

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY
BOARD MEETING MINUTES
May 21, 2003

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Item 1 - Roll Call and Introductions

The meeting was called to order on May 21, 2003 at approximately 9:02 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Clifford Waldeck, Vice-Chair; Kristen Addicks; Josephine De Luca; Shalom Eliahu; and Mary Warren.

Board members absent: Doreen Chiu [Note: Mrs. Chiu arrived at 9:20 a.m.]; John Reininga; and Mr. Schumacher [Note: Mr. Schumacher arrived at 9:05 a.m.].

Item 2 - Public Forum

There were no public comments.

Item 3 - Minutes of the April 16, 2003 Board Meeting

Motion: It was moved by Mrs. Warren, seconded by Mrs. De Luca, and it was unanimously voted to adopt the minutes.

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

John Muller and Clifford Waldeck reported attending the ABAG Spring General Assembly on Thursday, April 24, 2003 in San Francisco. Mr. Waldeck said he was a program participant and discussed the impact of the NPDES stormwater program on local government.

[Mr. Schumacher arrived at 9:05 a.m.]

Mrs. De Luca complimented staff for taking time to give a large number of presentations to interested groups. She said the 2003 Pulse of the Estuary Annual Report prepared by the San Francisco Estuary Regional Monitoring Program for Trace Substances (RMP) was an excellent document.

Loretta Barsamian and Larry Kolb reported attending the RMP annual meeting held in Berkeley on May 13, 2003.

Mr. Waldeck said Dyan Whyte wrote the chapter in the Pulse of the Estuary Annual Report that describes the current status of Bay TMDLs.

Ms. Barsamian said Governor Davis appointed Nancy Sutley to the Water Resources Control Board. Ms. Barsamian discussed the resolution of a lawsuit filed by the Napa Sanitation District and Bay Area Clean Water Agencies.

Dale Bowyer said California Stormwater BMP Handbooks for municipalities, new development, and industrial and construction activities have been revised.

Ms. Barsamian reported the Sate Board dismissed petitions filed by the cities of San Jose and Milpitas regarding the Santa Clara Valley Urban Runoff Pollution Prevention Program stormwater permit.

Ms. Barsamian noted she recently met with the mayor of San Jose to discuss stormwater issues.

[Mrs. Chiu arrived at 9:20 a.m.]

William Schumacher asked about treating stormwater in sanitary sewer systems. Ms. Barsamian said such treatment is an option. She said the San Francisco International Airport plans to treat stormwater from runways in its industrial waste treatment plant.

Item 5 - Uncontested Calendar

Ms. Barsamian recommended adoption of the uncontested calendar.

Motion: It was moved by Mrs. Addicks, seconded by Mrs. De Luca, and it was unanimously voted to adopt the uncontested calendar as recommended by the Executive Officer.

Item 6 – City and County of San Francisco, San Francisco International Airport – Water Quality Control Plant – Hearing to Consider Administrative Civil Liability for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said the City and County of San Francisco signed a waiver of its right to a hearing on the proposed ACL. She noted no Board action was necessary. Ms. Barsamian said the Administrative Civil Liability was in the amount of \$227,225. She noted \$183,225 would be used for a supplemental environmental project.

Item 7 – Sonoma County Water Agency’s Penngrove Sanitation Zone, Sonoma County – Hearing to Consider Administrative Civil Liability for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said the Sonoma County Water Agency signed a waiver of its right to a hearing on the proposed ACL. She noted no Board action was necessary. Ms. Barsamian said the Administrative Civil Liability was in the amount of \$38,000. She noted \$34,000 would be used for a supplemental environmental project.

Item 8 – City and County of San Francisco, San Francisco International Airport – Industrial Waste Treatment Plant – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said the City and County of San Francisco signed a waiver of its right to a hearing on the proposed MMP. She noted no Board action was necessary. Ms. Barsamian said the Mandatory Minimum Penalty was in the amount of \$9,000. She noted \$9,000 would be used for a supplemental environmental project.

Item 9 – Workshop on Reissuance of NPDES Permits for South Bay Municipal Wastewater Treatment Plants, Cities of San Jose and Santa Clara, City of Palo Alto, and City of Sunnyvale

Linda Rao said the Board issued NPDES permits in 1998 to the City of Palo Alto, the City of Sunnyvale, and the Cities of San Jose and Santa Clara to regulate wastewater effluent. She said each discharger is regulated by a separate permit. She said permits, issued for 5-year terms, would be reissued in 2003. She said tentative orders for the new permits would be available soon.

Ms. Rao said the term “South Bay” describes the area south of the Dumbarton Bridge. In comparison to the rest of the Bay, she said the South Bay has unique characteristics, including: (1) a geographic configuration that constricts circulation of water; (2) a water depth that is shallow; and (3) the fact that there are no large fresh water rivers that drain into the South Bay.

Ms. Rao said the Basin Plan takes the unique characteristics into account and does not allow effluent to be discharged south of the Dumbarton Bridge unless a 10:1 dilution ratio is achieved. However, she said in 1990 the State Board issued a Remand Order regarding the South Bay NPDES permits. She said the Remand Order allowed effluent to be discharged into the South Bay if the Regional Board made a finding of “equivalent protection.” She described factors that must be considered to find equivalent protection.

Ms. Rao noted all three South Bay wastewater treatment plants currently discharge effluent to sloughs that are tributaries to the South Bay.

In preparation of the tentative orders, Ms. Rao said staff are negotiating three issues with the South Bay dischargers: (1) copper and nickel limits; (2) habitat issues in San Jose’s permit; and (3) mercury mass limits.

Ms. Rao said staff recommend the tentative orders include effluent limits for copper and nickel. She said the effluent limits are required to implement Site Specific Water Quality Objectives adopted by the Board in May 2002.

Ms. Rao said the 1990 State Board Remand Order found that San Jose’s effluent was converting salt marsh to fresh water marsh. She said the Remand Order mandated the Regional Board require San Jose to restore 380 acres of salt marsh habitat by 2004. She said in 1996 the Regional Board agreed to allow San Jose to develop mitigation projects on properties known as Baumberg Landing and Moseley Tract. She said the Moseley Tract property is not suitable for restoration, and San Jose will develop an alternative mitigation project.

Ms. Rao said the 1990 State Board Remand Order limited the amount of effluent discharged by San Jose to 120 million gallons a day. She said in 1990, the Regional Board agreed to let San Jose develop an Action Plan in lieu having a the flow cap limit.

Gina Kathuria said staff recommend the tentative orders include interim mercury mass limits. She said the proposed interim mass limits are lower than the mercury mass limits in the dischargers' current NPDES permits. Since January 2000, she said dischargers have used ultra clean techniques in obtaining and analyzing mercury samples. She said with ultra clean techniques, laboratory technicians are able to detect mercury at lower concentration levels. She said the fact that the proposed mass limits are lower than the current mercury mass limits is attributable mostly to the decrease in mercury detection levels due to the use of ultra clean techniques.

Ms. Kathuria said interim mercury mass limits would be used as placeholders in the dischargers' NPDES permits until the mercury TMDL is adopted. After the TMDL is adopted, she said the NPDES permits would be amended to include final mercury mass limits.

Mrs. Warren asked if dischargers could realistically achieve the proposed interim mercury mass limits.

Based on past performance, Ms. Kathuria said the dischargers should be able to meet the proposed limits.

Mr. Eliahu suggested the current mercury mass limits remain effective until the mercury TMDL is adopted. He noted proposed interim mercury mass limits are more stringent than the current limits. He said both are calculated from data measuring past performance of the wastewater treatment plants.

Ms. Barsamian said current mercury mass limits are high considering scientific techniques that are currently available.

Dr. Kolb said laboratory analyses of effluent samples using ultra clean techniques have shown that mercury mass in effluent is much lower than earlier analyses indicated.

In response to a question, Dr. Kolb said it is unknown whether effluent from the wastewater treatment plants has a positive or negative impact in flushing water through the South Bay.

In response to a question, Ms. Barsamian said the copper Site Specific Objective is very different from the nickel Site Specific Objective.

Chuck Weir, Bay Area Clean Water Agencies, said POTWs contribute 1% to 2% of the mercury loads to the Bay. He objected to including interim mercury mass limits in the tentative orders. He recommended mercury mass limits be established after the mercury TMDL is completed. He said POTWs are requesting an aggregate mercury wasteload allocation.

Mr. Weir objected to including effluent limits for copper and nickel in the tentative orders. He said there is no reasonable potential, based upon the State Implementation Policy, that the South Bay dischargers would exceed the SSOs for copper and nickel.

Mr. Weir said staff used a statistical approach to develop the proposed interim mercury limits. Based on the statistical approach, he said there is a probability that the South Bay dischargers would exceed the limits at times and be subject to fines.

Mrs. Addicks asked what interim mercury mass limits the dischargers would find acceptable.

Mr. Weir said dischargers operate wastewater treatment plants efficiently. After the mercury TMDL is adopted, he recommended the POTWs be allocated an aggregate mercury mass load. He reiterated interim mercury mass limits are not necessary.

Mrs. Addicks said the Board recognizes wastewater treatment plants are doing a lot of good work in pretreatment and pollution prevention programs.

Mr. Schumacher asked when the mercury TMDL would be adopted.

Ms. Barsamian said a draft mercury TMDL would be available in June and several workshops would be held during the summer. She said the Board would consider adoption of the TMDL in October. After Board adoption, she said the State Board, the State Office of Administrative Law, and U.S. EPA must approve the TMDL.

Ms. Kathuria showed slides illustrating that the South Bay plants discharged levels of mercury during the last three years that are below proposed interim mercury mass limits. She said there is a “cushion” between the mercury mass discharged and the proposed interim mercury mass limits.

Mr. Eliahu reiterated his suggestion that current mercury mass limits remain effective until the mercury TMDL is adopted.

Nancy Yoshikawa, U.S. EPA, said it is important to keep even small amounts of mercury out of the Bay. She said mercury is a bioaccumulative pollutant. She said U.S. EPA supports the use of numeric interim mercury mass limits. She said narrative interim limits could be imposed under some circumstances.

Marvin Rose, City of Sunnyvale, recommended the Board defer imposing mercury mass limits until the mercury TMDL is adopted. He opposed including effluent limits for copper and nickel in Sunnyvale’s tentative order. He said Sunnyvale is implementing an Action Plan that includes ambient and effluent monitoring.

Mrs. Warren reiterated her concern about whether dischargers reasonably could comply with proposed interim mercury mass limits.

Mr. Schumacher suggested the proposed interim mercury mass limits be set at one-half the current mass limits.

Mrs. Addicks suggested the Board follow the approach it has used in issuing other NPDES permits. She suggested interim mass limits be based on the best scientific data available and a reasonable cushion for plant performance be allowed.

Randolph Shipes, City of San Jose, concurred with the comments made by Mr. Rose regarding effluent limits for copper and nickel and interim mercury mass limits. He discussed San Jose's water recycling and conservation programs and said he believes San Jose's effluent discharge would remain below 120 million gallons a day.

Larry Bahr, Fairfield-Suisun Sewer District, said dischargers might violate mass limits due to their inability to control flow levels. He said flow levels could be a problem during wet weather. He discussed litigation concerning Fairfield-Suisun's current NPDES permit.

Shana Lazerow, WaterKeepers Northern California, spoke in support of including effluent limits for copper and nickel and interim mercury mass limits in the tentative orders.

Phil Bobel, City of Palo Alto, talked about how the proposed interim mercury mass limit might impede the development of a business park. As an alternative to an interim limit, Mr. Bobel suggested South Bay dischargers conduct various studies and programs. He said Palo Alto would conduct a source control program involving dental offices and amalgam.

Mr. Bobel said Palo Alto would prefer an interim mercury concentration limit rather than an interim mercury mass limit. He said the amount of mass increases as flow levels increase. He said new development frequently causes increased flow levels.

Mr. Bobel said staff propose using a statistical method to give dischargers a cushion between interim mercury mass limits and levels of mercury discharged in effluent. He said the database used in determining the cushion changes as cities grow.

Mrs. Addicks suggested staff encourage dischargers to reclaim wastewater. She said reclamation programs could help accommodate an increase in effluent caused by growth.

Mrs. De Luca suggested interim mercury mass limits be developed in ways that give dischargers a cushion when compared to their past performance.

Item 10 – Groundwater Cleanup Progress Summary – Status Report

Stephen Hill said staff mainly deal with two types of groundwater cleanup cases: (1) those involving fuel that leaked from underground storage tanks, and (2) non-fuel related cases that involve release of solvents and other contaminants. He described cleanup associated with a gas station in Martinez that involves fuel that leaked from an underground storage tank. He also described cleanup of solvents associated with a former dry cleaner in Novato.

In response to a question, Mr. Hill said solvents in sewer lines often leak at pipe joints.

Mr. Hill described cleanup technologies for groundwater and soil cleanup. He discussed the number of cases staff have investigated and closed because cleanup standards have been met or because the property no longer presents risks to applicable uses. He discussed the threat MTBE poses to groundwater.

[Mrs. Warren left the meeting at approximately 12:00 Noon.]

Item 12 – Closed Session – Personnel

At approximately 12:00 Noon, the Board went into closed session to discuss personnel issues. At the completion of the closed session, the meeting was adjourned.

Adjournment

The meeting was adjourned at approximately 12:20 p.m.