflict of Interest forms, and travel expense claims. He also pointed out progress on the Prioritization Project.

Board Member Battey asked for more information about enforcement settlement for the Granada collection system. Dr. Mumley said that there are four separate orders coming forward for the Sewer Authority Mid-Coastside (SAM) and its collection agencies, Granada, Montara, and Half Moon Bay, that send waste to SAM. Board Member Battey commented that she wants the Board members to be aware that there are many independent and uncoordinated facilities in San Mateo County and urges consolidation for better management and funding opportunities and indicated that the Water Board should do what it can to encourage such consolidation.

Chair Young conducted the swearing in.

Uncontested Items

Item 5A – City of San Mateo and City of Foster City Estero Municipal Improvement District, City of San Mateo Wastewater Treatment Plant and Collection System, San Mateo, San Mateo County – Reissuance of NPDES Permit

Item 5B – NRG Delta, LLC, Pittsburg Generating Station, Pittsburg, Contra Costa County – Reissuance of NPDES Permit

Item 5C – Mrs. Lois and Mr. Greg Tonnesen, Tonnesen Pet Cemetery, Suisun City, Solano County – Rescission of Waste Discharge Requirements Order No. R2-2017-0024

Item 5D – Eden Shores Associates I, LLC, Eden Shores Residential Project, Hayward, Alameda County – Adoption of Waste Discharge Requirements

Item 5E – U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife, South Bay Salt Pond Restoration Project, Phase 2 – Adoption of Waste Discharge Requirements and Water Quality Certification

Mr. Wolfe introduced the item. Mr. Wolfe recommended consideration of items 5A, 5B, 5C, and 5D and taking up Item 5E separately as there is a commenter for that item.

He recommended minor changes to Item 5A, at Table E4, on page E9 where we should move footnote 5 to show it is specific to effluent sampling analysis only.

Chair Young asked if changes in treatment for the City of San Mateo regarding nutrients came about in response to the Board's nutrient requirements or other reasons. City of San Mateo staff, Cathy Zammit, commented that they wanted to meet current and future requirements and use funds most efficiently. Chair Young said she wants facilities who implement proactive and voluntary upgrades for nutrient removal to get credit so those facilities' baseline is not the upgraded removal in place when Board's new nutrient removal requirements kick in. Mr. Wolfe indicated that this is the stated approach for the Nutrient Watershed Permit's next permit term. **Board members discussed incentives for new technology and requirements related to future conditions and to acknowledge those who have improved nutrient removal and are piloting new technologies.**

Chair Young called for a vote on items 5A, 5B, 5C, and 5D.

Ayes: Young, McGrath, Ogbu, Ajami, Battey, Kissinger

Nos: None

ITEMS ADOPTED

John Bourgeois, Executive Project Manager of the South Bay Salt Pond Restoration Project, presented a description of the Item 5E project.

Board Member Kissinger asked Mr. Bourgeois why he thinks that restoration is so much more successful than the Muzzi Marsh in Marin. Mr. Bourgeois said the location of the marshes in the South Bay project benefits from the geomorphic setting in far South San Francisco Bay, which is sediment-rich and is at the right elevation. Board Member Kissinger also asked what is limiting full implementation of this project. Mr. Bourgeois said money and the scale of the project, as that brings uncertainty such as mercury in the Bay and impacts on wildlife when converting salt ponds that support habitat to wetlands. Board Member Kissinger further asked how mercury is a concern. Mr. Bourgeois said that large reservoirs are cut off from the Bay now and have mercury, so the project may discharge mercury in water to the Bay and scour bottoms of ponds where mercury in the sediment may be mobilized. He said they will have to

balance the benefits of the wetlands with the impacts of remobilizing mercury, but current data indicates that less mercury than expected has been mobilized. Board Member Ajami asked about the public-private partnership aspects of the project. She urged **engagement with private foundations for funding** the alternative and innovative aspects of the project. Board Member Battey asked for a copy of the presentation and offered to share ideas about private foundation funding. Board Member Ajami said tracking all benefits of projects, not just environmental, will keep communities and foundations interested and willing to support projects. Board Member Battey asked Mr. Bourgeois what more he thinks the Board can do to support projects. Mr. Bourgeois said that the process of joint agency consolidation will be important and will be beneficial for applicants so that the Board should remain active on that project and establish broad policies such as where wetland conversion is best and how to facilitate the regulation of projects in these places.

Mr. Wolfe recommended adoption of Item 5E with the minor changes to table headings as indicated.

Board Member Ajami moved adoption and Board Member Ogbu seconded it.

Ayes: Young, McGrath, Ogbu, Ajami, Battey, Kissinger

Nos: None

ITEM ADOPTED

Other Business

Item 6 – San Francisco Bay Joint Venture – Presentation on the Development and Implementation of the Joint Venture’s Climate Change Policy White Paper by Beth Huning, Joint Venture Coordinator, and Arthur Feinstein, Joint Venture Government Affairs Committee Chair

Mr. Wolfe introduced the item and Beth Huning made a presentation. She highlighted implementation of the habitat goals of the San Francisco Bay Joint Venture (JV), preservation and restoration of natural habitats, improved ecological connectivity, avoidance of filling wetlands, use of natural infrastructure, provision of uplands and maintenance of agricultural lands, adequate sediment to sustain mudflats and marshes, best available climate science, and concern for communities affected. She itemized how the Board can help: keep in touch as it develops climate change policies, incorporate desired outcomes as per agreement among partners, and provide information about RAMP (Regional Advanced Mitigation Planning) and other planning processes. Vice-Chair McGrath asked if the JV would support using sand to kind of gentle the slope out in front of sites, assuming that the morphological evidence and the science works out. Ms. Huning replied that the JV reviews restoration project designs and that’s how they determine which projects to support. She said the JV is very interested in innovative solutions. Mr. Wolfe said staff supports some filling to buffer from climate change impacts but also wants to look at ways to fill inland instead of out into Bay. Board Member Ajami commented that she appreciated the **insight into all the agencies participating and the indication that the Board is so involved with all the projects of the JV and solutions to**

climate change impacts. She also thinks the message that the Board is so involved does not get out as much as it should. Ms. Huning said the Board is one of the easiest agencies to work with because the staff is highly engaged in the projects and climate change adaptations. Chair Young appealed to Ms. Huning to help get the message out to flood control agencies to implement more natural infrastructure. Board Member Kissinger asked questions about how long the JV has existed and how projects and numbers of projects have changed over time. Ms. Huning spoke about how the low hanging fruit has been picked and now projects are large, complex with multi-benefits, and innovative so they take longer to do and cost more. Mr. Wolfe commented that makes the partnership with other JV members even more significant.

This item was informational so no action was taken.

Item 7 – Vapor Intrusion Assessment and Mitigation – Status Report

Mr. Wolfe introduced the item. Research Scientist Nicole Fry and Senior Engineer, Toxics Unit Supervisor, Cheryl Prowell presented the item. Board members asked questions about **why the model and empirical screening values were so different and how can we evaluate sampling data better going forward.** Ms. Fry said that State Board is updating the reporting of data to Geotracker so staff will be able to create and evaluate data on their own in the future. Board Member Battey asked how information about vapor intrusion (VI) conditions transfer with real estate transactions. Ms. Prowell said we use deed restrictions for properties where the source is below the building and is managed for VI risk reduction but have not taken such active steps for offsite or adjacent buildings with real estate transfers. Stephen Hill, Toxics Division Chief, said we have tools to address new construction and new development. Board Member Ajami said information is hard to find and particularly for renters. Staff is planning to distribute fact sheets to all neighbors at and around sites with VI risks. Board Member Battey asked about health impacts of chemicals, and Ms. Prowell described the risk of damage to fetal heart development. Board Member Ogbu asked if, with new screening levels, is staff thinking about sites that were closed or not prioritized previously. Ms. Prowell said staff has considered this; staff assumes that the worst cases cleaned up in the past were likely to have less risk due to soil and groundwater cleanup but staff wants to review formerly-closed cases to test this assumption. Board Member Ajami asked about current chemicals used and whether they are toxic, and Ms. Prowell and Mr. Hill said that cancer-causing chemicals have largely been phased out of current operations.

This item was informational so no action was taken.

Item 8 – Correspondence

Item 9 – Closed Session – Personnel

The Board met in closed session to discuss Mr. Wolfe's performance review. The Board may meet in closed session to discuss personnel matters. [Authority: Government Code section 11126(a)]

Item 10 – Closed Session – Litigation

No closed session on litigation was held at this meeting.

Item 11 – Closed Session – Deliberation

No closed session was held on deliberation at this meeting.

Item 12 - Adjournment

Meeting adjourned at 2:45 p.m. until the next Board Meeting – June 13, 2018