

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

MEETING DATE: May 11, 2022

ITEM: 3

SUBJECT: Minutes for the April 13, 2022 Board Meeting

**April 13, 2022 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 9:02 a.m. at Elihu H. Harris Building, First Floor Auditorium.

Board Members Present	Board Members Absent	Status
Chair James McGrath		QUORUM
Vice-Chair Jayne Battey		
William Kissinger		
Alexis Hacker		
Dr. Andrew Gunther		
Donald Young		

Division Chief (DC) Xavier Fernandez introduced Setenay Bozkurt-Frucht who was promoted to Supervisor of Climate Change and Total Maximum Daily Load Section in the Planning Division.

Item 2 – Public Forum

Mary Sackett, Marin County Board of Supervisors, D1, Aide, commented that Marinwood Plaza be agendized related to recent letter to Water Board Staff from property owner, instead of consultant doing the cleanup work. She said she is concerned about progress and asked the Board to monitor this site.

Bill McNicholas of Cleanup Marinwood Plaza Now Oversight Committee commented that tomorrow will mark the eighth year since the cleanup plan was issued. He noted that the building demolition and site cleanup was scheduled to occur in first six months of plan back then and has still not happened.

Stephen Nestel of Cleanup Marinwood Plaza Now Oversight Committee endorsed Mary Sackett's and Bill McNicholas' comments. He said he feels like the property owners are delaying and doesn't understand what it will take to get the site cleaned up. He said that several developments are stalled due to this delay at the site and across the street at St. Vincent's. He asked the Board to take action.

Chair McGrath said he will talk with Interim Executive Officer (EO) Thomas Mumley about next steps.

Vice-chair Battey said Board will get this on the agenda as soon as possible. Board Member Gunther echoed other Board members' comments and hopes we get to an action to ameliorate the problem quickly.

Chance Cutrano of the Resource Renewal Institute commented on Point Reyes National Sea Shore ecological health. He said he is commenting on the ranches that are regulated by a waiver. He said that Water Board staff considered data showing high levels of bacteria are inconclusive. He mentioned inadequate septic systems, environmental justice issues and other media coverage of problems at some of the ranches. He mentioned the Coastal Commission Hearing and inadequacies of the National Park's plan for water quality protection.

Board Member Hacker commented that there is a lot of new funding available for sewage treatment improvement so these problems should be resolvable.

Board Member Kissinger asked to see the letter on Marinwood.

Item 3 – Minutes of the of March 9, 2022, Board Meeting

Chair McGrath asked for a motion to approve the minutes.

Motion: Vice Chair Battey

Second: Board Member Kissinger

Ayes: All

Nos: none

ITEM APPROVED

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

Board Member Gunther commented on his dismay reading the most recent IPCC report on climate change. He also said that the report highlights that we have tools to address the problem, alternative energy sources are getting cheaper and solar is the cheapest form right now and, per a report out of Oxford University, it is more expensive to maintain a fossil fuel future than to transition to renewable energy sources.

Board Member Kissinger agreed with Board Member Gunther but acknowledged that challenges are formidable.

Vice Chair Battey said that she is joining the Santa Cruz Mountain Stewardship Program which will explore natural lands management opportunities to address climate change. She also said that there are countless organizations doing great work like this organization so there are reasons to be optimistic.

State Board Member Liaison, Sean Maguire, made a presentation. He shared information about Governor's Executive Order on water conservation and use limits, including ban on irrigation of non-functional commercial and industrial turf, request for urban water systems to move to Level 2 Water Shortage Contingency Plans, Delta Actions (curtailments, temporary change order for Central Valley and State Water Projects, Sacramento River Temperature Management Plan). He also described how State Water Board is monitoring drinking water systems for shortages. He also mentioned other programs and permits in progress- wastewater arrearages, revised Intended Use Plan for Water and Wastewater Infrastructure Funding (priorities on drinking water for disadvantaged communities and converting septic systems to sewer systems), Draft Hexavalent Chromium Maximum Contaminant Level and Construction Stormwater General Permit.

Vice Chair Battey asked about the Regional Water Board's role in drought. State Board Member Liaison Maguire stated that the Regional Water Board does not have a role but communication about what State Water Board is doing and their role and authority is important. EO Mumley and Assistant Executive Officer (AEO) Lisa Horowitz McCann commented on indirect roles we play related to recycled water and sustainable groundwater basins under the Sustainable Groundwater Management Act.

EO Mumley mentioned items in the Executive Officer's Report, including approval of San Mateo's Local Agency Management Plan for onsite wastewater treatment (septic) systems, monitoring wastewater for COVID as a signal and to show reductions. He also mentioned that the staff publicly-noticed the Municipal Regional Stormwater Permit for Board consideration at the May 11 Board meeting.

Chair McGrath noted that he distributed an article rising tides impacting groundwater contamination and affecting Bay Area communities. He said he wants the Water Board to coordinate with the researchers.

Chair McGrath administered the oath.

Item 5 – Consideration of Uncontested Items

5A. Highway 237 Landfill, San Jose, Santa Clara County–Updated Waste Discharge Requirements and Rescission of Order No. 01-029

5B. Pacific 42, LLC, Lake Parcel C Landfill, Richmond, Contra Costa County–Waste Discharge Requirements

5C. County of Santa Clara, Oregon Expressway Underpass, Palo Alto, Santa Clara County–Issuance of NPDES Permit

EO Mumley introduced the items.

Board Member Gunther asked questions about financial assurances related to the Highway 237 Landfill and asked about sea level rise vulnerability assessment requirements for both landfills.

McGrath asked for a motion to approve the uncontested items.

Motion: Board Member Gunther

Second: Board Member Young

Ayes: McGrath, Battey, Hacker, Gunther, Kissinger, Young

Nos: none

ITEM APPROVED

Item 6 – Waste Discharge Requirements

Lind Tug and Barge, Inc., Oyster Shell Mining in South San Francisco Bay, San Mateo County and Alameda County –Reissuance of Waste Discharge Requirements and Water Quality Certification and Rescission of Order No. 74-28 [

EO Mumley introduced the item. Staff Engineer Selina Louie made the presentation.

Board Member Gunther appreciated the use of shell mining as a unique material for shoreline restoration and asked that it be expanded to support shoreline resilience. The TAC will need to identify what quantitative changes are needed in order to demonstrate measures are effective. He said he applauds Lind in operating this business for public benefit. DC Fernandez commented that they identified several potential projects where oyster shells may help with resilience.

Board Member Young asked why mining months are not contiguous. DC Fernandez answered that the reason is to protect fish spawning. Board Member Young also asked why we are permitting up to 80,000 cubic yards even though they mine less. He said he wanted to understand the intensity and timing of the operations.

Ian Wren from San Francisco Bay Keeper commented that there has not been any study of impacts on shells in the Bay from mining. He recommended several changes to the Order.

Chris Zanobini from California Grain and Feed Association commented his organization supports the order because oyster shells are an important product for agriculture; shells are a primary source of calcium in animal feed and organic egg production.

DC Fernandez described staff's response to changes proposed by San Francisco Bay Keeper. He said that one change was already made in alignment with the comments and requested changes, another can be made with a slight modification, and the third one is not recommended to be changed.

Chair McGrath commented that in his past work he looked at changes that have occurred from oyster mining. He said he supports staff's recommendations due to the unlikelihood of materials being transported around the Bay; risk of impact is low. He

also said that the resilience needs are so much greater than the extraction amount at this facility is affecting.

EO Mumley recommended adoption of order with two changes that staff concurs with made by San Francisco Bay Keeper, read out by DC Fernandez. Those changes included Page 13, Provision 6, bullet c, “final report...submitted....within four years...” and Page 17, Provision 6, management question revision.

Vice Chair Battey asked for a motion to approve the item.

Motion: Chair McGrath

Second: Board Member Kissinger

Ayes: McGrath, Battey, Hacker, Gunther, Kissinger, Young

Nos: none

ITEM APPROVED

Item 7 – Basin Plan

Proposed Amendment to the Water Quality Control Plan (Basin Plan) to Include Information on Climate Change and Aquatic Habitat Protection, Management, and Restoration–Hearing on Proposed Basin Plan Amendment

EO Mumley introduced the item. Staff Scientist Christina Toms made the presentation. Staff Scientist Toms noted that the order language that stated *three* years for submitting the special study should be changed to *four* years (as stated in the response to comments).

Board Member Gunther complemented Staff Scientist Toms on the presentation. He asked if this is the first time the concept of operational landscape units is officially in our Basin Plan or other Policy and DC Fernandez answered yes. He then asked if we have accurately described climate change. Staff Scientist Toms explained we are stating the conditions consistent with best available science and other state agencies. Board Member Gunther asked how these additions to the Basin Plan integrate with or implement Bay Adapt Actions and specifically where Water Board is identified as lead or cooperator. AEO Horowitz McCann responded that our additions generally integrate with the Bay Adapt Actions but those actions are much more general than our additions. EO Mumley commented that these additions demonstrate the leadership that the Water Board can assert in moving adaptation forward.

Board Member Hacker asked for clarification on the wording between parens, “Waters of the State.” DC Xavier responded. EO Mumley stated that we will be more proactive with this information to facilitate more complete applications for projects so they can be permitted more efficiently.

Cameron Carr from Bay Planning Coalition thanked Regional Water Board staff for meeting with them. He said that the business community still has many questions and wants to be engaged in the process; they are looking forward to a workshop next week.

EO Mumley mentioned that we received a letter from Bay Planning Coalition about meeting to discuss further. He said that this is the response staff is hoping for, so there is an opportunity to collaborate with project proponents to see what works, try some approaches and integrate lessons learned.

Chair McGrath commented that it is satisfying to see projects that seemed unique in the past become routine now and into the future. He also acknowledged the collaboration to get to this point. He said that it provides important guidance.

EO Mumley stated that these efforts are being recognized nationally and that Staff Scientist Toms is going to participate on a panel called Climate Conversations.

Board Member Gunther asked if there is a way to measure effectiveness of implementing projects with this framework. DC Fernandez and Staff Scientist Toms described the Wetlands Regional Monitoring Program and hope that it will serve this purpose. Board Member Gunther also asked about and promoted institutionalizing the best practices and outcomes of projects.

Vice Chair announced that the Board is taking a break and then going into closed session at 12:00.

Item 8 – Closed Session – Personnel

The Board held a closed session on personnel during the lunch break.

Item 9 – Closed Session – Litigation

The Board did not meet in closed session on litigation.

Item 10 – Closed Session – Deliberation

The Board did not meet in closed session for deliberation.

Item 11 – Adjournment

Meeting adjourned at 1:11.