

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

May 9, 2007

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Item 1 - Roll Call and Introductions

The meeting was called to order on May 9, 2007 at 9:03 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Margaret Bruce; Shalom Eliahu; William Peacock; Clifford Waldeck; Terry Young.

Board member absent: Mary Warren.

Naomi Feger introduced Barbara Baginska, new Board staff.

Bruce Wolfe presented Sustained Superior Accomplishment Awards to Elizabeth Christian and Johnson Lam in recognition of their outstanding job performance.

Item 2 – Public Forum

There were no public comments.

Item 3 – Minutes of the April 11, 2007 Board Meeting

It was moved and seconded, and unanimously voted to adopt the minutes of the April 11, 2007 Board meeting. Mrs. Bruce and Mr. Eliahu abstained because they did not attend the meeting.

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

John Muller said State Board Chair Tam Doduc and regional board chairs participated in a recent telephone conference call. He said they discussed forums that are being held as part of the State and Regional Boards' Strategic Plan update effort.

Clifford Waldeck discussed the Board member appointment process.

Margaret Bruce thanked staff for including items in the Executive Officer's Report regarding Bay pollutants, including polybrominated diphenyl ethers (PBDEs).

Terry Young thanked Lila Tang for including items in the Executive Officer's Report regarding pollutant trends in the Bay and chronic toxicity levels in wastewater effluent.

Bruce Wolfe said a regional outreach meeting regarding updating the State and Regional Boards' Strategic Plan will be held on the afternoon of June 13 in the Elihu M. Harris State Building in Oakland. He encouraged stakeholders to attend.

Mr. Wolfe said on April 20, 2007 he met with members of the City of San Jose City Council and Board members of the Santa Clara Valley Water District to discuss watershed issues.

Item 5 – Consideration of Uncontested Items Calendar

Mr. Wolfe recommended adoption of the uncontested calendar.

Motion: It was moved by Mr. Peacock, seconded by Mrs. Bruce, and it was unanimously voted to adopt the uncontested calendar as recommended by the Executive Officer.

Item 6 – GWF Power Systems Company, Inc., East Third Street (Site I) Power Plant, Pittsburg, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said GWF Power Systems Company, Inc. signed a waiver of the right to a hearing on the proposed MMP and no Board action was necessary. Mr. Wolfe said the Company agreed to pay a Mandatory Minimum Penalty in the amount of \$3,000.

Item 7 – 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 Copper in San Francisco Bay – Hearing to Consider Testimony on Proposed Basin Plan Amendment

Mr. Looker said in 2002 the Board adopted copper site specific objectives for the segment of the Bay located south of the Dumbarton Bridge. He said the Basin Plan Amendment would establish copper site specific objectives for Bay segments located north of the Dumbarton Bridge.

Mr. Looker said today's hearing provides stakeholders and Board members an opportunity to provide comments. He anticipated the Basin Plan Amendment will be considered for adoption at the June Board meeting.

Mr. Looker described the chemistry of copper in the Bay and how copper interacts with aquatic life. He said dissolved copper in free ionic form is bioavailable and is the most toxic form of copper to aquatic life. He said dissolved copper binds to organic matter. He said dissolved copper bound to organic matter is not a toxic form because it is not generally bioavailable.

Mr. Looker said staff calculated a Water Effects Ratio: the concentration of dissolved copper that was toxic to an aquatic organism using Bay water compared to the concentration using laboratory water. He said the reason the concentration using Bay water was greater than the concentration using laboratory water may be because the Bay contains organic matter.

Mr. Looker said the Basin Plan Amendment includes two sets of copper site specific objectives. He said objectives south of the Hayward shoals are: 6.9 micrograms per liter (chronic) and 10.8 micrograms per liter (acute). He said objectives north of the Hayward shoals are: 6.0 micrograms per liter (chronic) and 9.4 micrograms per liter (acute). He said the reason two sets of objectives are required may reflect the fact that the southern parts of the Bay contain more organic matter.

Mr. Looker identified major copper sources: automotive brake pads; water pipes; architectural features such as gutters, roofs, and downspouts; paints applied to boats to manage pest related problems; and copper applied to lagoons and pools to control algae.

Mr. Looker discussed measures urban runoff management agencies and wastewater treatment facilities will be required to implement. He said staff and the Department of Pesticide Regulation are working together to reduce use of copper based boat paint. He said a statewide general permit regulates the application of pesticides, including copper, to lagoons.

Mr. Looker said the Basin Plan Amendment requires monitoring of ambient waters. He said monitoring data will be compared to copper trigger levels included in the Basin Plan Amendment. He said if trigger levels are reached, NPDES permittees will be required to investigate causes and will be required to take action.

Mr. Looker said the Basin Plan Amendment calls for studies to investigate whether the salmonid sensory system function is affected by dissolved copper in marine environments.

Mr. Looker discussed comment letters on the Basin Plan Amendment received by staff.

Mrs. Bruce said the chemical interaction between copper and Bay aquatic life may change as restoration projects and TMDLs are implemented. She asked if a schedule for recalculating and updating the Water Effects Ratio had been developed.

Mr. Looker said the Basin Plan Amendment did not include a reevaluation schedule. He said staff will review monitoring data for dissolved copper concentrations, total copper concentrations, and other factors, and can take action if dissolved concentrations increase.

Dr. Young said the site specific objectives set criteria for dissolved copper concentrations. She said the Bay also contains undissolved copper, bound to

particulates, that can build up in compartments of the Bay and that could be converted to dissolved copper through biological and chemical mechanisms. She suggested it might be helpful to understand where undissolved copper builds up and to understand the rate at which it builds up.

Mr. Looker said concentrations of undissolved copper in the water column can fluctuate greatly. He said undissolved copper bound to particulates tends to sink to sediments on the bottom of the Bay.

Dr. Young suggested the implementation plan require monitoring of undissolved copper that builds up in sediments and becomes bioavailable to organisms in the sediments. She suggested a routine and timely process be established to evaluate the monitoring data to determine whether additional action should be taken.

Tom Mumley said the implementation plan could include a process for reviewing monitoring data. He said the purpose of the review would be to look for changes in undissolved and dissolved copper concentrations.

Joe Dillon, Water Quality Coordinator, National Marine Fisheries Service, requested the Basin Plan Amendment include a requirement that studies regarding effects of dissolved copper on salmonid sensory system function begin in a timely manner.

Michele Plá, Executive Director, Bay Area Clean Water Agencies, spoke in favor of the Basin Plan Amendment and requested it be adopted at the June Board meeting. She requested, during the multi-agency approval process of the Basin Plan Amendment, staff use the Water Effects Ratio in the calculation of copper limits for wastewater facilities. She said many wastewater facilities will not be able to meet limits unless the Water Effects Ratio is used.

Mr. Wolfe said staff will reply in writing to comments received and may revise the Basin Plan Amendment in light of the comments.

Item 8 – City and County of San Francisco and North Bayside System Unit, San Francisco International Airport, Mel Leong Treatment Plant, Sanitary Plant, San Mateo County – Reissuance of NPDES Permit

Mr. Wolfe recommended continuing this item.

Item 9 – Sausalito-Marin City District, Wastewater Treatment Plant and Its Collection System, Sausalito, Marin County – Reissuance of NPDES Permit

Mr. Wolfe recommended continuing this item.

[The Board took a recess at 10:22 a.m. and resumed the meeting at 10:30 a.m.]

Item 10 – Perkin-Elmer Corporation, Applera Corporation, and JR Realty #2, LLC, for the property located at 2690 Casey Avenue, Mountain View, Santa Clara County – Adoption of Site Cleanup Requirements

Sandia Potter, Stephen Hill, John Wolfenden, Adriana Constantinescu, Bruce Wolfe, and Dorothy Dickey served as prosecuting staff. Jim Ponton and Yuri Won served as Board advisors.

Ms. Constantinescu described the Revised Tentative Order.

There was testimony from Lester Feldman, Geomatrix Consultants, on behalf of Applera Corporation, and Tim Carlstedt, Bingham and McCutchen, on behalf of Applera Corporation.

[The Board took a lunch break at 11:50 a.m. and went into closed session to conduct the annual performance review of the Executive Officer. The meeting resumed at approximately 12:58 p.m. at the conclusion of the closed session.]

[Consideration of Item 10 resumed after consideration of Item 11.]

Item 11 – Focusing Our Vision – Information Item on ABAG Planning Initiative

The Board considered this item next.

Kenneth Kirkey, Planning Director, Association of Bay Area Governments, discussed the Focusing Our Vision initiative that the Association of Bay Area Governments and the Metropolitan Transportation Commission are spearheading in coordination with the Bay Area Air Quality Management District and the Bay Conservation and Development Commission.

Mr. Kirkey said local governments will be invited to apply to the regional agencies to receive designations for Priority Development Areas and Priority Conservation Areas. He said regional agencies are working to see that there will be financial incentives for local governments that receive designations.

He said Priority Development Areas will promote development, particularly housing, within existing communities where there is existing or planned public transit infrastructure. He said designation of Priority Conservation Areas will help to protect natural areas and open space.

Mrs. Bruce suggested water supply be taken into account when designating Priority Development Areas.

Mr. Waldeck spoke in favor of promoting ABAG's green businesses certification program.

Item 10 – Perkin-Elmer Corporation, Applera Corporation, and JR Realty #2, LLC, for the property located at 2690 Casey Avenue, Mountain View, Santa Clara County – Adoption of Site Cleanup Requirements

The Board resumed hearing testimony on the Item. There was testimony from: James Hawley, Hoge Fenton Jones & Appel, Inc., on behalf of Dymond Development Co.; Steve Clements, SCS Engineers, on behalf of Dymond Development Co.; Marc Gottschalk, Wilson Sonsini Goodrich & Rosati, on behalf of Scientific Technologies, Inc.; Rudy Sedlak; Kenneth Strong, Gordon & Rees, on behalf of JR Realty #2, LLC; Robert Infelise, Cox Castle & Nicholson LLP, on behalf of Sun Microsystems, Inc.; Ronald Meredith, General Manager, Dymond Development Co.

Mr. Hill said Perkin-Elmer Corporation was no longer in existence and recommended the name be deleted from the Revised Tentative Order. He suggested additional time be allowed for completion of three tasks in the Revised Tentative Order and recommended new completion dates.

Motion: It was moved by Mrs. Bruce, seconded by Mr. Waldeck, and it was voted to adopt the Revised Tentative Order as modified by Mr. Hill.

Mr. Peacock abstained because he missed part of the testimony.

Roll Call:

Aye: Mrs. Bruce; Mr. Eliahu; Mr. Waldeck; Dr. Young; Mr. Muller

No: None

Abstain: Mr. Peacock

Motion passed 5 – 0.

Item 12 – U.S. EPA’s Local Advisory Committee’s Sustainable Water Infrastructure DVD and Case Study Outreach – Information Item

Mr. Wolfe said John Muller is a member of U.S. EPA’s Local Government Advisory Committee. He said the Committee recently developed a DVD profiling how five communities around the country are dealing with water infrastructure challenges.

The DVD was played. It showed how the communities are meeting challenges of repairing or replacing aging infrastructure systems, coping with population growth, and addressing issues related to environmental health. Mr. Muller was one of the leaders profiled on the DVD and the City of Half Moon Bay was one of the communities profiled.

Adjournment

The Board meeting was adjourned at 2:40 p.m.

