
San Francisco Bay Regional Water Quality Control Board

July 10, 2013 Board Meeting Minutes

adopted August 14, 2013

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Item 1 - Roll Call and Introductions

Meeting called to order at approximately 9:05 am in the Elihu M. Harris Building, First Floor Auditorium.

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Status</u>
Margaret Abe-Koga William Kissinger James McGrath Vice-Chair Terry Young Chair John Muller	none	QUORUM

Tam M. Doduc, State Water Board Member and liaison to the San Francisco Bay Region, addressed the Board. She discussed proposed Legislation of interest to the Water Boards and the recent State Board Hearing where the topic of costs of compliance was discussed.

Item 2 - Public Forum

No parties requested to speak.

Item 3 - Minutes of Board Meetings

Minutes of the June 12, 2013

Executive Officer Bruce Wolfe noted that Board Member Abe-Koga had left the June Board Meeting early and, therefore, would have not motioned, seconded, or voted on Item 5B.

The Board unanimously approved the Minutes with the revision made that Board Member Abe-Koga did not vote on Item 5B.

ITEM ADOPTED as revised

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

Chair Muller discussed the forthcoming WQCC in October. Mr. Wolfe discussed this fiscal year's budget. He also summarized the Executive Officer's Report.

Item 5 - Alcoa Construction Systems, Inc., Alcoa Properties, Inc., AP Construction Systems, Inc., Challenge Developments, Inc., Dr. Collin Mbanugo, F.M. Smith and Evelyn Ellis Smith, Leona Chemical Company, Ocean Industries, Inc., Realty Syndicate, Ridgemont Development, Inc., Watt Housing Corporation, Watt Industries Oakland, Watt Residential, Inc., Leona Heights Sulfur Mine, Oakland, Alameda County – Adoption of Time Schedule Order for Prescribing Administrative Civil Liability

Board prosecution staff Lindsay Whalin gave the staff presentation.

Board advisory counsel Yuri Won noted that prior testimony from the May 2013 Board hearing is part of the proceedings and will be included in the record. Therefore, there is no need to repeat testimony.

John Epperson, representing the Alcoa entities, testified that the dischargers are taking a more active role in cleaning up the site and that they have hired two additional engineering firms. He noted that they intend to meet all compliance deadlines, but proposed that the only deadline for which penalties should apply should be the deadline relating to construction of the project.

Glenn Friedman, counsel for the Ocean entities, provided similar testimony objecting to the maximum penalty amount being proposed for all tasks.

Board Member McGrath noted that the land was purchased with knowledge of the contamination and that he did not accept the argument that the fines were draconian because there was economic benefit associated with the larger land purchase prior to the residential development. He also noted that this is one of the most significant discharges in our Region. Chair Muller asked Mr. Wolfe about the process for informing buyers about potential problems at sites prior to purchase. Mr. Wolfe responded.

Board Member Abe-Koga asked about the process of assessing penalties for non-compliance and whether Board staff considered other penalty amounts. Assistant Executive Officer Dyan Whyte explained the process and noted that staff determined that the maximum amount was warranted for all tasks in order to keep the project on track and incentivize compliance. She also added that the Board has discretion to lower any penalty. Board Member Kissinger asked about whether other agencies were coordinating with Board staff on site cleanup and Ms. Whyte responded yes.

Mr. Wolfe recommended adoption of the Revised Tentative Order.

Board Member McGrath moved for adoption of Item 5; Board Member Abe-Koga seconded the motion.

Ayes: Abe-Koga, Kissinger, McGrath, Muller

Nos: None

Recuse: Young

ITEM ADOPTED

Item 6 - Stanforth Holding Company, LLC, Dublin Ranch Tract 8016 located off Cydonia Court, Dublin, Alameda County – Adoption of Resolution Authorizing Referral to the Attorney General

Board prosecution staff Habte Kifle gave the staff presentation.

Board Member McGrath asked for more detail regarding the housing development and permit applications. Board Member Kissinger asked about the areas of unauthorized fill and Mr. Kifle further described the topography of the area and fill boundaries. Staff also confirmed that any fill was unauthorized and the dischargers did not apply for a permit.

Mr. Wolfe added that typically there is a determination of waters of the State for a development project and that as part of the enforcement process there will be a factual determination of where any fill may have taken place. Board Member Kissinger asked for clarification on the Attorney General referral process and whether progress is being made to address on-the-ground concerns. Mr. Kifle discussed staff oversight and investigative efforts. Mr. Wolfe noted that staff will continue to report back on progress of remedying the site.

Board Member McGrath asked about local permits and local government oversight. Mr. Wolfe agreed that there may be some additional work needed to educate the City on the State and federal permitting process and noted that this is one of the few cases where impacts to an endangered species are clear. Board Member Abe-Koga discussed the need to work with the City to avoid future problems. Vice-Chair Young asked about performance expectations for the construction stormwater permit. Assistant Executive Officer Thomas Mumley replied that there has been extensive outreach and training about expectations and noted that Stormwater Pollution Prevention Plans must be prepared and implemented by qualified personnel.

Mr. Wolfe recommended adoption of the Tentative Resolution.

Chair Muller moved for adoption of Item 6, Board Member Abe-Koga seconded the motion.

Ayes: Abe-Koga, Kissinger, McGrath, Young, Muller

Nos: None

ITEM ADOPTED

Item 7 - Pier 70 and PG&E Potrero, City and County of San Francisco – Status Report on Site Cleanup and Redevelopment

Mark Johnson gave the staff presentation.

Vice-Chair Young noted that it is our responsibility to give consideration to sea level rise and

innovative shoreline protection approaches as part of the final designs. She also noted the need for stormwater controls in order to minimize discharges of PCBs and sediment.

Carol Bach, Environmental Affairs Manager with the Port of San Francisco, addressed the Board. She noted that most stormwater will be captured by the City's combined system and that other areas will need to comply with stormwater guidelines. She also acknowledged Board staff efforts in helping move the project forward and that Mr. Johnson has been a great representative for the Board in the public outreach process.

This item was for discussion purposes only and no action was taken.

Item 11 – Closed session

The Board convened a closed session to discuss personnel issues with Mr. Wolfe.

Item 12 - Adjournment

Meeting adjourned at 12:35 pm until the next Board Meeting – August 14, 2013