

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD SAN  
FRANCISCO BAY REGION

MEETING DATE: October 14, 2020

**ITEM:**               **4**

**SUBJECT:**           **Minutes for the September 9, 2020 Board Meeting**

**September 9, 2020 Board Meeting**  
**Adopted October 14, 2020**

Note: Copies of orders, resolutions, and minutes are posted on the Regional Water Board's website ([www.waterboards.ca.gov/sanfranciscobay](http://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 (510) 313-0610.

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 9:02 a.m. via Zoom Virtual Meeting Platform.

Executive Officer (EO) Michael Montgomery invited Senior Engineering Geologist David Elias to introduce a new hire. David Elias introduced Engineering Geologist Jacob Henry to the Board, providing background on his career and personal interests.

**Board Members Present**

Chair James McGrath

Vice-Chair Jayne Battey

William Kissinger

Newsha Ajami

Alexis Strauss Hacker

Andrew Gunther

**Board Members Absent**

**Status**

QUORUM

**Item 2 – Public Forum**

No public speakers

**Item 3 – Minutes of the September 9, 2020, Board Meeting**

There were no edits to consider. EO Montgomery informed the Board of a procedural change- Executive Assistant Guy Gutterman is taking over the writing of the minutes from Assistant Executive Officer (AEO) Lisa Horowitz McCann.

Motion: Board Member Kissinger

Second: Board Member Ajami

Ayes: McGrath, Battey, Kissinger, Ajami, Hacker, Gunther

Nos: none

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

Board Member Ajami described watching the fires and how it is affecting the public and water quality.

Vice Chair Battey shared that the American Leadership Forum Silicon Valley Sustainability Affinity Group will be raising awareness on sustainability related issues through their social media. She thanked AEO Horowitz McCann and the Water Board fire response team for their efforts and read a note from a local farm, one of dozens received, expressing their readiness to begin the recovery phase.

Board Member Gunther expressed gratitude for being confirmed by the Senate. He called attention to a report by the Legislative Analyst Office called “What Threat Does Sea Level Rise Pose to California”. He also mentioned being a scientific reviewer for an SFEI report on sediment availability in the Bay.

Board Member Hacker expressed delight for being confirmed by the Senate. She described working on a report that detailed how the US EPA could work on rebuilding their workforce. She mentioned that she addressed the Army Corps of Engineers on the Women’s Right to Vote and how our workforces work together.

Board Member Kissinger said he was also happy to be reconfirmed by the Senate.

Chair McGrath brought up his two conversations with Save the Bay regarding Caltrans and that he was happy with the support from CalEPA. He read through the Water Resiliency Report and highlighted his disappointment in the lack of specifics regarding the development of institutional capacity in the water sector towards meeting the larger goals. He was pleased with the result of the Federal court decision in the Pt Buckler case, especially how well-crafted the decision was. Chair McGrath concluded by noting that impacts of climate change are here now, and the current major threat is fire.

Board Member Ajami said Stanford is hosting Felicia Marcus as a Fellow and mentioned a webinar that they are hosting in September.

State Water Resources Control Board Member (State Water Board) Tam Doduc congratulated Board Members Hacker, Gunther and Kissinger on their confirmations. She discussed legislative updates, particularly bills on loans to the Safer Drinking Water Program and the ban of manufacturing and sale of firefighting foam containing PFAS. She went on to say the focus for the next State Board meeting will be on the raising of fees, describing the options available and possible repercussions.

EO Montgomery thanked State Water Board Member Doduc for her update and provided more context on the discussion of fees. He provided more background to the Water Board on staffing restraints. He detailed staff’s efforts in tracking responses to the major fires in the region. EO Montgomery noted that he had sent a letter to SFPUC requiring reporting on SSOs in the area of the Southeast Permit.

Board Member Battey added her thanks to the team.

Chair McGrath praised staff on the former Potrero Power Plant Cleanup item covered in the Executive Officer's Report, in particular as it relates to environmental justice.

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

### **A. East Bay Municipal Utility District, Special District No. 1 Main Wastewater Treatment Plant and Interceptor Conveyance System, Oakland, Alameda County - Reissuance of NPDES Permit**

Chair McGrath recited the language for swearing in speakers.

EO Montgomery invited Director of Wastewater Eileen White of East Bay Municipal Utility District to speak on the recent events dealing with sewage overflow spill into the Oakland Estuary. She summarized the sequence of events and efforts to mitigate the impacts to the environment and public health. She emphasized how important it was that EBMUD staff to responded quickly to the incident and understand the cause.

Board Member Ajami asked if this was the first time an incident like this happened.

Eileen White said similar situations have occurred in the past but back up power provided by PG&E typically imports electricity back to EBMUD. There are multiple layers of redundancy that have prevented spills since the Loma Prieta Earthquake. If EBMUD knows there is an instability in PG&E's lines, EBMUD can go into an "island" mode. She explained that, in this case, the backup power and redundant controls failed.

Chair McGrath asked EO Montgomery to keep the Board informed on progress.

Board Member Kissinger further questioned what went wrong with the "island mode" activation.

Eileen White provided more context as to how "island mode" operates.

Chair McGrath asked Eileen White if she would be willing to come back to the Board once more details of the incident are understood and give a briefing on the lessons learned.

Board Member Hacker said that a workshop with other Bay Area wastewater treatment plants and utilities would be beneficial.

EO Montgomery recommended the Board adopt the Order.

Motion: Board Member Ajami

Second: Vice Chair Battey

Ayes: McGrath, Battey, Kissinger, Ajami, Hacker, Gunther

Nos: none

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Break at 10:11am

Back in session at 10:25

### **Site Cleanup Program**

#### **Item 6 – Marinwood Plaza, LLC, and Hoytt Enterprises, Inc., for the property located at 187 Marinwood Avenue, Marinwood, Marin County – Adoption of Final Site Cleanup Requirements**

EO Montgomery reminded the Board that this item is one of two concerning Marinwood Plaza with this one is focusing on groundwater. Some topics may not be discussed in detail due to potential enforcement actions. He introduced Water Board staff and management involved: AEO Horowitz McCann, Division Chief (DC) Alec Naugle, Supervisor Laurent Meillier, and Staff Ralph Lambert.

Staff Lambert made a presentation on the proposed Site Cleanup Requirements for the Prosperity Cleaners site at Marinwood Plaza.

Board Member Ajami asked if there was information on the size of the plume. Staff Lambert referred to slide 20 of the presentation.

Board Member Ajami asked for further clarification on several points regarding the map and plume characteristics. Staff Lambert provided the appropriate answers.

Chair McGrath asked for more information on the rate of flow of the plume in the groundwater. Staff Lambert replied with relevant details.

Board Member Ajami followed up to inquire whether the plume can change direction between samplings or expand. DC Naugle described the attenuation of the plume. Staff Lambert clarified that there are 16 sites that are regularly monitored, and results are stable, as well as monitors at non-detect sites.

Board Member Hacker referenced the Implementation Report and her unease with the timing of the current schedule provided in the SCRs.

DC Naugle described the assumptions leading up to the decision to extend the timeline for the Implementation Report of the Order.

Board Member Gunther wanted clarification on comments received that stated the plume was not adequately delineated. Staff Lambert provided an explanation for those comments. DC Naugle expanded on Staff Lambert's remarks, emphasizing that the testing procedures used to determine delineation are used in other similar cases. AEO Horowitz McCann explained there has been above average testing to determine the plume's characteristics.

Board Member Kissinger echoed Board Member Hacker's concerns about the Implementation Report schedule. Board Member Kissinger highlighted a specific concern that there was a lack of accountability in the interim to guarantee that the work would be completed in time to meet the June due date.

Chair McGrath directed EO Montgomery and staff to work on specifics regarding requiring initiation of action.

Board Member Kissinger and DC Naugle discuss technical matters related to the order. AEO Horowitz McCann and Staff Lambert also contributed to the discussion.

Chair McGrath concluded the discussion with a remark on the speed of the plume growth.

Board Member Ajami and AEO Horowitz McCann discuss focusing on setting a date for initiation of actions versus setting a deadline for completion of actions. Chair McGrath added to the discussion by referencing a desire to take a broader approach to monitoring progress.

EO Montgomery asked the first public speaker to provide comment.

Michael Van Zandt, Hanson Bridgett LLC, representing Catholic Charities CYO of San Francisco, said he took the oath and thanked the Board and staff for their continuing attention. He critiqued the discharger's adherence to the previously agreed upon order to monitor and remediate the plume. Michael Van Zandt described the movement of the plume and its effect on Catholic Charities' plans to develop the land. He concluded by reiterating the importance of sticking to the original deadline in 2027. He expressed appreciation for the Board's time.

Board Member Battey asked what other constraints the plume has put on the property. Michael van Zandt answered that there are concerns about additional foundations that would need to be built and vapor exposure.

Board Member Kissinger asked if there is any litigation pending between Catholic Charities and Marinwood Plaza. Michael van Zandt answered that both Silveira and Catholic Charities have filed suit, and both are in mediation.

Richard Bowles, Bowles and Verna, representing the Silveira's, said he took the oath. He amplified the importance of timing and advocated for keeping the timeline as is. Richard Bowles commented that there is no reason to stop the testing and remove the treatment on the private well. He requested that the 3-year reporting period be shortened.

Xiaoru Hoytt, Property Manager for Marinwood Plaza, described the cleanup actions taken starting in 2017. After the current company working on the cleanup backed out, she considered other options, but the pandemic has hindered efforts to resume work. She concluded by stating that AECOM has plans to continue the work in the near future once they settle on the terms of the specific project and get agreement from the other

property owner, and when the proper equipment is ready. Roger Vosburg, consulting for Xiaoru Hoytt, concurred with Xiaoru Hoytt's assessment that AECOM will work to complete the project.

Staff Lambert clarified that some of Xiaoru Hoytt's points were relating to Vapor Intrusion and not relevant to the current discussion in front of the Board.

Chair McGrath asked how much new work was expected at the site. Staff Lambert answered that 100s of new injection points would be required to treat the groundwater.

Chair McGrath asked that the map of the site be shared on screen.

AEO Horowitz McCann questioned if what is being debated is a change in groundwater remediation method or just changing the company performing the cleanup. Xiaoru Hoytt said she is unsure but could have AECOM describe the proposal for staff later. Chair McGrath reiterated that the new contractor may propose new injection points with new equipment which will require staff approval. AEO Horowitz McCann said that any new plans by AECOM have not yet been seen or approved by staff.

Vice Chair Battey brought up the issue of consent and understanding of the new plans from the other 50% partner of Marinwood Plaza. There was discussion between Vice Chair Battey and Xiaoru Hoytt about management responsibilities of the property between owners.

Chair McGrath asked to call up the next speaker.

Bill McNichols, on behalf of Cleanup Marinwood [Plaza] Now! Committee stated that he took the oath. He described his understanding of the history of Marinwood Plaza as it relates to the topic of the Site Cleanup Requirements. He expressed his support for both Silveira Ranch and Catholic Charities in their proposals to the new order. Xiaoru Hoytt provided context related to the ownership of the site in the past.

Chair McGrath went over some of the main points of contention that he wanted staff to discuss over lunch and return with responses. It was agreed to return at 1:10pm.

Lunch Recess at 12:30pm

Back in session at 1:12pm

EO Montgomery asked for AEO Horowitz McCann and DC Naugle to share the changes proposed.

AEO Horowitz McCann described the changes made to the order and provided explanations. This includes a progress report indicating the hiring of contractor and permitting has commenced by January 15, 2021, remediation reports required annually from June 30, 2022, and several formatting typos. Attorney Yuri Won explained that while financial considerations are factored into cleanup orders, they are not relevant for the current discussion. Vice Chair Battey wanted the language in the first change to be unequivocal in requiring the process to have been completed. After a discussion

amongst the Board, Chair McGrath clarified that what is being proposed is that all pre-construction activities are completed by the new date of January 15, 2021. Board Member Kissinger recommended language to revise the tentative order to address interest in a progress report saying activities are completed by January 2021 and to require more frequent reporting on cleanup status. Board Member Kissinger also suggested that language be added to include the Regional Water Board may act if tasks are not completed in time.

Motion: Board Member Kissinger

Second: Board Member Ajami

Board Member Gunther suggested that lessons be learned from this session to improve the streamlining of language alterations.

Board Member Ajami and Vice Chair Battey expressed gratitude for public participation in this matter.

Chair McGrath provided his concluded thoughts on the work done throughout the life of the cleanup proceedings.

Ayes: McGrath, Battey, Kissinger, Ajami, Hacker, Gunther

Nos: none

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### **Information Item**

#### **Item 7 – Recycled Water in the San Francisco Bay Region**

EO Montgomery introduced Supervisor Maggie Monahan and Staff Melissa Gunther. Both Supervisor Monahan and Staff Gunter made a presentation to the Board.

EO Montgomery introduced Assistant Director Dave Smith. Dave Smith, US Environmental Protection Agency, Region 9, said he was representing the National Water Reuse Action Team today. He provided context on the motivations for pursuing water reuse in the region compared to other parts of the West.

Staff Gunter introduced Clean Water Programs Specialist Stefanie Olson. Stefanie Olson, Dublin San Ramon Services District, said she is representing the Bay Area Clean Water Agencies' (BACWA) Recycled Water Committee. She made a presentation on BACWA's recycled water efforts.

Staff Gunter introduced District Manager Sergio Ramirez. Sergio Ramirez, West Bay Sanitation District, provided a brief overview on the Sharon Heights Recycled Water Project and other future plans.



Board Member Ajami asked Sergio Ramirez who else is a potential partner for future projects. He answered that they are currently looking.

EO Montgomery introduced Project Director Nate Nickerson. Nate Nickerson, Natural Systems Utilities, said he was involved in Microsoft's water reuse system and made a presentation on similar projects they have been involved with.

Board Member Ajami expressed her delight that these presentations took place. She discussed the balance between building new systems and ensuring there is demand for the recycled water. Sergio Ramirez noted that there is a need in Menlo Park and West Bay Sanitation District is coordinating with the city,

Chair McGrath commented that the key to moving forward is institutional capacity, especially as it relates to stormwater.

Dave Smith suggested that the Water Board could influence institutional development among water managers to build capacity and foster regional collaboration. Chair McGrath followed up with some of the challenges the region faces to accomplish Dave Smith's ideas.

Vice Chair Battey shared from her experiences with resource constraints and asked about Water Board's staff work with the creation of master or combined permits. She also asked how additional resources for reuse could include disadvantaged communities. Staff Gunter mentioned a study that is being done to investigate this matter.

Staff Gunter discussed the need for a diverse range of solutions, including both centralized and decentralized systems. Nate Nickerson shared some of his experiences with this topic. Board Member Ajami stressed the importance of making sure permittees are aware of the changing patterns of water use through these different systems.

Board Member Hacker brought up her desire to expand the conversation to include biosolids.

Board Member Gunther expressed his support for the diversification of systems to make recycled water more readily available for every day uses. Chair McGrath added that cultural changes are at the core of this shift.

Board Member Ajami and Staff Gunter discussed the per capita water usage in San Francisco.

## **Item 8 - Correspondence**

EO Montgomery presented correspondence from Caltrans regarding their workplan for trash cleanup. It included a funding plan and a compliance strategy. Assistant Executive Officer (AEO) Thomas Mumley added that conversations with Caltrans are continuing and gave specific examples. Chair McGrath expressed his gratitude for the work of the

staff. Board Member Hacker asked for updates in regard to the involvement of local cities with Caltrans as the projects progress. Vice Chair Battey shared her thoughts on the expected increase of homelessness in the region and her desire to see increased programs to drive behavioral changes (reduced littering). Board Member Ajami added her appreciation for Vice Chair Battey's frustration and shared her thoughts.

Chair McGrath responded to Vice Chair Battey's comments on homelessness.

Board Member Hacker questioned if there is a sense of how Caltrans will spend their funds dedicated to education. EO Montgomery provided a brief reply and AEO Mumley added that there is not much funding for outreach on behavioral campaigns. Vice Chair Battey provided a couple examples of successful campaigns in other areas of concern.

AEO Horowitz McCann gave a concluding statement appreciating the support of the Executive Officer in the face of several current challenges.

#### **Item 9 – Closed Session – Personnel**

The Board did not meet in closed session for Personnel in this meeting

#### **Item 10 – Closed Session – Litigation**

The Board did not meet in closed session for Litigation in this meeting

#### **Item 11 – Closed Session – Deliberation**

The Board did not meet in closed session to deliberate in this meeting.

#### **Item 12 – Adjournment**

Board Member Kissinger motioned and Board Member Ajami seconded

The meeting was adjourned at 3:15 PM