

Adopted as Submitted – 1/30/08

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

November 1, 2007

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Item 1 – Roll Call and Introductions

The meeting was called to order on November 1, 2007 at 9:04 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Mary Warren, Vice-Chair; Shalom Eliahu; William Peacock; Clifford Waldeck; Terry Young.

Board members absent: None.

Item 2 – Public Forum

Roger James, Consultant, said plastic debris that gets into the ocean may be consumed by seabirds. He showed Board members a picture of the remains of an albatross chick and said the remains contained plastic. He requested the Board take action to reduce trash, including plastic, which enters waters. He commended the City of Oakland for working to reduce trash loads to the Bay.

Michele Plá, Executive Director, Bay Area Clean Water Agencies, said BACWA, in cooperation with the WaterReuse Foundation, hosted a one-day workshop entitled "Facilitating Partnerships for Water Reuse." She said participants discussed four water recycling topics: land use; public information; technology; and public acceptance. She said BACWA helped sponsor the workshop in an effort to encourage water recycling in the Bay Area.

Item 3 – Minutes of the September 12, 2007 Board Meeting

Mr. Muller recommended this Item be heard later in the Agenda.

Item 10 – 2007 National U.S. EPA Clean Water Act Recognition Award –
Presentation of Proclamation in Recognition of City of Oakland's Stormwater Management Excellence Award

Item 10 was heard next.

Jan O'Hara said U.S. EPA recently presented the City of Oakland with a 2007 National Clean Water Act Recognition Award for its watershed improvement program. She said today the Board also would honor the City.

Ms. O'Hara described restoration of City creeks and riparian corridors. She said the City enacted creek protection regulations and anti-litter laws, including a ban on styrofoam. She said the City installed trash removal devices at Lake Merritt to keep trash from entering waters. She said City residents passed a bond measure to finance watershed improvement projects.

John Muller, on behalf of the Board, presented a plaque to Jean Quan, Oakland City Council Member, in recognition of the City's Excellence in Stormwater Management 2007. He congratulated Ms. Quan for the City's environmental initiatives and said the Board's award was well deserved.

Ms. Quan thanked the Board for recognizing the City's accomplishments. She described ongoing work to promote wildlife in creeks and riparian habitats. She recognized the many volunteers who spend week-ends cleaning trash and replanting riparian corridors.

Nancy Nadel, Oakland City Council Member, thanked the Board for recognizing the efforts being made to develop a sustainable City. She said Council members have spoken in support of sustainable policies. She thanked City staff, Raul Godinez, Director of Public Works Agency, Brooke Levin, Lesley Estes, and Joel Peter and his staff, for their dedication in implementing the policies.

Raul Godinez, Director of Public Works Agency, City of Oakland, thanked Board staff for nominating the City of Oakland to receive the 2007 National Clean Water Act Recognition Award and for honoring the City today. He thanked the Council for its leadership and thanked Brooke Levin and Lesley Estes and her team for their initiative and work.

Mary Warren congratulated Ms. Quan, Ms. Nadel, and Mr. Godinez for encouraging and developing outstanding environmental programs.

Item 4 - Chairman's, Board Members', and Executive Officer's Reports

Mr. Muller said the Board terms for Mary Warren and Clifford Waldeck would be expiring and they would be leaving the Board.

Mr. Muller presented a Proclamation of Appreciation to Mrs. Warren for exceptional service to the Board. Reading from the Proclamation, Mr. Muller said Mrs. Warren joined the Board in November 2000 and served as Vice-Chair in 2004, 2005, 2006, and 2007. Mr. Muller read that she brought experience in government decision-making along with common sense to her work on the Board. He read that she proudly sought to protect water quality for the benefit of Bay Area residents.

Mrs. Warren thanked Mr. Muller for the Proclamation. She commended staff, individually and collectively, for work accomplished. She said she found staff to be helpful and cooperative. She thanked her fellow Board members for their help during her tenure on the Board. She said she would not say good-bye because she hoped to continue her work in other capacities.

Mr. Eliahu said he would miss working with Mrs. Warren and hoped to continue their friendship.

Mr. Wolfe said Mrs. Warren helped staff recognize that governmental actions have a broad reach. He said staff enjoyed working with her.

Mrs. Warren thanked the Board and staff for their farewell comments.

Mr. Muller said Clifford Waldeck brought dedication and commitment to his work on the Board. He thanked Mr. Waldeck for also bringing a sense of humor.

Mr. Muller presented a Proclamation of Appreciation to Mr. Waldeck for exceptional service to the Board. Reading from the Proclamation, Mr. Muller said Mr. Waldeck joined the Board in March 2000 and served as Vice-Chair in 2001, 2002, and 2003 and Board Chair in 2004. Mr. Muller read that Mr. Waldeck brought intellectual curiosity and interest in environmental issues to his work on the Board. Mr. Muller read that Mr. Waldeck has practiced and promoted green business practices.

Mr. Waldeck thanked all parties for giving him the opportunity to serve on the Board. He said it has been a wonderful experience. He said he will miss serving on the Board. He said, however, he looked forward to new endeavors.

Terry Young said she met with staff recently to explore issues concerning the proposed TMDL for PCBs. She said she would disclose the nature of the conversations at the next hearing on the TMDL.

Mr. Wolfe said the Board is represented on the Bay Conservation and Development Commission and the Association of Bay Area Governments. He requested Board members who are interested in serving as representatives to the agencies contact him.

Mr. Wolfe reported that a Water Quality Coordinating Committee meeting will be held on December 10 and 11, 2007 in Sacramento.

Mr. Wolfe gave an update on staff's work regarding the Suisun Bay Reserve Fleet.

Mr. Wolfe discussed the salary disparity between state scientists as compared to state engineers and state geologists. He discussed action being taken to address the disparity.

Mr. Wolfe said he is participating in a statewide committee regarding climate change and water quality issues.

Mr. Wolfe discussed the possibility of canceling the December Board meeting and holding the January Board meeting on January 30, 2008. He said thereafter, staff anticipates meetings will be held on the second Wednesday of each month.

Mr. Wolfe said the Regional Monitoring Program Annual Meeting was held on October 2, 2007.

Mr. Wolfe said the State of the San Francisco Estuary Conference was held on October 16, 17, and 18, 2007. He said the San Francisco Estuary Project's 2007 Comprehensive Conservation and Management Plan was discussed.

Item 5 – Consideration of Uncontested Items Calendar

Mr. Wolfe requested Item 5A be removed from the calendar. He said staff received a number of comment letters. He said, depending on the scheduling of Board meetings, staff may bring the item back for the Board's consideration. He said, alternatively, he is authorized to approve SCRs.

Mr. Wolfe said Item 5B was not an action item.

Clifford Waldeck asked if the number of leaking underground fuel tank cleanup cases was decreasing over time.

Mr. Wolfe said progress was being made to decrease the number. He said, however, cases still remain.

Item 6 – City of Burlingame, Wastewater Treatment Plant, San Mateo County – Hearing to Consider Mandatory Minimum Penalty for Discharge in Violation of Effluent Limitations

Mr. Wolfe said the City of Burlingame Wastewater Treatment Plant signed a waiver of the right to a hearing on the proposed MMP and no Board action was necessary. Mr. Wolfe said the City agreed to pay a Mandatory Minimum Penalty in the amount of \$6,000. He said \$6,000 may be used for a supplemental environmental project.

Item 7a – City of San Mateo, Wastewater Treatment Plant, San Mateo County – Reissuance of NPDES Permit

Item 7b – City of San Mateo, Wastewater Treatment Plant, San Mateo County – Adoption of Cease and Desist Order for Discharge in Violation of NPDES Permit

John Madigan gave one presentation covering Items 7a and 7b.

Mr. Madigan said the City of San Mateo and the Bay Area Clean Water Agencies submitted letters commenting on the Revised Tentative Order and the Revised Cease and Desist Order. He said the commentors objected to final dioxin effluent limits and to the compliance schedule in the Revised Tentative Order. In reply, Mr. Madigan said federal law requires the limits be included. He said the City's effluent contains dioxins and the Bay is listed as impaired by dioxins because elevated levels are found in fish tissue.

Mr. Madigan said BACWA objected to final mercury effluent limits in the Revised Tentative Order and to the Revised Cease and Desist Order for mercury. He said BACWA said a mercury TMDL is in the process of being considered for final approval. He said the City of San Mateo expressed concern that the Revised Cease and Desist Order will require potentially costly actions that are not consistent with the TMDL.

In reply to the commentors, Mr. Madigan said final mercury limits must be included because the City's effluent contains mercury and inclusion of the limits cannot be delayed until TMDL approval. He said initial implementation actions required in the Revised Cease and Desist Order and actions required in the TMDL are similar. He said there is time for final approval of the TMDL before more costly actions in the Revised Cease and Desist Order will be required.

Mr. Madigan said the Watershed Permit for Municipal and Industrial Wastewater Discharges of Mercury to San Francisco Bay, the next item on the agenda, will become operative after final approval of the mercury TMDL. He said the Watershed Permit will supersede mercury provisions in the Revised Tentative Order and the Revised Cease and Desist Order.

Mark Von Aspern, Wastewater Treatment Plant Manager, City of San Mateo, said the City is disappointed the Revised Cease and Desist Order for mercury may be adopted before the mercury TMDL receives final approval. He said the City is conducting an outreach program with dental offices in an effort to control mercury in amalgam and is implementing a recycling program for fluorescent light bulbs.

Mr. Von Aspern expressed concern that the City would not be able to comply with final dioxin limits. He said data used to calculate Reasonable Potential Analysis were estimates and the reported data were below quantified levels. He said, in addition, air emissions and combustion are sources of dioxin and the City cannot control those sources.

In reply to a question from Clifford Waldeck, Mr. Wolfe said the Revised Cease and Desist Order establishes an interim mercury effluent limit and includes a time schedule for completion of a series of actions. He said the permittee should be able to comply with final mercury limits after completing the actions.

Michele Plá, Executive Director, Bay Area Clean Water Agencies, expressed concern that the Revised Cease and Desist Order may require upgrades of the treatment plant. She expressed concern with final dioxin limits. She said BACWA is working with regulatory agencies to prepare an issue paper that will address dioxin issues and regulatory options.

In reply to a question from Terry Young, Ms. Plá concurred that the issue paper will discuss regulatory structures required to address dioxin issues.

Dr. Young thanked Ms. Plá for BACWA's efforts to address dioxin issues and to develop the issue paper.

In reply to a question from Shalom Eliahu, Ms. Plá said the Clean Estuary Partnership prepared a document, "Dioxins in San Francisco Bay: Impairment Assessment/Conceptual Model", that addresses sources of dioxin. She said the report is posted on the Water Board's web site under TMDLs and Clean Estuary Partnership. She reiterated the issue paper BACWA is preparing will focus on regulatory concerns.

Mr. Wolfe recommended adoption of the Revised Tentative Order in Item 7a.

Motion: It was moved by Dr. Young, seconded by Mr. Eliahu, and it was voted to adopt the Revised Tentative Order in Item 7a.

Roll Call:

Aye: Mr. Eliahu; Mr. Peacock; Mr. Waldeck; Mrs. Warren; Dr. Young; Mr. Muller

No: None

Motion passed 6 – 0.

Mr. Wolfe recommended adoption of the Revised Cease and Desist Order in Item 7b.

Motion: It was moved by Mr. Waldeck, seconded by Mr. Peacock, and it was voted to adopt the Revised Cease and Desist Order in Item 7b.

Roll Call:

Aye: Mr. Eliahu; Mr. Peacock; Mr. Waldeck; Mrs. Warren; Dr. Young; Mr. Muller

No: None

Motion passed 6 – 0.

Item 8 – Watershed Permit for Municipal and Industrial Wastewater Discharges of Mercury to San Francisco Bay – Alameda County, Contra Costa County, Solano County, Napa County, Sonoma County, Marin County, San Francisco County, San Mateo County, and Santa Clara County – Issuance of New NPDES Permit

Lila Tang gave the staff report. She said the Watershed Permit will regulate mercury requirements for about 60 municipal and industrial wastewater facilities. She said the facilities currently are regulated by individual NPDES permits. She said the Watershed Permit will implement provisions in the San Francisco Bay Mercury TMDL. She said, however, the Watershed Permit will not go into effect until U.S. EPA approves the TMDL.

Ms. Tang described narrative requirements in the Watershed Permit. She said the Permit will require municipal and industrial wastewater permittees to implement or participate in programs to reduce mercury-related risks to humans.

She said, if adopted, the Permit would be the first Board issued order that would require permittees to develop risk reduction programs.

Ms. Tang said the Permit will require permittees to investigate the fate and transport of mercury and methylmercury. She said permittees will be required to evaluate the presence of local effects on fish and wildlife in the vicinity where wastewater is released. She said municipal wastewater permittees will be required to implement dental amalgam programs. She said the Permit includes a goal that 85% of dental offices will have amalgam controls within five years.

Ms. Tang said the mercury TMDL required that permittees be regulated by mercury mass limits and triggers. She said mass limits in the Permit will be the primary means by which wastewater permittees will help achieve mercury standards in the Bay. She said municipal wastewater permittees will be required to reduce mercury levels in effluent by 35% in 20 years.

Ms. Tang said the mercury TMDL did not require that permittees be regulated by mercury concentration limits. She said, however, the Watershed Permit includes concentration limits. She said mercury concentration limits in the Permit are consistent with the TMDL because: (1) mercury concentration limits and mercury triggers were calculated for the same categories – municipal wastewater facilities with secondary treatment, municipal wastewater facilities with advanced secondary treatment, and industrial facilities; and (2) concentration limits and mercury TMDL wasteload allocations were calculated using the same data set.

Ms. Tang said 37 permittees will receive concentration limits in the Watershed Permit that are lower than concentration limits in permittees' current permits and 19 permittees will receive higher concentration limits. She said anti-backsliding provisions in the Clean Water Act generally require effluent limits in reissued permits to be as stringent as limits in previous permits. She said, under an anti-backsliding exception, the Act allows a reissued permit to include higher limits if the limits are based on a TMDL and the TMDL ensures attainment of water quality standards.

Ms. Tang described written comments submitted by San Francisco Baykeeper. She said Baykeeper objected to the higher concentration limits and stated the exception to the anti-backsliding provision did not apply. She said Baykeeper contended the exception only allows backsliding (1) from TMDL based limits and (2) when compliance with water quality standards is ensured. She said Baykeeper said (1) current concentration limits were not based on a TMDL and (2) the mercury TMDL did not assure compliance with water quality standards because achievement of the standards involved a lengthy timeframe.

In reply, Ms. Tang said it is staff's opinion that the exception to anti-backsliding provisions does apply. She said staff interpreted the exception to apply to all limits that are based on a TMDL. She said every TMDL includes a time component before water quality standards are attained.

Ms. Tang said Baykeeper raised concerns about risk reduction programs. She said, as requested by Baykeeper, staff added timeframes for permittees to take actions and a requirement that the public participate in program development. She said development of risk reduction programs is a new field for staff and the permittees and it is staff's opinion the Permit should not specify program content.

Ms. Tang said Baykeeper objected to group mass limits and to the 20 year schedule for municipal wastewater permittees to comply with final mass limits. In reply, she said the mercury TMDL required both the group limits and the schedule.

In reply to a question from Clifford Waldeck, Ms. Tang said not all concentration limits in the Watershed Permit will be either higher or lower than concentration limits in permittees' current permits. She said for some permittees concentration limits will remain at the same level as in current permits. She said some permittees did not have concentration limits in current permits.

In reply to a question from Clifford Waldeck, Tom Mumley said mercury mass allocations in the TMDL must be met. He reiterated concentration limits in the Watershed Permit are consistent with the mass allocations for wastewater permittees. He said the difference between the higher concentration limits in the Watershed Permit and limits in permittees' current permits is small and will not present a water quality issue.

In reply to a question from Shalom Eliahu, Mr. Wolfe said the Watershed Permit will implement the municipal and industrial wastewater permittee component of the mercury TMDL. He described efforts being made to implement other TMDL components.

Doug Eberhardt, U.S. EPA, recommended the Board adopt the Watershed Permit. He spoke in favor of including concentration limits in the Permit because the limits are enforceable immediately against individual permittees.

Amy Chastain, Staff Attorney, San Francisco Baykeeper, requested the Board not adopt the Permit. She questioned why the Permit is structured to allow permittees to violate individual mass limits without necessarily being subject to enforcement. She said permittees that violated individual mass limits will be subject to enforcement only if the sum of mercury from the permittees, as a group, is above a group limit. She said staff's Response to Comments document acknowledged that trigger requirements in the Permit make it unlikely that permittees will coordinate mercury loads.

Ms. Chastain said concentration limits in the Watershed Permit for some permittees are higher than limits in their current permits. She said the permittees that will receive the higher limits had shown an ability to comply with current concentration limits. She questioned whether an anti-backsliding exception applied.

Ms. Chastain expressed appreciation for the consideration Mrs. Warren and Mr. Waldeck have shown for Baykeeper's concerns and wished them the best of luck in future endeavors.

Kevin Buchan, Western States Petroleum Association, requested the Board adopt the Watershed Permit. He said the Board meeting was a landmark occasion in furthering implementation of the mercury TMDL. He said participants in the Mercury Council had worked for years towards reducing mercury loads to the Bay.

Mr. Buchan said he was sorry to learn that Mrs. Warren and Mr. Waldeck were leaving the Board and said their contributions to the Board have been noteworthy.

Sara Aminzadeh, Legal Fellow, Baykeeper, spoke on behalf of Andria Ventura, Clean Water Action. Ms. Aminzadeh requested the Permit be changed to require that permittees develop mercury exposure reduction programs rather than mercury risk reduction programs. She said exposure reduction programs would be directed towards preventing health impacts that can result from consumption of high levels of mercury in fish. She requested the potential role of a third party organization be clarified.

Michele Plá, Executive Director, Bay Area Clean Water Agencies, said BACWA appreciated the dedication that Mrs. Warren and Mr. Waldeck have shown as Board members and congratulated them for serving so well.

Ms. Plá requested the Board adopt the Watershed Permit. She said the TMDL included a new mercury water quality standard and the Permit would implement the standard.

Ms. Plá said the Watershed Permit required municipal wastewater permittees develop a dental amalgam program and risk reduction programs. She said permittees will step out into a new program area when developing risk reduction programs. She said numeric requirements in the Permit include group and individual mass limits, mercury triggers, and mercury concentration limits.

Ms. Plá reviewed the fact that municipal and industrial wastewater permittees account for less than 2% of the mercury load to the Bay. She said the Watershed Permit has involved a large amount of work directed toward a small mercury source.

Dyan Whyte said a speaker asked why group mass limits are included in the Permit. She said staff recognized, when developing the TMDL, that mercury reductions must be made by sources other than wastewater permittees. She said the TMDL required wastewater permittees to reduce mercury in an effort to encourage operational improvement. She said group limits will encourage permittees to work together.

Ms. Whyte said a speaker recommended the Watershed Permit require permittees develop mercury exposure reduction programs rather than mercury risk reduction programs. She said the TMDL used the term risk reduction. She said risk reduction is a broad and comprehensive term. She said staff is reluctant to be more specific in the Permit without first gaining more knowledge.

William Peacock asked about public perception of the fact that some permittees will receive concentration limits in the Watershed Permit that are higher than limits in current permits.

Ms. Whyte said the Watershed Permit in many ways is more stringent than current permits. She said the Permit includes more than concentration limits. She said mercury in the Bay will be reduced by implementation of the entire Permit.

Mr. Wolfe said the method used to calculate concentration limits was consistent for all permittees. He reiterated that the data set used to calculate the limits was the same data set that was used to calculate mercury TMDL wasteload allocations.

Mary Warren thanked stakeholders and staff for their work in preparing the Watershed Permit.

Terry Young said the Watershed Permit provides that enforcement action will be taken against permittees that exceed individual mass limits only if a group limit also is exceeded. She said the enforcement structure will allow permittees that do not reduce mercury levels to benefit from actions of permittees that do make reductions. She suggested in the future, the Permit should include incentives to reward permittees that make reductions.

Dr. Young suggested that development of an offset or trading program would help permittees meet mercury limits. She requested staff recommend at a future meeting steps the Board can take to ensure an offset or trading program is investigated. She commended staff for including a requirement in the Permit that permittees evaluate local effects of wastewater releases.

Dr. Young reiterated that wastewater permittees release less than 2% of the mercury load to the Bay. She said she did not object to the level of anticipated implementation because the permittees' contribution to the mercury load is small.

Shalom Eliahu said staff's work in developing the Watershed Permit was excellent. He reiterated that wastewater permittees contribute less than 2% of the mercury load to the Bay. He said resources used to develop the Permit could have been directed towards larger mercury sources that might yield greater levels of mercury reduction.

Mr. Wolfe said mercury offset and trading programs should be investigated. He said offsets and trades might occur between different mercury source categories, such as stormwater runoff and wastewater facilities.

Mr. Waldeck said the Watershed Permit will establish a collaborative framework for permittees to work. He spoke in favor of the Permit.

Ms. Whyte described a mercury TMDL being developed for a large mercury source. She said the Board will consider the TMDL by the end of the fiscal year.

Mr. Wolfe reiterated the Watershed Permit will not become effective until U.S. EPA approves the mercury TMDL. He said adoption of the Permit will place wastewater permittees on notice that it is time to move forward on mercury requirements.

Mr. Waldeck and Ms. Whyte discussed the use of dental amalgam.

Mr. Muller spoke in favor of adopting the Watershed Permit.

Mr. Wolfe recommended adoption of the Revised Tentative Order as supplemented.

Motion: It was moved by Mrs. Warren, seconded by Mr. Peacock, and it was voted to adopt the Revised Tentative Order as supplemented.

Roll Call:

Aye: Mr. Eliahu; Mr. Peacock; Mr. Waldeck; Mrs. Warren; Dr. Young; Mr. Muller

No: None

Motion passed 6 – 0.

Item 9 – Judy Borello and Borello Sewage Treatment Facility, Point Reyes Station, Marin County – Adoption of Revised Waste Discharge Requirements

Wil Bruhns made introductory comments.

John West said the Sewage Treatment Facility is located in Marin County in the Millerton Gulch Creek drainage of Tomales Bay. He said the Facility is built in the hills above the Creek and is privately owned. He said sewage is transported to the Facility by licensed commercial haulers.

Mr. West said the Facility includes three shallow ponds that form a lagoon system. He said wastewater is held in the ponds for several months to allow for natural degradation. He said effluent from treatment ponds is used to irrigate an 8-acre disposal field and runoff from the disposal field is collected in a fourth pond. He said a former quarry is located downhill from the ponds.

Mr. West said several Tomales Bay residents and the permittee submitted comment letters on the Tentative Order. He said some commentors requested improvement of notification procedures in case of an accidental spill. He said, in reply to the comment, staff made a revision to require that the permittee exercise greater efficiency in notifying regulatory agencies and other interested parties.

Mr. West said commentors requested the permittee conduct surface water monitoring in Millerton Gulch Creek. He said, in reply, the Revised Tentative Order requires surface water monitoring be conducted on a monthly basis in two locations in the Creek. He said a third party may conduct the monitoring. He said the permittee, stakeholders, and staff are in favor of a third party monitor. He said a third party monitor currently does not exist.

Mr. Waldeck said comment letters submitted by several residents suggested monitoring should be conducted by a third party.

Mr. Wolfe said staff generally relies on self monitoring programs for wastewater permittees and believes the self-monitoring program for the Sewage Treatment Facility is appropriate.

Mr. Wolfe said wastewater in the treatment ponds may percolate or evaporate. He said wastewater is not released to receiving waters.

In reply to a question from Shalom Eliahu, Mr. Wolfe said past evidence has not shown percolation of wastewater through the hillside below the ponds. He said monitoring at Millerton Gulch Creek will ensure wastewater does not enter the Creek.

Mr. Muller said treatment facilities are allowed to percolate wastewater.

Mr. Wolfe reiterated staff is in favor of evaporation or percolation. He said it is important that monitoring of the ponds occur during storm events to ensure water is not released over the top of the ponds.

Mr. West said soils in the area of the Facility have high clay content.

Mr. Muller said many rural home sites have a well and a septic system on the same small parcel.

Mr. Wolfe said one reason the Facility is important is because it accepts sewage from rural septic tanks.

Dyan Whyte said greenstone that was mined at the former quarry has low permeability and exhibits little fracturing. She said groundwater would be evident in the quarry wall if there was extensive percolation from the ponds. She said she had an opportunity to look at the quarry wall and did not find evidence of groundwater.

[Mr. Waldeck left the meeting at approximately 12:35 p.m.]

In reply to a question from Shalom Eliahu, Mr. West said the ponds are set below ground surface.

Mr. West said staff worked on a one-year pilot project in the area of the Facility. He said during the rainy season, staff looked at the hill below the ponds and tested the Creek and did not find evidence of wastewater or effluent from the ponds.

Mr. Wolfe said the permittee is required to maintain two feet of freeboard in the ponds.

Thor Spargo, Borello Sewage Treatment Facility, said his father built the ponds in 1971. He said bentonite clay was used on pond floors and the ponds have maintained integrity for over 35 years.

Mr. Spargo said the Facility is designed for containment: wastewater is contained in ponds and runoff from effluent that is used for irrigation is contained in a pond. He said the quarry basin would provide containment if the ponds should fail.

Mr. Spargo said effluent from treatment ponds is used during the summer to irrigate a disposal field. He said treatment ponds are empty and do not contain wastewater at the beginning of winter storms.

Mr. Spargo said he is confident the ponds do not leach wastewater or effluent. He said the Facility has conducted a self-monitoring program during the years of operation. He said he has not seen evidence of wastewater or effluent leaching through the quarry wall. He said people with questions or comments about the Facility are welcome to talk to him.

Julie Monson, Resident, Point Reyes Station, recommended a third party conduct the monitoring program for the Facility. She suggested parties that transport sewage to the Facility be monitored. She suggested an effort be made to inform the community how the Facility is managed and how residents are affected by it. She recommended staff begin planning for the long term sewage needs in West Marin County. She said she understood the Facility is for sale and asked what will happen if the Board adopts an order and later the property is sold.

Mr. Wolfe said the Board regulates the operation of wastewater treatment facilities. He said the Board is not a land use agency and does not have authority to determine issues like location and ownership of facilities.

Mr. West said Provision C6 of the Revised Tentative Order sets out requirements that must be met if ownership of the Facility changes.

In reply to a question from William Peacock, Mr. West estimated the cost to sample surface water in Millerton Gulch Creek would be \$50 a sample.

Terry Young expressed concern whether there are safeguards in the Revised Tentative Order to protect against wastewater or effluent being released over the top of ponds during high rainfall events.

Mr. Wolfe said the permittee must manage the water balance in ponds to avoid a release. He reiterated that Mr. Spargo said the permittee tries to have the ponds empty at the beginning of winter storms.

Mr. Wolfe said the Revised Tentative Order requires that the permittee discontinue accepting wastewater when the freeboard level in ponds is less than two feet. He said the permittee must remove liquid from ponds when the freeboard is less than a certain level. He said the quarry could serve as a containment basin if wastewater or effluent is released over the top of ponds.

Dr. Young concurred that the quarry basin could provide a physical safeguard. She recommended an additional safeguard be added to future tentative orders for similar facilities. She recommended requiring additional monitoring when the cumulative rainfall over a period of time reaches a certain level.

Mr. Eliahu said the area receives about 33 inches of rainfall a year.

Mr. Muller said he thought the Revised Tentative Order provides adequate safeguards.

Mr. Wolfe recommended adoption of the Revised Tentative Order.

Motion: It was moved by Mr. Eliahu, seconded by Mrs. Warren, and it was voted to adopt the Revised Tentative Order.

Roll Call:

Aye: Mr. Eliahu; Mr. Peacock; Mrs. Warren; Dr. Young, Mr. Muller

No: None

Motion passed 5 – 0.

Item 3 – Minutes of the September 12, 2007 Board Meeting

Mr. Wolfe said staff distributed a supplemental to the Item.

Terry Young referred to the paragraph on page 7: “Ms. Dickey said economic considerations of the TMDL must be analyzed. She differed with Dr. Mumley’s interpretation of some legal provisions.” She requested the paragraph be stricken and replaced with the following: “Ms. Dickey clarified the way in which economic considerations of the TMDL must be analyzed.”

Dr. Young referred to the sentence on page 10: “Dr. Young recommended the TMDL identify those actions that will occur only if the TMDL is adopted from those actions that are ongoing or are planned under other regulatory programs.” She requested the word “identify” be stricken from the sentence and replaced with the word “distinguish.”

Mr. Wolfe recommended adoption of the minutes as supplemented and as corrected.

Motion: It was moved by Mr. Peacock, seconded by Dr. Young, and it was unanimously voted to adopt the Minutes of the September 12, 2007 Board meeting as supplemented and as corrected and as recommended by the Executive Officer.

Mrs. Warren recused herself from voting on the Minutes because she did not attend the September Board meeting.

Item 11 – Greening the Bay: Financing Wetland Restoration in San Francisco Bay – Information Item on Report by Save the Bay

Mr. Wolfe requested this item be continued to a future Board meeting.

Item 16 – Adjournment

The Board meeting was adjourned at 12:55 p.m.