

STATE OF CALIFORNIA

**REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

MEETING DATE: October 9, 2019

ITEM:

3

SUBJECT:

MINUTES OF THE SEPTEMBER 11, 2019 BOARD MEETING

San Francisco Bay Regional Water Quality Control Board

September 11, 2019 Board Meeting

ADOPTED October 9, 2019

Note: Copies of orders, resolutions, and minutes are posted on the Regional Water Board's website (www.waterboards.ca.gov/sanfranciscobay). Information about obtaining copies of audio recordings of Board meetings may be obtained by calling the Board's file review coordinator at (510) 622-2430. Written transcripts of Board meetings may be obtained by calling California Reporting, LLC, at (415) 457-4417.

Note: **Bold text** in paragraphs for each item represent topics Board members focused on and were discussed more extensively than others.

Item 1 – Roll Call and Introductions

Meeting called to order at 9:04 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

| Board Members Present | Board Members Absent | Status |
|--|----------------------|--------|
| Acting Chair James McGrath Cecilia Ogbu William Kissinger Jayne Battey Steve Lefkovits Newsha Ajami | | QUORUM |

Watershed Division Supervisor Margaret Monahan introduced Joe Monical who joined the Division as a Water Resource Control Engineer in the Industrial and Construction Stormwater Unit.

NPDES and Enforcement Division Supervisor Jessica Watkins introduced Holly Garber and Carter Ly who joined the Division as Scientific Aids.

Assistant Executive Officer Lisa Horowitz McCann introduced Water Resource Control Engineer Debbie Phan as the Board's new Social Media Coordinator.

Item 2 – Election of Chair and Vice-Chair –

Board Member Kissinger nominated Acting Chair McGrath to be Chair and Board Member Battey to be Vice-Chair. Board Member Lefkovitz seconded the motion. All were in favor.

Item 3 – Public Forum –

Kelly Abreau, Mission Peak Conservancy, commented on concerns with development in Alameda County that impacted creeks. He also commented that State Water Resources

Control Board enforcement of water rights violations by Rhys Vineyards in Mendocino County was a positive move. He said he wants the same enforcement consideration in Alameda County as in Mendocino County.

Item 4 – Minutes of the July 10, 2019 Board Meeting

Board Member Kissinger recommended adoption of the minutes from the July 10, 2019, Board Meeting. Board Member Battey seconded the recommendation.

Acting Chair James McGrath asked if all were in favor of adoption of the minutes – all Ayes. Acting Chair James McGrath then asked if anyone was opposed - none opposed.

ITEM ADOPTED

Item 5 – Chair’s, Board Members’, and Executive Officer’s Reports

Board Member Ogbu announced that she is leaving the Board at the end of her term and that she has really enjoyed her time on the Board. Board Member Lefkovits said this is his last Board meeting and thanked his colleagues and complemented staff. Board Member Battey reported that on August 27, 2019 she co-hosted a conversation on climate change and sustainability at Miramar Farms with American Leadership Forum on Sustainability, Silicon Valley. Chair McGrath thanked his colleagues. He reported that City of Berkeley will have a hearing on bacteria water quality in Aquatic Park. He said the following issues were discussed on the Chair’s call: resiliency, drinking water and water management, PFAS and state development of a health goal, SB 200, grazing, homelessness and relation to trash and human waste impacts on water quality.

Executive Officer Michael Montgomery highlighted a few items in the Executive Officer’s Report, including the report on PFOA and PFOS. Board Member Ajami asked if there are efforts to ban the use of these chemicals and Mr. Montgomery said these compounds are getting more consideration now.

Acting Chair McGrath administered the oath.

Information/Discussion

Item 6 – California Water Resilience Portfolio (Executive Order N-10-19)

Karen Mogus, Deputy Director of the Division of Water Quality, State Water Resources Control Board, made the introductory presentation. She sent regrets from Tam Doduc, Board Member, State Water Resources Control Board, who could not attend.

Mr. Montgomery introduced several stakeholders who are involved in water resilience to provide input. These stakeholders are listed below.

- Jim Porter, Director of Public Works, San Mateo County
- Michael Carlin, Deputy General Manager and Chief Operating Officer, San Francisco Public Utilities Commission
- David Lewis, Executive Director, Save the Bay

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- Moira McEnespy, San Francisco Bay Program Manager, Coastal Conservancy
- Julie Beagle, Deputy Program Director of the Resilient Landscapes Program, San Francisco Estuary Institute
- Matt Fabry, Manager, San Mateo Countywide Water Pollution Prevention Program
- Rick Thomasser, Watershed and Flood Control Operations Manager, Napa County
- Lisa Bankosh, Assistant Officer, Watersheds Stewardship and Planning Division, Valley Water

The stakeholders commented on the following:

- sea level rise risks
- need for collaboration to avoid risks to neighboring properties and communities if sea level rise projects are not coordinated
- need for funding for regional planning, multi-benefit planning and projects
- address at local government level due to local land use authority
- SF Bay Area water supply reliability at risk since relies on snowpack from the Sierra Nevada
- relation of flows through the Delta on SF Bay and California water supply
- reuse of stormwater and wastewater
- success of conservation programs
- managed retreat as a tool, for example at Ocean Beach in SF
- need for new regulatory tools that do not exist today to address flexibility and innovation
- important concepts in Executive Order include prioritizing multi-benefit approaches, natural infrastructure, and regional approaches
- water quality affected by climate change
- environmental justice issues related to uneven impacts of climate change
- State should discourage development in flood-prone areas
- State should contribute to accelerating tidal restoration for shoreline protection in SF Bay
- State should require green streets and green infrastructure
- State should direct pollution control into creeks and the SF Bay, particularly trash from Caltrans lands
- Shoreline resilience is critical for water resilience; provides multi-benefits of ecosystem health, infrastructure protection and carbon sequestration
- Rely on best available science to select resilience solutions, such as the Adaptation Atlas funded by SF Bay Water Board and developed by San Francisco Estuary Institute
- State should support urban stormwater runoff management with design requirements, modeling, funding, integration with transportation planning and funding, and legislative solutions to revenue limitations of Prop 218
- State should remove barriers for use of recycled wastewater and accelerate regulations

Additional members of the public made comments. Heinrich Albert, representing California Rivers, commented that we withdraw too much water from rivers than is sustainable and irrigated agriculture should use less water in the future along with cities. Linda Hu, Water

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Manager, East Bay Municipal Utility District and WateReuse Association, commented on wastewater reuse as helpful in achieving water resilience. She referred to the recent California WateReuse Action Plan which recommends research, regulation, regional planning and funding. Kelly Abreau, Mission Peak Conservancy, commented that agency collaboration is not effective along San Leandro and Hayward shoreline, state allocation of water needs to be reviewed, and that we need to manage resources with economics. Bill Martin, Sierra Club Volunteer, commented that there is lack of funding and the State should amend Prop 218.

Board members commented on the importance of the following: consider all financing mechanisms, establish governance, recognize natural environment and green solutions as infrastructure, improve interagency coordination and efficiency of permitting multi-benefit projects, make data more accessible and using it to inform better, update regulatory framework, increase public involvement, expand use of recycled stormwater and wastewater, consider water pricing, address human right to water and relation to homeless, and appreciate the enormity of the challenges to water supply and climate change.

NPDES Permit

Item 7 – City and County of San Francisco, Oceanside Water Pollution Control Plant, Wastewater Collection System, and Westside Recycled Water Project, San Francisco – Reissuance of NPDES Permit

Mr. Montgomery introduced the item. Board Member Kissinger recused himself for the appearance of a conflict as he advises San Francisco on another matter. Section Leader Jessica Watkins made the presentation.

Board members asked questions about supplemental changes related to public posting and notifications of discharges, and whether flooding and manhole geysers occur on the ocean side.

Representatives of the San Francisco Public Utilities Commission made comments. Amy Chastain, Regulatory Program Manager, said that the former permit did not require fecal coliform so she requested to be allowed to report total coliform until their lab is certified for fecal coliform testing. She explained the current public notification process and willingness to work with staff to address questions from Board members. She said the San Francisco Public Utilities Commission (SFPUC) commented that the Board does not have authority to regulate sewer overflows and combined sewer system discharges with an NPDES permit, and does not have authority to require a long-term control plan since the SFPUC already implemented a plan that met performance standards and water quality standards mandated by the state and federal agencies; she said they are currently protecting beneficial uses. She further commented that the SFPUC did not want to spend money on a long-term control plan over other high priority capital improvement projects.

Lisa Dunseth, San Francisco resident representing Solutions Not Sandbags, commented that her neighbors (on the bay side) have suffered from the SFPUC's negligence as they have allowed sewage to contaminate houses and businesses for years. She said the SFPUC has not improved the infrastructure causing the problem and claim they do not have money. She asked the Board to require the SFPUC to make public safety a priority in all their enterprises.

David Hooper, Solutions Not Sandbags, said the SFPUC's comments on the permit did not mention public health and when they send their staff out to respond to flooding in basements their staff are in hazmat suits.

Becky Mitschele, U.S. EPA Region IX, NPDES Permitting Unit, commented that U.S. EPA staff has worked closely with Water Board staff to prepare the permit and met extensively with the SFPUC. She said that she was at the hearing to express that U.S. EPA supports the tentative order as drafted, and specifically supports the long-term control plan requirements and the receiving water limitation that requires that the discharge shall not cause or contribute to a violation of any applicable water quality standard. She said that U.S. EPA comments reflect the need for monitoring, consideration of sensitive areas at public beaches and compliance with water quality standards.

Chair McGrath asked attorney for the Board, Marnie Ajello, to clarify legal issues raised by the SFPUC. She said the Water Board has authority to regulate discharges that back up into the street. She also said the Board is not restricted from requiring an update to the long-term control plan and it was required in other permits including for Sacramento.

Chair McGrath does not think the permit is overly prescriptive, thinks it is appropriate and advantageous to update the long-term control plan, as things change over time, and said the Board understands the equity involved in spending time and money to update the plan over other needs.

Bill Johnson, Division Chief, recommended a change to the permit based on SFPUC request to postpone monitoring for fecal coliform.

Mr. Montgomery recommended adoption of the permit with the change proposed.

Board Member Ajami moved adoption of the Order. Board member Ogbu seconded the motion.

Ayes: McGrath, Ogbu, Kissinger, Battey, Lefkovits, Ajami

Nos: None

ITEM ADOPTED

Item 9 – Correspondence – There were no correspondence items.

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Item 10 – Closed Session – Personnel

The Board met in closed session to discuss personnel matters.

[Authority: Government Code section 11126(a)]

Item 11 – Closed Session – Litigation

The Board met in closed session to discuss the following litigation: Sweeney v. Water Board and Valley Water v. Water Board cases.

Item 12 – Closed Session – Deliberation

The Board did not meet in closed session to deliberate.

Item 13 - Adjournment

Meeting adjourned at 2:20 p.m. until the next Board Meeting – October 9, 2019.