



San Francisco Bay Regional Water Quality Control Board

June 10, 2015 Board Meeting
Draft Minutes for Board Consideration

ADOPTED July 8, 2015

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Item 1 - Roll Call and Introductions

Meeting called to order at 9:12 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

Table with 3 columns: Board Members Present, Board Members Absent, Status. Lists attendees like Steve Lefkovits and absentees like James McGrath, along with meeting times and quorum status.

Senior Engineering Geologist Laurent Meillier introduced new Scientific Aid Carolyn Lam to the Water Board.

Chair Young appointed a subcommittee utilizing authority granted under Resolution No. R2-2004-0094. The subcommittee included Chair Young, Board Member Lefkovits, and Board Member Ajami and allowed the Board to conduct general business under Item 4 until Board Member Abe-Koga arrived at 9:28.

Item 2 - Public Forum

Barbara Rothschild, co-owner of a building adjacent to the Hamlin Dry Cleaner site, expressed frustration with the lack of cleanup. Ms. Rothschild asked for confirmation that tenants are not at risk and asserted that the Water Board has granted too many extensions to the cleanup schedule. Division Chief Stephen Hill described the status of the site investigation and cleanup efforts. Executive Officer Wolfe noted that staff would provide a written update in next month's Executive Officer's Report.

Ian Wren, representing San Francisco BayKeeper, described a collaborative project with Google in which they are photo documenting the San Francisco Bay shoreline from the water.

Item 3 - Minutes of the May 13, 2015 Board Meeting

Executive Officer Bruce Wolfe recommended adoption of the Minutes from May 13, 2015, Board Meeting.

Board Member Ajami moved for adoption of the Minutes; Board Member Lefkovits seconded the motion.

Ayes: Lefkovits, Ajami, Abe-Koga, Young

Nos: none

ITEM ADOPTED

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

Board Member Ajami discussed a recent tour at the Chevron facility with Board Member Kissinger and staff. Mr. Wolfe gave an overview of this month's Executive Officer's Report. Staff Geologist Ralph Lambert gave a brief update on investigative work at the Prosperity Cleaners site discussed in the Executive Officer's Report. Mr. Wolfe noted that he received a letter from Mr. Materman, San Francisquito Creek JPA Executive Director, which included a response to Mr. Wolfe's recent letter. Legal Counsel Yuri Won noted that since Mr. Wolfe has agreed to amend the JPA's certification the matter is now pending and subject to ex parte rules.

Consideration of Uncontested Items

Item 5A – Department of the Navy, Former Mare Island Naval Shipyard, Vallejo, Solano County – Rescission of Waste Discharge Requirements

Item 5B – Town of Yountville, Town of Yountville Wastewater Reclamation Facility, Yountville, Napa County – Reissuance of NPDES Permit

Item 5C – Chevron Environmental Management Company, former Chevron Chemical Company Pond Site, Richmond, Contra Costa County –

Update of Waste Discharge Requirements and Rescission of Order No. 97-049

Mr. Wolfe recommended adoption of Items 5A, 5B, and 5C.

Board Member Abe-Koga moved for adoption of Items 5A, 5B, and 5C; Board Member Ajami seconded the motion.

Ayes: Lefkovits, Ajami, Abe-Koga, Young

Nos: none

ITEMS ADOPTED

Waste Discharge Requirements

Item 6 – Conditional Waiver of Waste Discharge Requirements for Existing Dairies within the San Francisco Bay Region – Renewal of Conditional Waiver

Staff Scientist Laurie Taul gave the presentation to the Board.

Board Members asked clarifying questions. Board Member Ajami asked about group monitoring and tiered sampling. Ms. Taul described Region 1's program and noted it was an example of an acceptable approach. Board Member Lefkovits asked about the data collected and how it will be evaluated. Chair Young noted support for use of an approach consistent with Region 1. She asked about weather related requirements. Chair Young discussed fees and her support for appropriate fees for smaller facilities and noted she raised the issue with the other Board Chairs.

Albert Strauss, CEO/Founder representing the Strauss Family Creamery and Dairy, noted that about 80% of dairies in Marin and Sonoma County are organic. He described the organic certification process and urged the Board to avoid duplication and eliminate groundwater testing. He noted the need to have a clear water quality goal and means for tracking attainment of the goal. Division Chief Naomi Feger responded that staff will continue to work with the dairy industry and look for areas of overlap with the organic certification process and ways to consolidate the reporting process. Chair Young agreed to accept the late comments submitted by Mr. Strauss into the record.

Jerry Corda, Partner at Corda Family Dairy, described his family's history in the industry and noted the benefit of group monitoring and expressed concerns regarding the costs to the industry. Frank Gambonini, Dairyman of Gamelake Dairy in Petaluma, echoed comments from Jerry Corda. He requested time to get up to speed with the new requirements. Dr. Deanne Meyer, Livestock Waste Management Specialist at UC Davis Cooperative extension and participant in the Dairy Quality Assurance Program, urged the Board to wait a few months before adopting the Order. Dr. Meyer described the importance of getting stakeholder buy-in. She stated her commitment to educating stakeholders on how to comply but noted that she hasn't developed appropriate curriculum

Board staff summarized the comments and discussed the stakeholder process that informed the Tentative Order. Melissa Lema, Field Representative at Western United Dairymen, addressed the Board. She noted support for the efforts to coordinate with Region 1. She requested that the item be postponed till August. She invited Board Members to come visit dairies. She noted that the timelines were confusing and the permit requires excess paperwork.

The Board discussed the pros and cons of delaying the waiver and asked for clarification about flexibility in implementing the requirements.

Mr. Wolfe recommended adoption of Item 6.

Board Member Ajami moved for adoption of Item 6; Board Member Abe-Koga seconded the motion.

Ayes: Lefkovits, Ajami, Abe-Koga, Young

Nos: none

ITEM ADOPTED

RECESS at 11:42 a.m.; RECONVENE at 11:55 a.m.

Enforcement

Item 7 – Sonoma Valley County Sanitation District, Wastewater Collection System, Sonoma, Sonoma County – Adoption of Cease and Desist Order

Assistant Executive Officer Dyan Whyte introduced the prosecution team. Staff Engineer Michael Chee gave the presentation to the Board. Mr. Chee described recent sanitary sewer overflows and the Cease and Desist Order requirements. Board Member Lefkovits asked whether the Order requirements were sufficient to remedy the problem and about public health risks. Board Member Abe-Koga asked about financing options for the needed infrastructure projects. Chair Young expressed concern that Item A, which requires the discharger to complete a sewer capacity study and develop interim projects and deadline, did not note that it should be done to the satisfaction of the Executive Officer. Ms. Whyte noted agreement and proposed supplemental language that Prosecution Counsel Anna Katherine Benedict read into the record.

Wendy Gjestland, Water Engineer representing the Sonoma Valley Sanitation District, gave a brief overview of recently completed projects. She described seven major projects that cost the District \$20 million. Pam Jeane, Sonoma County Water Agency Assistant General Manager, clarified the legal and financial relationship between the Sonoma Valley Sanitation District and Sonoma County Water Agency. She described project financing options and staffing.

Mr. Wolfe noted that he agreed with the Prosecution Team's conclusion that a connection ban is not necessary to solve the problem. He recommended adoption of Item 7 as supplemented with additional language read into the record by Ms. Benedict, pertaining to page 6, 2.a. of the Tentative Order.

Board Member Abe-Koga moved for adoption of Item 7 as supplemented; Board Member Lefkovits seconded the motion.

Ayes: Lefkovits, Ajami, Abe-Koga, Young

Nos: none

ITEM ADOPTED

Other Business

Board Member Abe-Koga noted that she would be recusing from Item 8. Chair Young appointed a subcommittee for Item 8 utilizing the authority granted under Resolution No. R2-2004-0094. The subcommittee included Chair Young, Board Member Lefkovits, and Board Member Ajami.

RECESS at 12:38 p.m.; RECONVENE at 12:55 p.m.

Item 8 – Municipal Regional Stormwater NPDES Permit – Municipalities and Flood Management Agencies in Alameda County, Contra Costa County, San Mateo County, Santa Clara County, and the Cities of Fairfield, Suisun City, and Vallejo in Solano County – Hearing to receive testimony on Tentative Order, all sections except Provision C.10, Trash Load Reduction

Chair Young noted that the subcommittee will not be taking any action, but will report findings and recommendations to the Board at the next meeting. In addition, all Board Members will receive a transcript of the meetings.

Watershed Division Chief Keith Lichten gave the presentation to the Board. He described the schedule for permit reissuance, what the Municipal Regional Stormwater NPDES Permit (MRP) is and its regulatory role, and significant proposed changes to the permit, focusing on sections on PCBs, mercury, and new and redevelopment. He also noted that he will not be covering Provision 10: Trash, for which a public hearing has been noticed for July.

Chair Young asked for confirmation on check in points during the permit term and asked how progress will be evaluated. She asked about how equity can be assured for tasks that involve aggregate load compliance. Assistant Executive Officer Mumley described how this could be done on a county wide scale. Board Member Ajami asked about tracking of green infrastructure. Keith Lichten noted that SFEI is developing tracking tools, as are the permittees.

Jim Scanlan, BASMAA Vice Chair, noted that the tentative Order lacks a clear pathway for permittees to achieve the required TMDL based load reductions. Mr. Joe Calabrigo, Danville Town Manager and representing Contra Costa County Public Managers, highlighted the green infrastructure requirement and emphasized the need for a clear path to compliance. Sandy Wong, Executive Director of the Association of Governments for San Mateo City and County Agencies, urged the Board to consider that more time is needed to develop effective and achievable control measures for PCBs and mercury. Tom Dalziel, Contra Costa Clean Water Program Manager, discussed guiding principles for that build on the green infrastructure plan and discussed lessons learned from projects implemented. He urged the Board to support the elimination of less beneficial tasks and establish a clear path to compliance. Jon Konnan, with EOA representing the San Mateo County Stormwater Program, commented on the timeframe estimated for the Bay to recover from PCBs impacts and urged the Board to give local agencies time to do the job of cleaning up PCBs the right way. Arlene Feng, Alameda Countywide Clean Water Program Monitoring Coordinator, discussed provision C.12 f and noted the timeframe was unrealistic. Phil Bobel, Public Works Assistant Director for the City of Palo Alto, expressed support for the green infrastructure requirements. He also stated that the main problem is the

first deadline and that the requirement of having agency approvals is unrealistic and problematic. He noted that in Palo Alto they have not been able to identify PCBs and mercury hotspots and suggested changes to recognize this. Jay Walter, City of San Carlos Public Works Director, commented on the PCBs load reduction and challenges for developing green infrastructure plans within the timeframe. Assistant Executive Officer Mumley clarified that the intention of the requirement is to have buy-in and support at a high level within a municipality on green infrastructure. He encouraged each municipality to propose how it can best satisfy this goal.

Napp Fukuda, Deputy Director for the City of San Jose, expressed concern that C.12 does not define a clear path to compliance and noted some of the required actions may be out of the control of a local agency. Melody Tovar, Regulatory Programs Division Manager for the City of Sunnyvale, highlighted the need for changes in the section of the permit pertaining to pollutants of concern. She emphasized the need to broaden the agency responsibilities related to PCBs in buildings. She requested clarification in regard to pollutants of concern (POC) load reduction requirements. Rebecca Tuden, Watershed Specialist for the City of Oakland, noted the City's commitment to address high priority PCBs areas, expressed concern about ability to achieve allocations, and suggested a provision to revisit POC estimates. Cece Sellgren, Stormwater Manager representing unincorporated Contra Costa County Stormwater Program, noted that they will need assistance from the Water Board to help cleanup sites, especially for PG&E and railroad right-of-ways. Laura Hoffmeister, Vice Mayor for the City of Concord, requested that staff work with co-permittees on timeframes and improving clarity. She suggested lead and asbestos programs as a model for developing PCBs building demolition control programs. Eric Anderson, Environmental Safety Coordinator representing the City of Mountain View, commented on Provision C. 12, and noted support for previous speakers comments and suggested initiation of a State or federal program to control of PCBs. Robert Ovadia, City Engineer for the City of Concord, emphasized the need for a clear path to compliance and noted that many of the timelines are unrealistic.

Kirsten Pringle, Sustainability Coordinator for San Mateo County, commented on Provision C.14 which addresses indicator bacteria controls and pertains to the City of Pacifica and San Mateo County TMDL requirements. She requested that the permit requirements better reflect their approved control plan. She also noted that it is not appropriate to have sewer line requirements in a storm water permit. Ms. Pringle requested clarification in the Fact Sheet about the TMDL reference watershed study. Nancy Humphrey, Environmental Program Analyst for the City of Emeryville, expressed concern about being held to unclear PCBs reductions and noted that reporting requirements are burdensome. Board staff Jan O'Hara responded to a question by Chair Young noting that the building demolition process is more likely to release PCBs as opposed to standing buildings. Lisa Austin, Associate with Geosyntech and representing Contra Costa Clean Water Program, urged the Board to not adopt a permit that will have a high likelihood of non-compliance. She suggested that load reduction performance criteria should be action levels as opposed to limits and that the load reductions accounting method requirement be omitted. Chris Sommers, Managing Scientist representing Santa Clara Valley Urban Runoff Pollution Prevention Program, emphasized the need for a clear path to compliance and that

they've proposed an alternative approach. Board Member Lefkovits asked about demolition options for PCB contaminated buildings. Board staff provided background and discussed various options.

Laura Hoffmeister, City of Clayton Stormwater Program Manager, noted that the City of Clayton is completely built-out and requested clarification about green infrastructure expectations if there are no development plans. She expressed concern about the entitlement processes and grandfathering projects underway under MRP 1.0. Ian Wren, Staff Scientist representing San Francisco BayKeeper, applauded the Board for proposing a proactive approach to implementing green infrastructure. He requested more specificity and clarity regarding plan expectations. He noted that the Permit is too vague and reports need to be streamlined to facilitate adequate review and enforcement, when needed. Board Member Ajami asked about whether green infrastructure requirements only pertain to new projects. Board staff described the retrofit requirement that pertains to rebuilding. Maurice Kaufman, City of Emeryville Public Works Director, expressed concern about the lack of clarity pertaining to requirements. Jason Rodgers, City of San Jose Planning Manager, expressed concern about lack of clarity in how to implement green infrastructure plans and specifications. Dr. Mumley clarified the intention behind the sun setting of the grandfathering of older projects exempt from new treatment requirements. He suggested that permittees submit, in writing, specifics in regard to projects that may be affected.

Shannon Young, speaking for Kathy Cote, Environmental Services Manager for the City of Fremont, noted support for elimination of screening thresholds under C.5 and C.3 size thresholds. She reiterated statements made by previous speakers requesting changes in the annual reporting timelines. Roger Lee, Public Works Assistant Director for the City of Cupertino, noted that the green infrastructure aspects of the permit are not practical. Elaine Marshall, City of Sunnyvale Environmental Programs Manager, discussed the uncertainty of green infrastructure funding. She also noted that they will be working with Dr. Mumley on plans related to the grandfathering provision. Michael Rhoades, Program Manager for Santa Clara County Clean Water Program's unincorporated areas, noted that they lack redevelopment/retrofit opportunities and are therefore concerned about obligations in meeting green infrastructure requirements. He urged the Board to recognize that there will be diversity in the range of projects that will be undertaken under this category. Sharon Newton, City of San Jose Stormwater Program Manager, emphasized that funding needs to be recognized as a limiting factor when developing and implementing green infrastructure projects.

Vaikko Allen, Regulatory Director for Contech Engineering Solutions, requested that the Board reconsider bioretention requirements and allow for alternative compliance. He also suggested that there needs to be a baseline performance standard implemented for site runoff. Andrew Russell, Public Works Assistant Director for the City of Dublin, expressed concerns about the timing to develop the green infrastructure framework, the lack of guidelines, and the lack of practicality in implementing. He also noted that he did not support the default language about defining load allocations based on populations. Dan Cloak, Principal of Dan Cloak Environmental Consulting representing Contra Costa Clean Water Program, expressed support for green

infrastructure but noted that success will be dependent on getting relief on other permit requirements.

RECESS at 3:30 p.m.; RECONVENE at 3:45 p.m.

Mallika Ramachandran, representing the City of Brentwood, asked about green infrastructure grandfathering projects and the timeframes to retrofit projects. Michelle Quinney, City Engineer for the City of Campbell, described her experience with the Hacienda Green Street project. Jolan Longway, Civil Engineer representing the City of Pittsburg, discussed concerns about requiring changes to projects already approved. Amanda Booth, Environmental Program Analyst City of San Pablo, stated that compliance is unclear and that a defined review process is needed. Rinta Perkins, Clean Water Program Manager for the City of Walnut Creek, commented on Provision C.3. E, Special Projects. She requested that definitions be revised and that the criteria for transit oriented development be modified. Tracy Clay, Supervising Civil Engineer representing the City of Berkeley, highlighted that Berkeley has been successful in passing a bond measure to fund green infrastructure and asked the Board to be mindful of costs associated with monitoring and reporting requirements. Chris McCann, Clean Water Program Coordinator for the Town of Danville, noted support for green infrastructure, discussed O&M inspection requirements, and stated that inspecting 20% of the prior years approved projects is too much. Tim Potter, with Central Sanitation District and representing Central Costa County Clean Water Program, spoke on the proposed changes to Section C.4.D. He requested that verbal warnings given as part of the inspections program should not need to be reported; only written notices and NOVs. Beth Baldwin, Watershed Management Planning Specialist representing Contra Costa Clean Water Program, spoke about Provision C.5.E that pertains to the control of mobile sources. She noted that a list of mobile business will take time and the timeline is not feasible. Deanna Constable, Administrative Analyst representing Contra Costa Clean Water Program's Public Information Program requested that references to Provision C.7 be consolidated and brought back into C.7. She also stated that there was a need for permit language changes to allow more flexibility in how they do outreach campaigns.

Erica Maharg, SF BayKeeper Staff Attorney, commented on Provision C.8, which contains water quality monitoring provisions, and noted that the monitoring provisions should focus on assuring compliance with the permit. She asserted that the proposed monitoring provisions increase flexibility too much and that they do not specify monitoring locations or how locations should be determined. She requested that the provisions should be changed to require representative samples be taken at outfalls during storm events. Lucile Paquette, Watershed Management Planning Specialist representing Contra Costa Clean Water Program, requested flexibility to facilitate collaboration. She requested that the C.8 temperature thresholds be revisited, and asked whether the timing of the POCs can be consolidated. She also requested a change related to the PCB monitoring method. Julie Haas-Wajdowicz, representing the City of Antioch Environmental Services, asked the Board to consider changing the word 'advertising' to 'outreach' in the permit to allow more flexibility in approaches so that they could develop one holistic plan that addresses many needs. Joanne Le, City of Richmond Source Control Inspector, expressed concern about compliance and third party lawsuits.

Chair Young reiterated that no action would be taken today and invited Board Members to ask clarifying questions. She noted that the Board Members present will provide preliminary feedback at the July Board meeting. Keith Lichten stated that staff will continue to meet with permittees.

This item was for informational/discussion purposes and no action was taken.

Item 13 - Adjournment

Meeting adjourned at 4:33 p.m. until the next Board Meeting – July 8, 2015