

STATE WATER BOARD
BOARD MEETING MINUTES
September 7, 2005

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CALL TO ORDER

Arthur G. Baggett, Jr., called the meeting to order on September 7, 2005 at 10:11 am in the Sierra Hearing Room, 1001 I Street, Sacramento, California.

ALL BOARD MEMBERS PRESENT

Arthur G. Baggett, Jr., Chair; Peter S. Silva, Vice Chair; and Richard Katz, Tam M. Doduc, Gerald D. Secundy, Members

STAFF PRESENT

Celeste Cantú, Executive Director; Ted Cobb, (Acting) Chief Counsel; Tom Howard, Deputy Director; Beth Jines, (Acting) Deputy Director; Debbie Irvin, Clerk to the Board; Joanne Cox, Greg Frantz, Phil Zenter, Phil Isorena, Erin Mustain, Joanna Jensen, Chris Beegan, Bruce Fujimoto, and Rik Rasmussen, Division of Water Quality; Vicky Whitney, Division of Water Rights; Michael Levy, Erin Mahaney, Sheila Vassey, and Barbara Leidigh, Office of Chief Counsel; Christopher Stevens, and Allan Patton, Division of Financial Assistance; Selica Potter and Liz Kanter, Office of Public Affairs

OTHERS PRESENT

Aaron Moreno representing Assemblyman Joseph Canciamilla; Ivan Karnezis, Cal/Trans; John Muller, Bruce Wolfe, and Thomas Mumley, San Francisco Water Board; Jon Bishop, Los Angeles Water Board; Lesley Dobalian and John Robertus, San Diego Water Board; Bill Jennings, Watershed Enforcers; Susan Schwartz, Friends of Five Creeks; Rey León, Latino Issues Forum; Andria Ventura, Clean Water Action; Doug Lovell, Federation of Fly Fishers; Sherri Norris, International Indian Treaty Council; Alisha Deen, Environmental Justice Coalition for Water; Sejal Choksi, Baykeeper; Michael Warburton, Public Trust Alliance; Steve Macaulay, California Urban Water Agencies; David Beckman, Natural Resources Defense Council; Alexis Strauss and David Smith, U.S. Environmental Protection Agency; Michele Plá, Bay Area Clean Water Agencies; Councilmember Steve Cho, City of Fremont; Roland Dias, Oro Loma Sanitation District and East Bay Dischargers Authority; Richard Halket, Dublin San Ramon Services District; Major Chris Hussin, U.S. Army Corps of Engineers, San Francisco District; Wendell Kido, Sacramento Regional County Sanitation District; Bobbi Larson, CASA; Chuck Weir, East Bay Dischargers Authority and Tri-TAC; Anijali Lathi and Jennifer Toy, Union Sanitation District; William B. Patterson, East Bay Municipal Utility District; Craig Johns, Partnership for Sound Science in Environmental Policy; Warren Tellefson, Central Valley Clean Water Association; John Amdur, Port of Oakland; Jay Ach, Port of San Francisco; Walt Gill, Chevron Texaco; Steven Oberman, Shell; Kevin Buchan, WSPA; Peter McGaw, Contra Costa Council; Christine Boudreau, Anchor Environmental

MISCELLANEOUS

Chairman Baggett assured the public that no one would be laid off from ag waiver staffing and that the Board is committed to the program. A written document for the public is forthcoming. Chairman Baggett asked Ms. Cantu to give a response.

PUBLIC FORUM

Mr. Karnezis presented a TMDL Guidance Manual to the Board.

Mr. Jennings addressed the Board about news articles published in the Sacramento Bee and the Stockton Record. Chairman Baggett stated that there were a lot of misleading facts in the articles and assured Mr. Jennings that there will be a follow-up letter from the State Water Board with an update on how the ag waiver issue.

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WATER QUALITY

1. Consideration of a resolution amending the Water Quality Control Plan for the San Francisco Bay Region to establish a total maximum daily load for mercury in the San Francisco Bay

Ms. Cox presented the item to the Board saying 37 comment letters were entered into the record. One of the commenter's noted that the notice of opportunity for comments stated that comment letters **should be** no more than 5 pages rather than **must be**. Member Secundy stated that next time there will be clarification while reminding the public that a deadline must be adhered to.

Mr. Levy requested that the commenter who submitted 300 pages of studies with their comments might want to summarize orally.

Mr. Muller addressed the Board.

Mr. Wolfe addressed the Board and wanted to reiterate their comments, as submitted, where they welcome the adoption of Version 1 in which they believe is most protective of the Bay of the 3 versions, and would most effectively restore the Bay for mercury. The adoption would support their approach to use sound science to provide evidence and support for everything they do in the TMDL.

Ms. Strauss addressed the Board on behalf of and USEPA is support in Version 2. Ms. Strauss wanted to provide a brief update based on comments that Board members had made in earlier hearings. The reason that USEPA supports Version 2 is for the changes that it may bring to strengthen the TMDL in its implementation provisions.

Member Secundy, thanked Ms. Strauss on submitting the comment letter addressing dredging saying it was very educational. Member Doduc expressed concern about the implementation and wants it to be consistent with the Long-Term Management Strategy (LTMS) and the Clean Water Act suggesting that instead of removing the sections pertaining to dredging, they look at Ms. Strauss's suggestion of rewording.

Ms. Strauss concluded by saying that all the LTMS agencies, Regional Boards, Core of Engineers, and dredging communities meet frequently and are attuned to the Regional Board Basin Plan, TMDL, and Clean Water Act requirements.

Chairman Baggett concurred.

Mr. McCauley addressed the Board.

Messes. Plá, Lathi, and Larson addressed the Board supporting Version 1.

Mr. Moreno addressed the Board on behalf of Assemblyman Joseph Canciamilla.

Mssrs. Cho, Johns, Ach, Gill, Oberman, Kido, and Buchan addressed the Board supporting Version1.

Mr. Dias addressed the Board and was concerned about the rate of the fees.

Mr. Beckman addressed the Board.

Messes. Choksi and Deen addressed the Board supporting the remand.

Mr. Warburton addressed the Board supporting the remand.

Member Katz asked staff for clarification about what the minimum time was we could give if we remand?

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Ms. Cox replied 1 year if there is a peer review and 9 months minimum without peer review. Ms. Cantu stated 6 months.

Messes. Norris, Schwartz, and Ventura addressed the Board supporting Version 2.

Mssrs. Leon and Lovell addressed the Board supporting Version 2.

Mr. McGaw addressed the Board opposing the remand.

Chair Baggett asked his peers for suggestions, comments saying he feels the language for dredging needs to be modified. Member Katz wanted the time to be modified to 6 months. Member Doduc referred to Version 2, number 7E, requesting, "*Ensure in-Bay disposal of dredged material containing mercury complies with the requirements of the Long Term Management Strategy*", and make the same change to #5 under Resolve.

Member Silva voted no to Version 2 and expressed his concern that the Regional Boards are micromanaging on issuing the wasteload allocation.

Mr. Cobb reminded the Board there should be a motion to actually discuss one of the proposals.

Member Katz made a motion for Version 2 with the LTMS amendment; Member Secundy seconds the motion.

Member Doduc wanted to reiterate Ms. Strauss's comment that staff should clarify Finding 7G under Resolve 10.

Member Secundy wants the definition of 'fair share' to refer to the discharger's proportional contribution to the impairment and to put it under Finding 7.

Member Baggett called a recess so staff could make the changes.

RECONVENED (1:30 p.m.)

Mr. Robertus addressed the Board and gave a power point presentation on dredging project.

Mr. Levy addressed the Board presenting the revised Version 2.

Motion: The Board adopted the proposed resolution as **Resolution 2005-0060**.
Member Silva opposed.

2. Consideration of a resolution authorizing funding from the State Water Pollution Cleanup And Abatement Account for contract support services for the development of sediment quality objectives (SQO), and authorizing the Executive Director to negotiate and execute contracts for the development of SQO

Mr. Patton addressed the Board on the funding issue for the cleanup and abatement account.

Mr. Jennings addressed the Board thanking Chris Beegan for his work on SQO stating his support but suggests that a technical committee overseeing the development of sediment quality objectives be formed to develop a subset with a special emphasis on Delta knowledge.

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Chairman Baggett added that he and Member Doduc have completed a round of hearings with water quality standards, which lasted a year and that was one of the things that clearly came of that process; that we need a much more comprehensive unit working with ag waiver discharge and WDRs, and how we bring all these pieces together

Motion: The Board unanimously adopted the proposed resolution. **Resolution 2005-0061**

3. Consideration of adoption of modifications to Water Quality Order No. 2004-0009-DWQ, Statewide General NPDES permit for the discharge of pesticides for aquatic weed control (to add a discharger and an herbicide)

Motion: The Board unanimously adopted the proposed resolution. **Resolution 2005-0062**

ADJOURNED

The Board meeting adjourned at 2:00 p.m.