

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

October 14, 2009

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Item 1 – Roll Call and Introductions

The meeting was called to order on October 14, 2009 at 9:10 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: Terry Young, Vice-Chair; Shalom Eliahu; James McGrath; Steven Moore; William Peacock; Rameshwar Singh.

Board members absent: John Muller, Chair.

Dr. Young served as Chair of the meeting.

Item 2 – Public Forum

There were no public comments.

Item 3 – Minutes of the May 13, 2009 Board Meeting

Motion: It was moved by Mr. Peacock, seconded by Mr. McGrath, and it was voted unanimously to adopt the Minutes of the May 13, 2009 Board Meeting.

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

Bruce H. Wolfe addressed the Board.

Item 5 – Consideration of Uncontested Non-Enforcement Items

Mr. Wolfe said Michael Ambrose, Manager of Regulatory Compliance, East Bay Municipal Utility District, would like to speak on Items 5A and 6A. He recommended the Board consider the items after the uncontested items. He recommended adoption of Items 5B and 5C.

Mr. Peacock made a motion to adopt Items 5B and 5C as recommended by the Executive Officer.

Mr. Eliahu seconded the motion.

Mr. Moore recused himself from consideration of Item 5B.

Mr. McGrath commented.

The Board voted unanimously to adopt Mr. Peacock's motion. (On Item 5B, Mr. Moore recused himself.)

Item 6 – Consideration of Uncontested Enforcement Items

Mr. Wolfe recommended adoption of Items 6B and 6C.

Mr. Moore recused himself from consideration of Item 6B.

Motion: It was moved by Dr. Singh, seconded by Mr. Peacock, and it was voted unanimously to adopt Items 6B and 6C as recommended by the Executive Officer. (On Item 6B, Mr. Moore recused himself.)

Item 5A – East Bay Municipal Utility District, Orinda Water Treatment Plant, Orinda, Contra Costa County – Issuance of NPDES Permit

Item 6A – East Bay Municipal Utility District, Orinda Water Treatment Plant, Orinda, Contra Costa County – Issuance of Cease and Desist Order

Heather Ottaway said the Revised Tentative Order would regulate water released by East Bay Municipal Utility District to San Pablo Creek.

Ms. Ottaway said raw water is conveyed from Pardee Reservoir via aqueducts to the Orinda Water Treatment Plant. She said water entering aqueducts at Pardee Reservoir is treated with liquid lime for corrosion protection and sodium hypochlorite for disinfection. She said water is dechlorinated with a sodium bisulfite dechlorination solution upon approach to the Treatment Plant. She said the District releases raw water to San Pablo Creek that is in excess of the capacity of the Treatment Plant or the needs of consumers.

Ms. Ottaway said raw water at the Treatment Plant passes through dual media filters for removal of soil and other small particles. She said the District stores filter backwash water in settling basins before the water is released to San Pablo Creek.

Ms. Ottaway said the Revised Tentative Order includes a 0.05 mg/L total chlorine residual reporting level. She said a field test kit is commercially available that the District can use to measure total chlorine residual at the reporting level. She said use of a kit is necessary because raw water releases often occur at times when analysis in a laboratory is not feasible.

In reply to questions from Mr. McGrath, Thomas Mumley said chlorine residual requirements will help protect aquatic life in the upper reaches of San Pablo Creek.

Michael Ambrose, Manager of Regulatory Compliance, East Bay Municipal Utility District, thanked Ms. Ottaway and Bill Johnson for their work. He expressed concern that it is not feasible to measure accurately total chlorine residual at the specified reporting level with a field test kit.

Mr. McGrath said he was not clear if the District was requesting a change in proposed requirements.

Mr. Ambrose said the District's real concern was the total chlorine residual reporting level. He said the District would like the record to reflect it will need to receive an exception to provisions in the State Implementation Policy in order to meet requirements in the Revised Tentative Cease and Desist Order.

Mr. McGrath asked whether Board action would be prejudicial to the District's efforts.

Mr. Wolfe said Board action would not prejudice the District's efforts.

Mr. Wolfe said the Revised Tentative Order included a total chlorine residual effluent limit of 0.0 mg/L. He said the 0.05 mg/L total chlorine residual reporting level was included because of concern over field testing.

Mr. Moore discussed non-conservative pollutants and permitting requirements. He spoke in favor of staff's recommendation for the total chlorine residual reporting level.

In reply to a question from Dr. Young, Mr. Wolfe said staff will include a 0.05 mg/L total chlorine residual reporting level in future permits that are similar to the Revised Tentative Order.

Mr. Moore discussed future technology for measuring total chlorine residual in creek systems.

Mr. McGrath spoke in favor of including a 0.05 mg/L reporting level for total chlorine residual in the Revised Tentative Order.

Mr. Wolfe recommended adoption of the Revised Tentative Order for Item 5A.

Motion: It was moved by Mr. McGrath, seconded by Mr. Moore, and it was voted unanimously to adopt the Revised Tentative Order for Item 5A as recommended by the Executive Officer.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young

No: None

Motion passed 6 – 0.

Mr. Wolfe recommended adoption of the Revised Tentative Cease and Desist Order for Item 6A.

Motion: It was moved by Mr. McGrath, seconded by Mr. Peacock, and it was voted unanimously to adopt the Revised Tentative Cease and Desist Order for Item 6A as recommended by the Executive Officer.

Roll Call:

Aye: Mr. Eliahu; Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young

No: None

Motion passed 6 – 0.

Item 7 – 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 Consider Adoption of the Proposed Permit

Mr. Wolfe made introductory comments.

Dr. Mumley discussed the Final Tentative Order as supplemented.

Dr. Mumley and Mr. Wolfe replied to Board members questions and comments.

At 10:40 a.m., the Board took a break and resumed the meeting at 11:02 a.m.

In reply to a request from Dr. Young, Board members discussed concerns they had with the Final Tentative Order as supplemented that they would like the public to testify upon.

Staff replied to some concerns that Board members discussed.

The following people testified about the Final Tentative Order as supplemented: Geoff Brosseau, Executive Director, Bay Area Stormwater Management Agencies Association; Richard Napier, Executive Director, City/County Association of Governments of San Mateo County, and also speaking on behalf of the San Mateo Countywide Water Pollution Prevention Program; Curtis Kruger, Regional Project Consultant, CONTECH Construction Products Inc.; Alexis Strauss, Director, Water Division, United States Environmental Protection Agency, Region IX; Dan Cloak, Consultant, Contra Costa Clean Water Program; Michael Ambrose, Manager of Regulatory Compliance, East Bay Municipal Utility District; and David Lewis, Executive Director, Save The Bay.

At 12:23 p.m., the Board took a lunch break and resumed the meeting at 1:02 p.m.

The following people testified about the Final Tentative Order as supplemented: James Paluck, Senior Civil Engineer, City of Fairfield; Mark Lander, City Engineer, City of Dublin; Tim Potter, Environmental Compliance Superintendent, Central Contra Costa Sanitary District; Noah Garrison, Legal Counsel, Natural Resources Defense Council; Melody Tovar,

Deputy Director, Environmental Services, City of San José; Laurel Prevetti, Assistant Director, Planning Division, Department of Planning, Building and Code Enforcement, City of San José; Laura M. Hoffmeister, speaking as Mayor, City of Concord, and after which, speaking as Stormwater Manager, City of Clayton; Jennifer Kovecses, Staff Scientist, San Francisco Baykeeper; Frank Kennedy, Consultant Stormwater Program Manager, Town of Moraga and City of Oakley, and also speaking on behalf of the Contra Costa County City-County Engineering Advisory Committee; Eric Anderson, Urban Runoff Coordinator, City of Mountain View; Jill Bicknell, Assistant Program Manager, Santa Clara Valley Urban Runoff Pollution Prevention Program; Paul Campos, Senior Vice President and General Counsel, Home Builders Association of Northern California; James Scanlin, Program Manager, Alameda Countywide Clean Water Program; Gary J. Grimm, Legal Counsel, Alameda Countywide Clean Water Program; and Tom Dalziel, Assistant Program Manager, Contra Costa Clean Water Program.

At 2:21 p.m., the Board took a break and resumed the meeting at 2:38 p.m.

Mr. Wolfe and Dr. Mumley addressed concerns expressed by Board members and people who testified concerning the Final Tentative Order as supplemented. They discussed Provisions in the Final Tentative Order as supplemented, including Provision C.2 Municipal Operations, Provision C.3 New Development and Redevelopment, Provision C.11 Mercury Controls, Provision C.12 Polychlorinated Biphenols (PCBs) Controls, and Provision C.15 Exempted and Conditionally Exempted Discharges.

Mr. Wolfe recommended amending the second sentence in C.2.d.ii.(2) by adding the phrase “remains in the stormwater collection system.” He recommended C.2.d.ii.(2) read “Inspect and collect DO data from all pump stations twice a year during the dry season after July 1, starting in 2010. DO monitoring is exempted where all discharge from a pump station remains in the stormwater collection system or infiltrates into a dry creek immediately downstream.”

Dr. Mumley and Mr. Wolfe replied to questions from a Board member.

Mr. Eliahu said he would like to make a motion to adopt the Final Tentative Order as supplemented, with a provision that implementation be delayed for one year.

Mr. Wolfe said he would not recommend a delay in implementation.

Mr. Eliahu said his suggestion reflected economic situations municipalities are encountering.

Mr. McGrath made a motion to adopt the Final Tentative Order as supplemented and with the amendment to the second sentence to C.2.d.ii.(2) as recommended by Mr. Wolfe.

Mr. Peacock seconded the motion.

Mr. Eliahu made a motion to amend Mr. McGrath's motion to require implementation be delayed by one year.

Dr. Singh seconded Mr. Eliahu's motion.

Dr. Singh made a motion to amend the pending amendment to order that staff should take into account economic difficulties of cities and jurisdictions during the first year of implementation.

Mr. Eliahu seconded Dr. Singh's motion.

Mr. McGrath, Mr. Peacock, Mr. Moore, and Dr. Young spoke against adoption of the amendment to the pending amendment.

Dr. Young requested a roll call vote on Dr. Singh's motion to amend.

Roll Call:

Aye: Mr. Eliahu; Dr. Singh

No: Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Young

Motion failed 2 – 4.

Dr. Young requested a roll call vote on Mr. Eliahu's motion to amend.

Roll Call:

Aye: Mr. Eliahu

No: Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Young

Abstain: Dr. Singh

Motion failed: 1 – 4 with 1 abstention.

Mr. Moore and Mr. McGrath commented.

Dr. Young thanked stakeholders, staff, and Board members for their contributions in developing the proposed permit on which the Board was about to vote.

Dr. Young requested a roll call vote on Mr. McGrath's motion.

Roll Call:

Aye: Mr. McGrath; Mr. Moore; Mr. Peacock; Dr. Singh; Dr. Young

No: Mr. Eliahu

Motion passed 5 – 1.

Item 13 – Adjournment

The meeting was adjourned at 3:46 p.m.