

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

January 19, 2005

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 January 19, 2005 at 9:00 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Mr. Waldeck thanked Board members and staff for giving him the opportunity to serve as Chair in 2004.

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

Board members absent: None.

Item 2 – Election of Chair and Vice-Chair

Mrs. Warren said she would abstain from voting in the election of Chair on the advice of counsel.

Mr. Eliahu said the nominating committee recommended John Muller as Chair and Mary Warren as Vice-Chair.

Mrs. De Luca asked if separate votes should be taken for Chair and Vice-Chair. Dorothy Dickey answered in the affirmative. Mr. Waldeck recommended the Chair be elected first.

Mrs. Addicks placed Mr. Waldeck's name in nomination and thanked him for his service as Chair in 2004.

In reply to a question, Mr. Eliahu said the committee's recommendation for Chair was based on lengthy discussions, debates, and consultations among Board members.

Mr. Muller said he would agree to serve as Chair if elected.

Mr. Waldeck gave some reasons why he would like to continue to serve as Chair.

Mrs. De Luca said change often could be a catalyst for positive action. She spoke in favor of Mr. Muller's nomination.

Mrs. Addicks said it is healthy for Board members to discuss differences of opinion in the public forum.

Mr. Waldeck asked for a roll call vote.

Ms. Dickey said Board members could vote for either of the nominees, for another Board member, or for no one at all.

Roll Call:

Mrs. Addicks:	Mr. Waldeck
Mrs. De Luca:	Mr. Muller
Mr. Eliahu:	Mr. Muller
Mr. Muller:	Mr. Muller
Mrs. Warren:	Abstain
Mr. Waldeck:	Mr. Waldeck

Mr. Muller was elected Chair.

Mr. Muller began serving as Chair. He thanked Mr. Waldeck for his leadership during 2004.

Mr. Muller asked for a motion to select a Vice-Chair.

Motion: It was moved by Mrs. De Luca, seconded by Mrs. Addicks, and it was voted to elect Mrs. Warren as Vice-Chair.

Roll Call:

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

No: None.

Motion passed 6 – 0.

Mr. Eliahu expressed disappointment that John Reininga was no longer on the Board and suggested Mr. Reininga be given a Certificate of Appreciation for his service.

Mr. Wolfe said staff would prepare Certificates of Appreciation for Mr. Reininga and Doreen Chiu to be given to them at a Board meeting.

Item 3 – Public Forum

David Willis, Sonoma County, said he owns a vineyard that is located along a drainage channel. He asked for help because water from the channel floods his vineyard. He said his neighbor built a pond in the channel that has obstructed the flow of water.

Mr. Wolfe said Sonoma County and the Department of Fish and Game have investigated the problem. He said staff would like to talk to these agencies to try to find a solution.

Mr. Muller asked staff to report to the Board on ways to resolve the problem

Sejal Choksi, San Francisco BayKeeper, said BayKeeper has enjoyed working with Mr. Waldeck and thanked him for his service as Chair. She said BayKeeper looks forward to working with Mr. Muller.

Item 4 – Minutes of the November 17, 2004 Board Meeting

Motion: It was moved by Mrs. Warren, seconded by Mrs. De Luca, and it was unanimously voted to adopt the minutes of the November 17, 2004 Board meeting.

Mrs. Addicks abstained because she did not attend the November Board meeting.

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

Mr. Waldeck and Mr. Wolfe reported attending a ceremony marking transfer of Hunters Point Naval Shipyard’s Parcel A to the San Francisco Redevelopment Agency.

Mr. Muller said the public is invited to attend a U.S. EPA Local Government Advisory Committee to be held in Half Moon Bay on February 10, 2005.

Mr. Wolfe reported attending a ceremony in San Jose marking completion of the downtown section of the Guadalupe River flood control project.

Item 6 - Uncontested Calendar

Mr. Wolfe recommended adoption 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 7 – Dublin San Ramon Sanitary District, Wastewater Treatment Plant, Pleasanton, Alameda County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said Dublin San Ramon Services District signed a waiver of the right to a hearing on the proposed MMP. He said no Board action was necessary. Mr. Wolfe said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$12,000. He said \$12,000 would be used for a supplemental environmental project.

Item 8 – City of Palo Alto, Palo Alto Water Quality Control Plant, Santa Clara County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said the City of Palo Alto signed a waiver of the right to a hearing on the proposed MMP. He said no Board action was necessary. Mr. Wolfe said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$15,000. He said \$15,000 would be used for a supplemental environmental project.

Phil Bobel, Manager of Environmental Compliance, City of Palo Alto, said the MMP covers five violations that occurred in 2000. He said Palo Alto already has paid a penalty for a number of violations that also occurred in 2000 and suggested it was not good public policy to reopen action on the old violations.

Mr. Bobel said Palo Alto waived the right to an enforcement hearing in order to complete a supplemental environmental project. He suggested a discharger's opportunity to do a supplement project should not be conditioned on waiver of a hearing.

Mrs. De Luca spoke in favor of Mr. Bobel's suggestions.

Yuri Won said staff recently discovered that a penalty was not imposed for the five violations. She said the law requires that the Board bring an enforcement action if violations have occurred. She said the Board could allow dischargers to complete supplemental environment projects whether or not hearings are held.

Mr. Eliahu spoke in favor of allowing dischargers to complete supplemental environmental projects whether or not hearings are held.

Mr. Wolfe said staff is not searching through old data trying to find violations. He reiterated the law requires a mandatory minimum penalty action be brought when violations are found.

Mr. Wolfe said it is efficient for staff to work with dischargers who are preparing supplemental environmental projects when waivers are made. He said it is general policy to require dischargers to waive their right to a hearing in order to complete supplemental environmental projects. He said the Board has a contract with the San Francisco Estuary Project to monitor completion of the projects.

Item 9 – Las Gallinas Sanitary District, Wastewater Treatment Plant, San Rafael, Marin County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said Las Gallinas Sanitary District signed a waiver of the right to a hearing on the proposed MMP. He said no Board action was necessary. Mr. Wolfe said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$27,000. He said \$21,000 would be used for two supplemental environmental projects.

Item 10 – Cities of South San Francisco San Bruno, South San Francisco and San Bruno Water Quality Control Plant, San Mateo County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said South San Francisco and San Bruno Water Quality Control Plant signed a waiver of the right to a hearing on the proposed MMP. He said no Board action was necessary. Mr. Wolfe said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$9,000. He said \$9,000 would be used for a supplemental environmental project.

Item 11 – Santa Clara Valley Urban Runoff Pollution Prevention Program – Status Update on Hydromodification Plan Approval and New and Redevelopment Control Measure Implementation Issues

Jan O’Hara gave the staff presentation. She said new construction and redevelopment projects result in an increase in the amount of impervious surface. She said as the amount of impervious surface increases, the amount of stormwater increases. She said stormwater flows more quickly as the amount of it increases. She said the extra energy in the stormwater degrades creeks by causing erosion of bed and bank material in hilly areas and deposition of sediment in flatter areas.

Ms. O’Hara said Hydromodification Management Plans (HMPs) establish how, when, and where jurisdictions will manage increase in volume and duration of runoff. She showed slides of hydromodification controls: (1) bioretention units like bioswales and planter boxes; (2) grassy swales; (3) tree wells; (4) porous pavers; and (5) basins and ponds. She also showed slides of creeks that have been improved by “restoration in advance” of development.

Ms O’Hara said the new and redevelopment provision in stormwater permits requires (1) hydromodification controls to slow runoff and (2) treatment controls to remove pollutants. She said some controls can be used for both functions. She said, for example, bioswales and basins slow the erosive energy of stormwater and remove pollutants. She estimated the amount of land that would be needed to construct basins in various sized projects.

Ms. O’Hara said staff and the Santa Clara Program have resolved several issues regarding the draft HMP since the November Board meeting. She said some issues remain outstanding. She said staff thinks the Program’s definition of “highly developed areas” is too broad and the Program’s exclusion of sites of 20 acres or less from full hydromodification controls is too broad.

She said the Santa Clara Program would like to delay implementation of the draft HMP until other stormwater programs in the region implement HMPs. She said staff does not recommend a delay and anticipates bringing the draft HMP to the Board in March.

Mrs. Warren asked when other programs would be required to implement HMPs.

Ms. O’Hara said other programs are required to submit HMPs to the Board on May 15, 2005. She said staff understands the programs may ask to delay submittal until December 2005 or January 2006.

Mrs. Warren asked if Santa Clara County would be penalized if it were the first county to implement an HMP.

Mr. Wolfe said the stormwater permit for the Santa Clara Valley Program was issued in October 2001 and the HMP was required to be completed by January 2004. However, he said the HMP would not be ready for the Board’s consideration until March 2005. He said the delay has reduced the implementation differential among the programs. He said staff would like to see large, new hhhhprojects in the San Jose area that are in planning stages include hydromodification controls.

Mrs. De Luca commended Shin-Roei, Ms. O'Hara, and Mr. Wolfe for their work with the Santa Clara Program since the November meeting.

Jill Bicknell, Assistant Program Manager, Santa Clara Urban Runoff Program, requested that the draft HMP be submitted on the same schedule as the HMPs for other stormwater programs. She said having the same schedule would create a level playing field. She said large new construction projects being planned for Coyote Valley and the Evergreen Area of San Jose will be required to include hydromodification controls whether or not the submittal date is delayed. She also requested that a regional stormwater permit be developed.

Mollie Dent, Senior Deputy City Attorney, City of San Jose, concurred with Ms. Bicknell. Ms. Dent requested the Board consider the draft HMP at the same time as it considers approval of HMPs prepared by other stormwater programs. She said there are technical issues that need to be worked out. She said detention basins could be costly to develop. She expressed concern that questions remain about whether some hydromodification controls reduce runoff rates.

In reply, Mr. Eliahu said hydromodification controls do work. He said the efficiency as compared to the cost of some controls is a question.

Dale Bowyer said staff looks forward to the use of controls that integrate both treatment for pollutants and measures to reduce runoff rates.

Mrs. Addicks said she wished there was a way to provide incentives to encourage developers to use hydromodification and pollutant controls.

Lawrence Johmann, President, Guadalupe-Coyote Resources Conservation District, said the draft HMP contains too many exemptions. He suggested that projects that drain to concrete channels not be exempt from requirements. He said some hydromodification controls should apply to all new construction and redevelopment projects. He recommended an incentive program be developed to get property owners to help reduce flash runoff. He said the draft HMP should be implemented as soon as possible.

Sejal Choksi, San Francisco Baykeeper, said stormwater presents the greatest threat to water quality in the region. She said it was important the draft HMP be implemented without delay. She said the draft HMP is needed in order to meet TMDLs and to comply with the stream protection policy.

Susan Schwartz, President, Friends of Five Creeks, said it is important stormwater regulations are simple and also that they are enforced. She said positive incentives for developers would be helpful.

Craig Breon, Executive Director, Santa Clara Valley Audubon Society, said the draft HMP exempts too many projects and major streams would continue to degrade if the exemptions are allowed. He said areas that drain to concrete channels are exempt. However, he said some concrete channels drain to streams that are not concrete. He recommended the draft HMP be implemented as staff requested.

Mr. Wolfe said staff would like to work with the Santa Clara Urban Runoff Program to resolve outstanding issues.

Item 13 – Closed Session – Personnel

The Board went into closed session to conduct the annual performance review of the Executive Officer. The meeting was adjourned at the completion of the closed session.

[Mrs. Warren left the meeting at approximately 12:00 Noon.]

Adjournment

The Board meeting was adjourned at approximately 12:45 p.m.