

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

September 13, 2006

Note: Copies of orders and resolutions and information on obtaining tapes or transcripts may be obtained from the Executive Assistant, Regional Water Quality Control Board, 1515 Clay Street, Suite 1400, Oakland, California 94612 or by calling (510) 622-2399. Copies of orders, resolutions, and minutes also are posted on the Board's web site (www.waterboards.ca.gov/sanfranciscobay).

Item 1 - Roll Call and Introductions

The meeting was called to order on September 13, 2006 at 9:00 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Mary Warren, Vice-Chair; Josephine De Luca; Shalom Eliahu; Clifford Waldeck.

Board member absent: Margaret Bruce.

Gina Kathuria introduced Erich Simon, new staff.

Item 2 – Watershed Stewardship Excellence Award – Recognition to the Santa Clara Valley Water District for Watershed Stewardship Excellence

This item was heard after Item 5.

Item 3 – Public Forum

There were no public comments.

Item 4 – Minutes of the August 9, 2006 Board Meeting

Motion: It was moved by Mrs. Warren, seconded by Mr. Eliahu, and it was unanimously voted to adopt the minutes of the August 9, 2006 Board meeting.

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

Bruce Wolfe said the Stormwater Subcommittee held a second workshop on September 8, 2006. He reported on several themes that developed from the stakeholders' discussion and said staff would like to address some of the themes before scheduling another workshop.

John Muller, on behalf of Board member Margaret Bruce, thanked workshop participants. He also thanked Shin-Roei Lee and Sandia Potter for their participation.

Mr. Wolfe reported attending a meeting held on September 11, 2006 in Sacramento for Regional Board Chairs and Executive Officers.

Mr. Wolfe and Shalom Eliahu reported attending the annual meeting of the San Francisco Estuary Regional Monitoring Program held September 12, 2006.

Item 2 – Watershed Stewardship Excellence Award – Recognition to the Santa Clara Valley Water District for Watershed Stewardship Excellence

Carrie Austin commended the Santa Clara Valley Water District for the District's substantial efforts to address mercury pollution in the Guadalupe River watershed. She highlighted the District's mercury reduction efforts, including innovative steps being taken to address methylmercury production.

John Muller presented a Watershed Stewardship Excellence Award to Tony Estremera, Vice-Chair of the Santa Clara Valley Water District.

Mr. Estremera thanked Board members for honoring the District and thanked District staff for their tremendous work. He introduced staff member Dave Drury.

Judith Millard, Brown and Caldwell, reading comments from Khalil Abu-Saba, recognized the District's successful mercury control efforts.

Item 6 – Consideration of Uncontested Items Calendar

Mr. Muller asked staff to summarize Item 6F concerning the Napa River/Napa Creek Flood Control Project.

Mr. Wolfe recommended adoption of the uncontested calendar with the following exceptions: Item 6D be continued and Item 6F be heard after consideration of the uncontested calendar.

Motion: It was moved by Mrs. Warren, seconded by Mrs. De Luca, and it was unanimously voted to adopt the uncontested calendar as recommended by the Executive Officer.

Item 6F – Napa River/Napa Creek Flood Protection Project, Napa County – Resolution Supporting the Designation of the Napa River/Napa Creek Flood Protection Project as a U.S. Army Corps of Engineers Project of National Significance

Leslie Ferguson said, since 1995, staff has been part of a coalition of stakeholders who have worked on developing the Napa River/Napa Creek Flood Protection Project. She said the project integrates flood control measures with ecosystem restoration.

Rick Thomasser, Watershed Operations Manager, Napa County Flood Control and Water Conservation District, said the project is being funded through a local and federal partnership. He said, to meet local funding, voters approved an increase in the County sales tax. He said, as a step toward receiving federal funding, staff prepared the Tentative Resolution requesting the U.S. Army Corps of Engineers designate the project as Nationally Significant.

Motion: It was moved by Mr. Eliahu, seconded by Mrs. Warren, and it was voted to adopt the Tentative Resolution as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. De Luca; Mr. Eliahu; Mr. Waldeck; Mrs. Warren; Mr. Muller

No: None

Motion passed 5 – 0.

Item 7 – East Bay Municipal Utility District, Alameda County – Hearing to Consider Imposition of Administrative Civil Liability for Discharge of Untreated Wastewater into Waters of the State

Mr. Wolfe said East Bay Municipal Utility District signed a waiver of the right to a hearing on the proposed ACL and no Board action was necessary. He said EBMUD agreed to pay an Administrative Civil Liability in the amount of \$314,000. He said up to \$286,000 may be used for a supplemental environmental project.

Item 8 – Sanitary District No. 1 (a.k.a. Ross Valley Sanitary District), Marin County – Hearing to Consider Imposition of Administrative Civil Liability for Discharge of Untreated Wastewater into Waters of the State

Mr. Wolfe said Sanitary District No. 1 of Marin County signed a waiver of the right to a hearing on the proposed ACL and no Board action was necessary. He said the District agreed to pay an Administrative Civil Liability in the amount of \$78,000. He said up to \$62,000 may be used for a supplemental environmental project.

Item 9 – Delta Diablo Sanitation District, Antioch, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said Delta Diablo Sanitation District signed a waiver of the right to a hearing on the proposed MMP and no Board action was necessary. He said the District agreed to pay a Mandatory Minimum Penalty in the amount of \$3,000. He said up to \$3,000 may be used for a supplemental environmental project.

Item 10 – Rodeo Sanitary District, Water Pollution Control Facility, Rodeo, Contra Costa County – Reissuance of NPDES Permit

Robert Schlipf said the Tentative Order authorizes the District to release up to 1.14 million gallons a day of secondary treated wastewater to San Pablo Bay through a deep water diffuser.

Mr. Schlipf said Baykeeper raised two issues regarding the Tentative Order: (1) regulatory authority to include a compliance schedule and an interim limit for cyanide; and (2) the lack of a numeric dioxin limit. In reply, he said the applicable cyanide objective was promulgated under the National Toxics Rule and the Basin Plan allows for use of the compliance schedule and interim limit. He said staff is developing a site-specific cyanide objective.

Mr. Schlipf said federal regulations require that the Tentative Order include interim requirements, and not an interim limit, for dioxin. He said the pollutant has not been detected in most of the District's effluent samples and there is a lack of data on which to calculate a performance based limit. He said the Tentative Order requires that the District: (1) implement a pollution minimization program; (2) support development of a dioxin TMDL; and (3) monitor effluent for dioxin.

Amy Chastain, Baykeeper, said Mr. Schlipf identified the issues she was going to discuss. She requested, in general, staff use fewer compliance schedules in permits. She requested the District conduct expedited monitoring and staff add a numeric dioxin limit to the District's permit before permit expiration.

Mr. Wolfe recommended adoption of the revised Tentative Order.

Motion: It was moved by Mrs. De Luca, seconded by Mr. Eliahu, and it was voted to adopt the revised Tentative Order as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. De Luca; Mr. Eliahu; Mr. Waldeck; Mrs. Warren; Mr. Muller

No: None

Motion passed 5 – 0.

Item 11 – Mt. View Sanitary District, Wastewater Treatment Plant, Martinez, Contra Costa County – Reissuance of NPDES Permit

Mr. Schlipf said the Tentative Order authorizes the District to release up to 3.2 million gallons a day of advanced secondary treated wastewater. He said effluent from the wastewater treatment plant is routed to constructed wetlands before being released to Peyton Slough, a tributary to Carquinez Strait.

Mr. Schlipf said staff revised the Tentative Order to address concerns raised by U.S. EPA. He said the permit term was shortened because a new site specific copper objective is being developed and staff may need to modify the permit limit

in light of the new objective. He said a revision was made to require the District to conduct chronic toxicity monitoring.

Mr. Wolfe recommended adoption of the revised Tentative Order.

Motion: It was moved by Mrs. De Luca, seconded by Mrs. Warren, and it was voted to adopt the revised Tentative Order as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. De Luca; Mr. Eliahu; Mr. Waldeck; Mrs. Warren; Mr. Muller

No: None

Motion passed 5 – 0.

Item 12 – 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 Napa River, and an Implementation Plan to Achieve the TMDL and Related Habitat Enhancement Goals – Hearing to Receive Testimony on Proposed Amendment

Mr. Napolitano said steelhead trout and Chinook salmon are native to the Napa River and its tributaries. He said trout and salmon populations in the Napa River have declined significantly in recent decades. He said the Basin Plan Amendment establishes a Sediment TMDL and Habitat Enhancement Strategy that will improve the overall health of the fish population.

Mr. Napolitano identified five factors that have contributed to fish decline:

- (1) Too much sediment in channels has adversely affected fish spawning and rearing habitat.
- (2) Channel incision and associated bank erosion has reduced the number of features like gravel bars and side channels. He said the features provide fish spawning and rearing habitat.
- (3) Low levels of summer waters and elevated temperatures have limited the growth of juvenile fish.
- (4) A large number of dams and road crossings have served as impediments to fish migration.
- (5) A lack of woody debris in channels has reduced fish habitat. He said debris helps form complex fish habitat.

Mr. Napolitano said natural erosion processes are a major source of sediment in channels. He said there are four other categories of major erosive processes: (1) sheetwash and rill erosion from vineyards; (2) gully erosion from hillside vineyards and grazing; (3) erosion induced from road surfaces and channel crossings; (4) channel incision and bank erosion associated with land use activities.

Mr. Napolitano said urban sources, including stormwater runoff from industrial facilities and construction sites, contribute a small amount of sediment to channels.

Mr. Napolitano estimated the average natural sediment load to the Napa River and its tributaries (absent human caused erosion) during the past decade was 150,000 tons per year. He said the average actual sediment load was about 270,000 tons per year. He said the actual load was 180% above the natural sediment load.

Dyan Whyte said the total maximum daily sediment load to the Napa River is set at 125% of the natural sediment load. She said sediment input from human activities must be reduced by 50% in order to meet the TMDL.

Ms. Whyte said the TMDL includes two numeric targets that define healthy channel beds. She said the first target measures gravel permeability. She said water must move freely through gravel beds in order for fish eggs to survive and too much fine sediment impedes water.

Ms. Whyte said the second target measures the maximum depth of channel scour that can occur without fish eggs being washed away. She said waters dig down and scour a channel bed if there is a lot of fine sediment. She said fish eggs need to stay in place until hatched.

Ms. Whyte said the TMDL addresses sediment impairment and the Habitat Enhancement Strategy addresses other reasons fish populations have declined. She described the four components of the Strategy:

1. Development of collaborative projects that promote habitat complexity;
2. Actions that increase levels of summer baseflows in channels;
3. Actions that modify or remove fish migration barriers in channels;
4. Actions that reduce summer water temperatures in channels.

Ms. Whyte described stakeholder comments to the Sediment TMDL and Habitat Enhancement Strategy. She said some agencies and environmental groups commended staff for focusing on improving the health of fish populations rather than focusing only on sediment impairment.

Ms. Whyte said staff is meeting with U.S. EPA to address concerns about allocations to NPDES permittees.

Ms. Whyte said the Living Rivers Council raised concerns about the scientific basis of the TMDL. In reply, she said staff is confident that the basis is sound.

Ms. Whyte said water supply agencies expressed concern that the TMDL may affect the reliability of water supplies. In reply, she said the Habitat Enhancement Strategy recommends, but does not require, local agencies to collaborate with state and federal trustee agencies, including the Water Board, to examine ways to enhance operational flexibility such that there is more water for both municipal use and fish.

Ms. Whyte said staff will consider all comments received on the TMDL and Habitat Enhancement Strategy and will revise the document as necessary. She

anticipated the TMDL and Habitat Enhancement Strategy will be brought to the Board in December for consideration of adoption.

Mr. Eliahu asked how a natural process like channel incision could be reduced by 50%.

Ms. Whyte said channel incision has been accelerated by human activities and land use practices can be modified to reduce the erosion.

Mr. Napolitano said the Rutherford Dust Society is a group of grape growers that is working together to restore about four and one-half miles of the Napa River. He said part of the project involves widening the channel and enhancing sinuosity in order to reduce river velocity and erosive capacity.

Diane Dillon, Napa County Board of Supervisors, speaking on her own behalf, said she looked forward to working constructively with staff to meet the TMDL goals. She thanked staff for giving presentations in Napa County and for indicating concurrence with the effectiveness of Napa County regulations that address environmental impacts of hillside development.

David Smith, TMDL Team Leader, U.S. EPA, spoke in favor of the TMDL and Habitat Enhancement Strategy. He commended staff for the quality of science used. He said it appears that staff will resolve issues that U.S. EPA recently raised. He said one issue concerned difficulties associated with expressing the total maximum daily load as a percentage of the natural load. He said the other issue concerned the need to allocate individual loads to NPDES permittees.

Joe Dillon, National Marine Fisheries Service, commended Mr. Napolitano's work with stakeholders in the watershed. He said the Service is pleased the TMDL and Habitat Enhancement Strategy is directed at more than sediment pollution. He said addressing sediment and other pollutants is important to restoring beneficial uses.

Sandy Elles, Executive Director, Napa County Farm Bureau, commended staff for work on the TMDL and said farmers agree with the idea that erosion should be minimized. She requested three amendments to the TMDL. First, she asked that another goal be added: Balance the needs of all the beneficial uses, including agricultural and municipal water supplies.

Second, Ms. Elles asked that Tables 4.1 and 4.2 be changed. She said owners of vineyards and grazing lands who implement actions should be allowed to follow the principal of progressive enforcement. She requested non-regulatory actions be required as a first step.

Third, Ms. Elles asked that Tables 5.1 – 5.4 be removed because they include implementation measures that go beyond reducing sediment impairment. She said the measures are aimed at protecting habitat and many other governmental agencies address habitat issues.

Bernhard Krevet, President, Friends of the Napa River, said the organization encourages voluntary river restoration projects. He said the organization tries to educate landowners about the fact that protection of the environment is good for business. He encouraged the Board to avoid adopting a rigid regulatory document.

John Stephens, Environmental Defense for the Earth Now, urged the Board to provide more funding and staff for development and implementation of the TMDL. He expressed concern about how dams affect baseflow and sediment release.

Kenneth Manfree, private citizen speaking on his own behalf, said the TMDL is inconsistent in some ways with scientific studies on which it is based. He requested staff address the inconsistencies.

Chris Malan, Living Rivers Council, expressed concern about the health of Napa River. She requested the TMDL address river turbidity. She requested swimming be protected as a beneficial use. She said there are a number of illegal dams in the watershed that keep water from reaching Napa River.

Ivan Karnezis, Senior Engineer, Caltrans, said the TMDL requires NPDES stormwater permittees to reduce sediment loads by 50%. He asked what action Caltrans could take beyond implementing current BMPs. He asked how staff will comply with U.S. EPA's request that permittees be given numeric allocations.

Dyan Whyte said staff will meet with Caltrans to discuss allocations. She said load reductions may not be required for all stormwater permittees.

[Mrs. Warren left the meeting at 11:25 a.m.]

Yuri Won said the Board meeting terminated at 11:25 a.m. because a quorum of Board members was no longer present. She said, thereafter, the Board met in a workshop.

Laurel Marcus, Executive Director, California Land Stewardship Institute, said the Fish Friendly Farming Program has operated in Napa County since 2002. She gave an overview of how grape growers participate in the program. She said farm plans prepared by growers are certified by government regulators.

Timothy Stevens, Staff Environmental Scientist, California Department of Fish and Game, spoke in favor of the TMDL and Habitat Enhancement Strategy.

Mrs. De Luca, Mr. Waldeck, Mr. Eliahu, and Mr. Muller thanked speakers for participating in the meeting. Board members said the TMDL and Habitat Enhancement Strategy represents a step towards addressing impairment and restoring the Napa River.

Gary Wolff, State Board member, gave an update of State Board activities.

Adjournment - The Board workshop was adjourned at 11:58 a.m.

