

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

October 11, 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 October 11, 2006 at 8:59 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

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

Board member absent: Clifford Waldeck.

Shin-Roei Lee introduced Matt Graul, new staff.

Bruce Wolfe announced that Bill Johnson, Robert Schlipf, Gayleen Perreira, and Tong Yin were selected to receive the State Board's Customer Service Award for their work on the NPDES permitting team.

John Muller presented Certificates of Recognition to Mr. Johnson and Mr. Schlipf. He said Ms. Perreira and Ms. Yin were not able to be present.

Mr. Muller said Josephine De Luca would be leaving the Board soon and this was the time for Board members and staff to have an opportunity to say goodbye.

Mr. Muller read a letter from Loretta Barsamian, former Executive Officer, thanking Mrs. De Luca for her years of public service. Ms. Barsamian wrote that Mrs. De Luca is dedicated to the cause of environmental protection and has challenged staff to better serve the public and to protect the Bay.

Mr. Muller said he has been privileged to serve on the Board with Mrs. De Luca and commended her for her leadership as Chair.

Mary Warren said Mrs. De Luca will be missed and thanked her for her service.

Shalom Eliahu commended Mrs. De Luca for her dedication and said he was sorry to see her leave the Board.

Margaret Bruce said she regretted that Mrs. De Luca's tenure and her tenure on the Board have overlapped only for a brief time. Mrs. Bruce said she looked forward to continuing their acquaintance in the future.

Bruce Wolfe, on behalf of staff, thanked Mrs. De Luca for her leadership on the Board and said working with her has been a pleasure.

Mr. Muller, on behalf of the Board, presented Mrs. De Luca with a Proclamation of Appreciation. Mr. Muller, reading from the Proclamation, said Mrs. De Luca joined the Board in October 1994 and has brought to the work of the Board unequivocal support for protection of the Bay. He said the Board and its staff have been privileged and honored to work with her.

Mrs. De Luca thanked Board members and said she has been privileged to serve with them. She thanked staff and said she shares their dedication to the cause of environmental protection. She reviewed significant actions the Board had taken over the years and emphasized the importance of protecting the health of the public and the health of the Bay.

Mr. Muller thanked Mrs. De Luca for her comments and recommended a transcript of her comments be sent to the State Board.

Motion: It was moved by Mrs. Warren, seconded by Mrs. Bruce, and it was voted to send a transcript of Mrs. De Luca's comments to the State Board.

Roll Call:

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

No: None

Motion passed 5 – 0.

Item 2 – Public Forum

Amy Chastain, San Francisco Bay Keeper, said Mrs. De Luca will be missed and wished her good luck. Ms. Chastain referred to a study that Bay Area refineries are conducting regarding the fate of mercury in the refineries' air emissions. She expressed concern that an update of the study was not being presented at the meeting and said she understood staff would present an update at the November Board meeting.

Barry Christian, speaking on his own behalf, requested the Board require cleanup of a section of levee located along the Napa River. He said the levee contains residue from garbage that was burned in the past.

Item 3 – Minutes of the September 13, 2006 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 September 13, 2006 Board meeting.

Margaret Bruce abstained because she did not attend the meeting.

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

Bruce Wolfe said Anna Torres had accepted an offer to serve as Division Chief of the Management Services Division.

Mr. Wolfe reported recently attending a dedication of East Shore State Park which is under the management of the East Bay Regional Park District.

Mr. Wolfe reported a WQCC meeting will be held in Sacramento on October 30 and 31, 2006.

Mr. Wolfe said on October 14, 2006 the San Jose/Santa Clara Water Pollution Control Plant will host an open house to celebrate its 50th anniversary. He said the celebration will help illustrate the fact that staff at the Plant have been working diligently to protect the Bay for a long time. He said the Plant has grown from a facility handling 36 million gallons of wastewater a day to its current daily capacity of 167 million gallons.

Kristen Struve, San Jose/Santa Clara Water Pollution Control Plant, thanked Mr. Wolfe for acknowledging the Plant's contribution to the health of the Bay and extended an invitation to everyone present to attend the open house.

Item 5 – Consideration of Uncontested Items Calendar

Mr. Wolfe recommended adoption of the uncontested calendar with the following exception: Item 5C be continued.

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 6 – City of Calistoga, Dunaweal Wastewater Treatment Plant, Calistoga, Napa County – Reissuance of NPDES Permit

Bill Johnson said in August 2006 the Board considered the Tentative Order, decided against adopting it, and suggested parties further discuss issues.

Mr. Johnson said about 90% of the effluent released from the wastewater plant is treated to tertiary standards. He said the tentative order allows release of secondary treated effluent to the Napa River during wet weather.

Mr. Johnson said staff received comments on the Tentative Order from the City of Calistoga, U.S. EPA, and San Francisco Bay Keeper and written responses to these comments, received by August 2006, were prepared.

Mr. Johnson said since August, staff received comments from the City and the Living Rivers Council. Replying to the City's comments, Mr. Johnson said interim

limits in the permit would remain in effect if the permit term is administratively extended.

Replying to the Living Rivers Council's comments, Mr. Johnson said staff does not have evidence to suggest effluent adversely affects migrating trout and salmon. He said secondary treatment of wastewater is the standard treatment level throughout the nation. He said self-monitoring and reporting is at the core of the federal Clean Water Act and the NPDES permitting program.

Paul Wade, Public Works Director, City of Calistoga, thanked staff for working with the City.

John Stephens, Living Rivers Council, requested: (1) all effluent released to the River be treated to tertiary standards; (2) problems with inflow and infiltration of stormwater into the sewer collection system be addressed; and (3) monitoring be conducted by third parties. He asked about the effect of effluent on trout and salmon.

Mr. Wolfe said the Sediment TMDL and Habitat Enhancement Strategy for Napa River staff is preparing will be a step towards improving the health of the fish population. He said the tentative order allows release of secondary treated effluent during wet weather to the River when the water level is high. He said all sanitary sewer districts that own collection systems face maintenance issues concerning inflow and infiltration. He reiterated that self-monitoring is a fundamental component of the NPDES program.

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 as recommended by the Executive Officer.

Roll Call:

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

No: None

Motion passed 5 – 0.

Item 7 – City of Pacifica, Calera Creek Water Recycling Plant, Pacifica, San Mateo County – Reissuance of NPDES Permit

Derek Whitworth said the Calera Creek Water Recycling Plant became operational in 2001. He said the plant releases tertiary treated effluent to Calera Creek.

Mr. Whitworth said before the plant was built, Calera Creek was a seasonal stream that had water only during the winter. He said effluent released to the Creek has allowed for the very successful development of biologically diverse wetlands.

Mr. Whitworth said the current permit includes fecal coliform limits based on the assumption that the Creek is a drinking water source. He said limits in the Tentative Order are set at levels consistent with the fact that the Creek is not used for drinking water.

Mr. Whitworth said U.S. EPA recommended staff prepare a Basin Plan update to designate current beneficial uses of inland streams like Calera Creek.

Mr. Whitworth said the Tentative Order allows the permittee to study the relationship between dissolved and total copper concentrations. He said a permit amendment would be brought to the Board if the study indicates limits should be changed.

In reply to a question, Mr. Wolfe said the Board could adopt the Tentative Order before the Basin Plan is updated.

Tom Hall, Managing Environmental Engineer, EOA, spoke in favor of the Revised Tentative Order and thanked Derek Whitworth and Bill Johnson for their work.

Mr. Wolfe recommended adoption of the Revised Tentative Order.

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

Roll Call:

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

No: None

Motion passed 5 – 0.

Item 8 – North San Mateo County Sanitation District, Wastewater Treatment Plant, Daly City, San Mateo County – Reissuance of NPDES Permit

John Madigan said the plant treats wastewater collected from Daly City, the Town of Colma, the San Francisco County Jail, portions of South San Francisco and some nearby areas of San Mateo County. He said the plant releases secondary treated effluent to the Pacific Ocean through an outfall located about one-half mile offshore. He said tertiary treated effluent produced by the plant is used to irrigate golf courses, parks, and median strips.

Mr. Madigan said enterococcus bacteria are used in the Tentative Order as an indicator species to protect human health in marine waters. He said the enterococcus bacteria effluent limit in the Tentative Order was calculated using an objective in the California Ocean Plan and takes a 70:1 dilution factor into account.

Mr. Madigan said heptachlor may have been detected twice since 2000 in the permittee's effluent. He said detection levels were close to detection limits and it was unclear if the pollutant actually was present. He said the Tentative Order

requires the permittee to monitor for heptachlor and to take action if there are future detections.

In reply to a question, Mr. Madigan said staff does not know the source of the heptachlor.

Patrick Sweetland, Director of Water and Wastewater Resources, City of Daly City, spoke in favor of the Revised Tentative Order. He thanked U.S. EPA and staff for their work.

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

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

Roll Call:

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

No: None

Motion passed 5 – 0.

Item 9 – Shell Oil Projects US and Equilon Enterprises LLC, Shell Martinez Refinery, Martinez, Contra Costa County – Reissuance of NPDES Permit

Robert Schlipf said staff received a comment letter from Communities for a Better Environment in which CBE expressed concern that effluent released by the permittee contributes to environmental injustice. In reply, Mr. Schlipf said the permittee contributes a minor amount of pollutants to Carquinez Strait and the waterbody would remain contaminated until pollution is reduced from significant sources. He said implementation of TMDLs will help ensure compliance with water quality standards.

Mr. Schlipf said, in the comment letter, CBE asserted that use of compliance schedules in the Tentative Order was not authorized by the State Implementation Policy and the California Toxic Rule. In reply, he said staff disagreed and said compliance schedules are authorized by the Basin Plan and the State Implementation Policy.

Keith Howard, Cooper, White, and Cooper, representing Shell Oil Products US and Equilon Enterprises LLC, thanked staff for work on the Tentative Order and requested the Board adopt it. He said the Board may issue compliance schedules and interim limits. He requested stakeholders meet to address the issue of coordinating the expiration of compliance schedules with the implementation of TMDLs.

Dan Glaze, Principal Engineer, Glaze Regulatory Consulting, said he is a former Shell employee and is proud of the Company's environmental commitment. He

said he reviewed the Tentative Order at the request of Shell and said it contains stringent limits. He commended Ms. Tang and Mr. Schlipf for their work.

Amy Chastain, San Francisco Bay Keeper, read comments written by Communities for a Better Environment that addressed three issues. She said all sources of bioaccumulative pollutants should be reduced. She said violations of water quality standards for bioaccumulative pollutants disproportionately impact people of color who fish the Bay for subsistence.

Ms. Chastain said staff did not analyze whether the permittee could comply with water quality based effluent limits during the term of the permit. She said staff assumed that compliance at any point during the permit term was infeasible.

Ms. Chastain said CBE disagreed with staff's interpretation of the law regarding use of compliance schedules.

Kevin Buchan, Western States Petroleum Association, requested the Board adopt the Tentative Order. He said his testimony would be directed to written comments submitted by CBE. He said the Clean Water Act and U.S. EPA guidelines provide that compliance schedules may be used after July 1, 1977. He said compliance schedules in the Tentative Order are authorized by the Basin Plan and the State Implementation Policy Section 2.1a and U.S. EPA has approved the authorizing provisions.

Craig Johns, Program Manager, Partnership for Sound Science in Environmental Policy, thanked Mrs. De Luca for her service on the Board. He recommended the Board adopt the Tentative Order. He said compliance schedules allow the permittee time to meet stringent limits. He said representatives from the refineries are working with staff to complete TMDLs. He said the TMDLs will address cumulative pollutant impacts.

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

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

Roll Call:

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

No: None

Motion passed 5 – 0.

Item 10 – Mustards Grill, Cynthia Pawlcyn and Mustards Grill Wastewater Treatment System, Napa County – Reissuance of Waste Discharge Requirements

Blair Allen said Mustards Grill is a commercial restaurant located in an unincorporated area of Napa Valley. He said there are no municipal sewers in the area and the restaurant is served by an on-site wastewater system.

Mr. Allen said the restaurant constructed a new wastewater system during the summer of 2005 and it has been operational since November 2005. He said the system includes a manufactured treatment unit providing high quality effluent and a subsurface drip dispersal system. He said the tentative order includes requirements to ensure proper operation and maintenance of the system.

John Stewart, Project Manager, Riechers Spence and Associates, spoke in favor of the tentative order and thanked Mr. Allen for his work.

Mr. Wolfe recommended adoption of the tentative order as supplemented.

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

Roll Call:

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

No: None

Motion passed 5 – 0.

Item 11 – Cosentino Winery, Cosentino Winery LLC, and Cosentino Winery Wastewater Treatment System, Napa County – Reissuance of Waste Discharge Requirements

Mr. Wolfe recommended this item be continued to the November Board meeting.

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) and Implementation Plan for Mercury in the Walker Creek Watershed – Hearing to Consider Proposed Basin Plan Amendment (No Action Will Be Taken)

Jill Marshall said Walker Creek is located in West Marin County and drains to Tomales Bay. She described sources of mercury in the Walker Creek watershed:

1. Background – Naturally occurring mercury is common in California's Coast Range.
2. Gambonini Mine site – The largest former mercury mine in the watershed. The site includes a former processing facility.
3. Soulejule Reservoir and watershed – Two former mercury mines are located in the Arroyo Sausal Creek watershed.
4. Downstream depositional areas – Mercury-laden sediments are found in areas, like floodplains, that are located downstream of former mines.

Ms. Marshall said fish in the watershed contain elevated levels of mercury and the health of birds that eat some of the fish is at risk. She said the Basin Plan Amendment vacates an outdated water quality objective and adds two new objectives:

1. 0.05 milligrams of mercury per kilogram fish for small prey fish.

2. 0.10 milligrams of mercury per kilogram fish for larger prey fish.

Ms. Marshall said the new water quality objectives serve as TMDL targets. She said the targets apply to different size fish in order to protect both large and small birds. She said the targets also protect people who eat the fish.

Ms. Marshall described allocations of mercury loads to source categories. She said the mercury water concentration allocated to waters in Soulejule Reservoir is 0.05 micrograms per liter. She said mercury sediment concentration allocations are:

1. 5.0 micrograms per kilogram of sediment for releases from Gambonini Mine site.
2. 0.5 micrograms per kilogram of sediment for releases from downstream depositional areas.
3. 0.5 micrograms per kilogram of sediment for releases from Soulejule Reservoir.

Ms. Marshall said implementation of the TMDL will occur through measures taken by landowners. She said owners of the Gambonini Mine site and the downstream depositional areas will be called on to minimize, to the maximum extent feasible, the release of mercury-laden sediment and the production of methylmercury. She said Marin Municipal Water District will be called on to identify mercury sources in the Soulejule Reservoir and watershed and implement solutions to improve water quality in the reservoir and in water released from the reservoir.

Dyan Whyte said staff is working with U.S. EPA to address concern that the mercury objectives in the Basin Plan Amendment protect human health.

Ms. Whyte said staff received a comment letter from the Marin Municipal Water District.

Paul Helliker, General Manager, Marin Municipal Water District, congratulated Mrs. De Luca for her many years of service. He said the District is committed to protecting aquatic resources in the Walker Creek watershed and is willing to increase monitoring for mercury and methylmercury. He said District staff has not found former mines that are located above the Soulejule Reservoir water level. He said it would be costly to install an aeration system at the Reservoir.

Ms. Whyte said staff will consider all comments received on the Basin Plan Amendment and will revise the document as necessary. She anticipated the Amendment will be brought to the Board in January 2007 for consideration of adoption.

Item 13 – Proposed Amendment to the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish New Water Quality Objectives and Implementation Plan for Cyanide in San Francisco Bay – Hearing to Consider Proposed Basin Plan Amendment (No Action Will Be Taken)

Barbara Baginska said both the chronic and acute water quality objectives for cyanide in San Francisco Bay are 1 microgram per liter. She said the Basin Plan Amendment would increase the chronic objective to 2.9 micrograms per liter and the acute objective to 9.4 micrograms per liter.

Ms. Baginska said the current objectives are based on toxicity data for a crab species found on the east coast. She said the proposed objectives are specific to the San Francisco Bay region and are based on data for crab species found in the Bay.

Ms. Baginska said municipal wastewater treatment plants produce cyanide during disinfection processes when a product like chlorine is used. She said the proposed objectives are important because a number of NPDES permittees can not meet limits based on current objectives.

Ms. Feger said the Basin Plan Amendment proposes dilution be taken into account when limits are calculated for effluent released to shallow waters.

Ms. Feger said staff received letters from municipal wastewater permittees and related associations that were in favor of the Amendment.

Ms. Feger said U.S. EPA commented favorably on the proposed objectives. She said the agency expressed concern regarding proposed mixing zones and associated dilution credits for permittees that release effluent to shallow waters. She said staff will work with the agency to resolve the concern.

Michele Plá, Executive Director, Bay Area Clean Water Agencies, thanked Mrs. De Luca for her many years of service. Ms. Plá spoke in favor of the proposed objectives and of taking dilution into account for shallow water releases. She said scientific information indicates the releases do not harm aquatic life.

Mr. Wolfe anticipated the Basin Plan Amendment will be brought to the Board in December for consideration of adoption.

Item 14 – Grants Program – Status Report

Susan Gladstone said in 2000 and 2002, voters passed Propositions 13, 40 and 50 that authorized sale of bonds to fund environmental projects. She said projects also are funded through federal grant money.

Ms. Gladstone said over \$19 million of bond funds and federal funds have been awarded to 53 grant projects located in the San Francisco Bay region. She said nearly 20 of the projects are completed or are about to be completed.

Ms. Gladstone said projects receiving grant funds fall into three general categories: research and demonstration; watershed assessment and planning; and implementation. She gave examples of Bay Area projects in each of the categories. She said projects often address multiple water quality concerns.

Adjournment - The Board meeting was adjourned at 12:02 p.m.