

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

MEETING DATE: May 13, 2020

ITEM:
3

SUBJECT:
MINUTES OF THE MARCH 11, 2020 BOARD MEETING

**March 11, 2020 Board Meeting
Draft Minutes for Board Consideration**

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 (510) 313-0610.

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: a.m. at Elihu H. Harris Building, First Floor Auditorium.

Board Members Present

Chair James McGrath

Vice-Chair Jayne Battey

Newsha Ajami

Alexis Strauss Hacker

Board Members Absent

Andrew Gunther

William Kissinger

Status

QUORUM

Supervisor Laurent Meillier introduced Sunny Grunloh who joined the Toxics Cleanup Division as an Engineering Geologist.

Item 2 – Public Forum

Jamila Williams, Volunteer Organizaer for SWAPAUW, commented that she is a health professional and advocates for clean water. She said she wants water turned back on to members of the community who had water shut off. She said that these people cannot wash their hands in face of Covid-19 virus if their water is turned off. She asked the Board to use their power to have the water turned back on. She asked that the low-income assistance program be activated.

Amelia Baylon, Volunteer Organizer for SWPAUW, asked the Board to take action on behalf of low wage earners. She said she is a volunteer with SWPAWU. She said East Bay Municipal Utility District (EBMUD) officials discounted their health and medical concerns regarding lack of running water. She described a family with a baby whose water was shutoff. The organization hears of thirty cases a week. She mentioned the Water Shut Off Protection Act and asked for the following types of measures on behalf of people whose income is below the federal poverty level: install moratorium on

disconnecting water service, make accommodations, cancel arrears for payment, eliminate connection or reconnection fees, allow payment plans, and allow lower rates based on income.

Natalia Carballo said she is a volunteer for SWPAWU who teaches people how to advocate for low income people who have had or are about to have their water shut off by EBMUD. She said EBMUD shut off water to 50 families per week and 11,000 people last year. She said that EBMUD is not in compliance with the Water Shut Off Protection Act; they were supposed to address it by February 2020. She asked for the Board to use their power to enforce the Water Affordability Act.

Chair McGrath said that the Executive Officer will follow up and report back to the Board.

Item 3 – Minutes of the February 12, 2020, Board Meeting

Mike Montgomery, Executive Officer, stated that the minutes needed some clarifications to the comments by Kelly Abreau, including testing not notification, that he testified before the Board in September, and the location of the facility is in Sunol.

Board Member Battey made a motion to approve the minutes with the changes.

Ayes: McGrath, Battey, Ajami, Hacker

Nos: none

ITEM APPROVED

Item 4 – Moment of Silence in Memory of Bruce H. Wolfe

Board Members memorialized Bruce H. Wolfe, former Executive Officer who passed away on February 25.

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

Board Member Hacker said she met with former Chair Terry Young for assistance with transition onto Board. She said she also met with CalEPA Secretary Jared Blumenfeld to get an idea of his priorities and he mentioned enforcement and cultivating relationships between Caltrans and the Water Board to carry trash program forward.

Vice-chair Battey said she attended a meeting of the Bay Area Council's committee on climate change and discussed sea level rise. She said she is a former colleague of the new head of USEPA Region 9 and reached out to him to get together to discuss regulation in the future.

Chair McGrath reported on his involvement with homeless issues. He said there are legislative and gubernatorial bills proposed; local governments continue to pioneer approaches to deal with homeless issues and ensure trash cleanup and sanitation; Board staff and local agencies are coordinating with Caltrans on cleanup and need for sanitation; and he is coordinating with the State Board on these issues.

Mr. Montgomery, referring to the Executive Officer's Report, said we are tracking legislation related to Anderson Dam, pointed out the update on the Cannabis Program, and mentioned enforcement items out for public comment, including Monterey Mushrooms proposed settlement for about \$900,000.

Board Member Ajami commented that she was happy to hear that KQED contacted staff and aired a report about enforcement on the radio. She also said she was happy to see our twitter account is active. She commented on the challenges and opportunities in the Cannabis Program, particularly related to updated data and data analysis. Mr. Montgomery said this is Water Data Month.

Vice-chair Battey asked if the Monterey Mushrooms, Inc., Supplemental Environmental Project is in the same watershed and if that is what is typical. Assistant Executive Officer Thomas Mumley said that the policy considers nexus and that projects in the same watershed or area are preferable, but Board staff has some discretion. Assistant Executive Officer Lisa Horowitz McCann said that in this case the project is restoration of a stretch of Fisher Creek, which is the creek where the discharge occurred. Vice-Chair Battey also commented that the current state of cannabis growing and regulation is not working for the farmers and asked if the State has plans to look into what is not working. She also commented that the water quality problems at cannabis growing facilities look the same as for all agricultural facilities so she wondered what is special about cannabis growing. Mr. Montgomery responded that cannabis facilities get focus because they are newest type of agriculture to be regulated and that the Water Boards are reviewing and adjusting the regulatory program as they learn how it is working. There are also fee revenue problems due to many cities and counties restricting growing and many illegal facilities still operating.

Board members asked more questions and commented about the challenges of the cannabis business, how the regulations are implemented, cost of enrollment in the program, and enforcement focus on illegal operations. Supervisor James Ponton answered the questions.

Chair McGrath asked for Executive Officer's Report on the issues raised by commenters, specifically information about the Water Shut Off Act, the State Water Resources Control Board Fact Sheet, who is responsible and how we should respond. He also asked for an update on the McClymonds School TCE problem and the vapor intrusion problem. Mr. Montgomery said DTSC is lead on the vapor intrusion investigations, the County is also involved, and our staff is in close coordination with agency representatives.

Chair McGrath administered the Oath.

Item 6 – Consideration of Uncontested Items

A. Fairfield-Suisun Sewer District, Fairfield-Suisun Wastewater Treatment Plant and Wastewater Collection System, Fairfield, Solano County – Reissuance of NPDES Permit Item 6 – Consideration of Uncontested Items

Mr. Montgomery acknowledged the great job that staff does in the NPDES program.

Chair McGrath commented on the low levels of Biological Oxygen Demand and that the facility had no overflows and he appreciates the excellence of the wastewater community.

Board Member Ajami made a motion to approve the item. Board Member Hacker seconded the motion.

Ayes: McGrath, Battey, Ajami, Hacker

Nos: none

ITEM APPROVED

Informational Items

Item 7 – California Department of Transportation, Compliance with Cease and Desist Order No. R2-2019-0007 Implementing Trash Requirements of the Statewide Stormwater Permit, Order No. 2012-0011-DWQ, as amended, NPDES Permit No. CAS000003, Regionwide

Mr. Montgomery introduced Supervisor Derek Beauduy who made the presentation. He also said that Oakland City Councilperson Rebecca Kaplan provided a letter.

Board members discussed various aspects of Caltrans trash control including use of technology to monitor effectiveness of trash control, municipalities' trash pickup programs and relation to Caltrans, status of compliance, inadequate implementation workplan, dates for next reports, how compliance is credited with acres for various projects, how acreage credits are distributed between Caltrans and municipalities, how Caltrans versus municipalities pay for projects constructed in municipal right-of-way, and how the need to address homeless encampments relates to trash control and water quality protection.

Allison Chan with Save The Bay addressed inadequacies of the workplan such as the claim that half of the required acreage is addressed via partnering with municipalities and implementing projects on their right-of-way but fails to identify specific projects and does not identify funding. She asked the Board to find Caltrans in violation of the Order, to require a specific list of projects with cost information by July 1, 2020, secure dedicated funding for projects, identify SHOPP (State Highway Operation and Protection Program) funds or other sources of funding for design, construction or operation and maintenance. She said 25 local elected officials are also asking the Board to hold Caltrans accountable for trash control compliance with the order. She said Caltrans should be held to same standard of compliance as private companies. She

also said that regarding bulky-item pick-up programs, Oakland and San Jose have successful programs.

Dina El-Tawansy, Chief Deputy of Caltrans District 4, said there are projects in current workplan identified and they are developing additional projects. She said they plan to coordinate with local municipalities, have identified potential projects with high likelihood of occurring and are challenged to find enough of these projects. She said they have identified some SHOPP funds and are looking for funding to cover placement and also operation and maintenance costs. She provided the acreage that would be treated by the various categories of projects and their efforts to supplement their budget.

Board members asked questions about assisting Caltrans with budget changes and coordination with municipalities, how to improve source control considering enforcement and public education, about costs of enforcement and public education, and urged consideration of best practices used in other countries or areas, and looking at studies that indicate the type and source of trash to improve controls selected.

Hardeep Takhar, District Water Quality Program Manager, thanked staff for helping them develop local partnerships that identified several projects that would treat several acres. He said they are developing budgets and funding for these projects. He said help from the Board would be appreciated.

Ms. El-Tawansy replied that illegal dumping is the challenge, cleanup is expensive and requires work with California Highway Patrol (CHP). She said they are working with local agencies to implement local pick-up programs, are trying to continue operation and maintenance of trash control devices, and enforcement for illegal dumping. Mr. Takhar said they are working on new technologies such as new sweepers, partnering with CHP on focused enforcement and public education; they are also figuring out how to show effectiveness.

Shaila Chowdhury, Chief Environmental Engineer, commented on public education efforts including public information campaigns and local agency trash cleanup programs. She also said they recently increased their spending state-wide from five million to nine million for three years.

Board members commented on the limited cost for public education, ideas for the Board to publicly communicate milestones, and a need for additional strategies to improve trash control.

Board Member Hacker asked for an update in May to hear about progress ahead of the budget change proposal and the status of local projects. Mr. Montgomery said we can bring a status item in an Executive Officer's Report and that it would be better to bring a board meeting agenda item later so Caltrans has time to address funding and other categories of projects to indicate whether they are on track to comply with targets beyond 2020. Mr. Montgomery said we will have a better idea of how Caltrans will address the current acreage gap of 1000 acres if we wait until October for a status

report. Chair McGrath asked if our staff will review the information they put together for the budget change proposal. He said he wants assurance that the Board will know if it will be adequate and wants confidence it is likely to achieve compliance. Mr. Montgomery suggested we track Caltrans' ability to close the gap (1000 acres) and report back and arrange to meet with Caltrans headquarters about funding the programming of projects when in Sacramento in May for the Board Chairs' meeting.

Item 8 – Update on the Regional Surface Water Ambient Monitoring Program (SWAMP)

Mr. Montgomery introduced Environmental Scientists Rebecca Nordenholt and Kristina Yoshida who made the presentation.

Board Members asked about staff resources for the program, who does the quality assurance review, frequency and locations of sampling, and if data collected by others is also checked for quality and entry in the California Environmental Data Exchange Network. Staff answered the questions.

Item 9 – Abandoned Mine Program and Mercury Mine Investigation and Cleanup Strategy

Mr. Montgomery introduced the item and Engineering Geologist Lindsay Whalin made the presentation.

Board Member Hacker asked what level of resources supports this work and Ms. Whalin responded 0.3 personnel years.

Board Member Hacker asked how the SB455 dollars are allocated and staff responded that some are used for underground storage tank sites. She asked if we have Good Samaritan agreements for any mines in this region and Mr. Montgomery said that we do not but that we can consider them.

Steve McCord, introduced himself as a water quality consultant representing a group of mines and brownfields sites. He said staff have been very helpful in this process. He commented that the Board should try and get onsite temporary controls implemented even if cannot assure full mine cleanup, that many people buy or inherit the mine site properties without realizing the problems nor have the funds, so showing up with funding or other incentives and withholding regulatory requirements is more likely to get to cleanup.

Board members complemented Ms. Whalin on her great work.

Item 10 – Social Media Debut

Mr. Montgomery introduced the item and Water Resource Control Engineer Debbie Phan made the presentation.

Board Member Hacker suggested using strategic and purposeful external communication that is broader than what the Board is doing in the divisions. She suggested featuring Caltrans completion of trash control projects in June and using

video to get statements from Caltrans directors to show Board and Board staff efforts. Board Member Ajami said we should make sure we get a lot of likes and shares in order to keep the posts visible and make sure issues we are focusing on get highlighted such as trash and trash control. Mr. Montgomery said it will also give us opportunity to amplify efforts by our partners and hit our important priority issues. Chair McGrath suggested using social media posts to show we are making progress or achieved accomplishments.

Mr. Mumley shared that Measure Q in Oakland passed; it's a parcel tax for parks and maintenance and includes addressing homeless issues and stormwater quality management efforts.

Chair McGrath wants to discuss strategic direction now that we have new Board members. He also said we have to determine whether he stays as representative to the Bay Conservation Development Commission.

Item 11 - Correspondence

Item 12 – Closed Session – Personnel

The Board did not meet in closed session for Personnel in this meeting

Item 13 – Closed Session – Litigation

The Board did not meet in closed session for Personnel in this meeting

Item 14 – Closed Session – Deliberation

The Board did meet in closed session to deliberate in this meeting.

Item 15 – Adjournment

The meeting was adjourned at 1:50 p.m.