

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY
BOARD MEETING MINUTES
October 15, 2003

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Item 1 - Roll Call and Introductions

The meeting was called to order on October 15, 2003 at 9:06 a.m. in the State Office Building Auditorium, First Floor, 1515 Clay Street, Oakland.

Board members present: John Muller, Chair; Clifford Waldeck, Vice-Chair; Doreen Chiu; Shalom Eliahu; John Reininga; William Schumacher; and Mary Warren.

Board members absent: Kristen Addicks and Josephine De Luca.

Item 2 - Public Forum

Ronald Block, Colony Park Homeowner, said about 185 homes in his neighborhood are affected by a plume containing TCE.

Mr. Block; Don Mount, Colony Park Neighbors Association; and Fred Flint, Colony Park resident, requested air samples be taken to assess whether TCE from the plume has entered homes through indoor air pathways.

Mr. Block estimated air-sampling tests would cost \$1,000 a home. Mr. Mount suggested 4 or 5 homes located above a hot spot in the plume be tested.

Loretta Barsamian said in April 2003 the Board adopted a Site Cleanup Order requiring the groundwater plume be remediated. She said a remediation workplan that staff conditionally approved requires the discharger to conduct soil gas testing as a first step. She noted the homeowners would like the first step to include indoor air samples.

Steve Morse said staff received a letter from the City of Concord supporting the residents' request.

Mr. Muller suggested staff give a status report at the January Board meeting on the remediation project.

Item 2a. - Farewell to Loretta K. Barsamian

Craig Johns said working with Ms. Barsamian helped broaden his perspective on environmental issues. He said he felt privileged to have worked with her.

Chris Elias, Santa Clara Valley Water District, thanked Ms. Barsamian for her leadership in making the Bay Region a better place to live. He gave her a resolution passed by the Water District Board of Directors.

Gary Grimm said he had been honored to have worked with Ms. Barsamian and thanked her for her leadership on water quality issues.

Peter Vorster, Bay Institute, gave Ms. Barsamian a copy of a recently published book entitled "San Francisco Bay, a Portrait of the Estuary." He thanked Ms. Barsamian for her work to help restore water quality in the Bay Region.

Jim Kelly, Central Contra Costa Sanitary District and Bay Area Clean Water Agencies, read from a resolution by Central Contra Costa Sanitary District Board of Directors commending Ms. Barsamian for her outstanding performance and professionalism in performing her duties as Executive Officer. Mr. Kelly also read from a resolution by BACWA thanking Ms. Barsamian for her dedication in protecting the Bay Region.

Lee Halterman, Bay Dredging Action Coalition, thanked Ms. Barsamian for bringing a sense of balance in the quest to preserve the environment and to move the economy forward.

Ellen Johnck, Executive Director of the Bay Planning Coalition, said on November 13, 2003, Ms. Barsamian would be given Bay Planning Coalition's Citizen of the Bay Award for her inspiring leadership.

Phil Bobel, City of Palo Alto, thanked Ms. Barsamian for promoting collaboration among stakeholders.

Mary Warren thanked Ms. Barsamian for her leadership and said the many hours she worked went far beyond the call of duty.

William Schumacher commended Ms. Barsamian for her talent to get people of diverse viewpoints to reach consensus.

John Reininga said Ms. Barsamian had the ability to describe a difficult subject in a concise, understandable way. He thanked her for being a dedicated public servant.

Doreen Chiu and Shalom Eliahu thanked Ms. Barsamian for the guidance she gave to the Board.

Clifford Waldeck thanked Ms. Barsamian for her ability to help stakeholders seek collaboration, cooperation, and consensus.

John Muller read from a letter written by Josephine De Luca commending Ms. Barsamian for possessing exceptional skills in negotiating compromises between industrial and environmental parties.

Mr. Muller said he felt privileged to have worked with Ms. Barsamian and thanked her for her leadership.

Mr. Reininga gave Ms. Barsamian a resolution from the Water Board that noted her exceptional energy, enthusiasm, and creativity.

Ms. Barsamian thanked the environmental community and the regulated community for working cooperatively with staff. She thanked Larry Kolb and Steve Morse for their leadership. She thanked staff for their dedication. She thanked the Board for “leading us with dignity.”

[The Board took a break at 10:21 a.m. and resumed the meeting at 10:35 a.m.]

Item 3 – Minutes of the September 17, 2003 Board Meeting

Loretta Barsamian recommended adoption of the minutes.

Motion: It was moved by Mrs. Warren, seconded by Mr. Schumacher, and it was unanimously voted to adopt the minutes as recommended by the Executive Officer.

Item 4 – Chairman’s, Board Members’ and Executive Officer’s Reports

There was no discussion.

Item 5 - Uncontested Calendar

Ms. Barsamian recommended adoption of the uncontested calendar.

The Board unanimously voted to adopt the uncontested calendar.

Item 6 – East Bay Municipal Utility District, San Pablo Water Treatment Plant, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said East Bay Municipal Utility District signed a waiver of its right to a hearing on the proposed MMP. She said no board action was necessary. Ms Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$3,000. She noted \$3,000 would be used for a supplemental environmental project.

Item 7 – East Bay Municipal Utility District, Sobrante Water Treatment Plant, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said East Bay Municipal Utility District signed a waiver of its right to a hearing on the proposed MMP. She said no Board action was necessary. Ms. Barsamian

said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$9,000. She noted \$9,000 would be used for a supplemental environmental project.

Item 8 – East Bay Municipal Utility District, Walnut Creek Water Treatment Plant, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said East Bay Municipal Utility District signed a waiver of its right to a hearing on the proposed MMP. She said no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$6,000. She noted \$6,000 would be used for a supplemental environmental project.

Item 9 – East Bay Municipal Utility District, Lafayette Water Treatment Plant, Contra Costa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Ms. Barsamian said East Bay Municipal Utility District signed a waiver of its right to a hearing on the proposed MMP. She said no Board action was necessary. Ms. Barsamian said the discharger agreed to pay a Mandatory Minimum Penalty in the amount of \$6,000. She noted \$6,000 would be used for a supplemental environmental project.

Item 10 – Napa Sanitation District, Wastewater Treatment Plant, Napa County – Hearing to Consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Joe Ernest gave the staff presentation. He said the \$153,000 Mandatory Minimum Penalty included: two chlorine residual violations for \$6,000; two acute toxicity violations for \$6,000; and forty-seven coliform bacteria violations for \$141,000. He said the violations occurred between January 1, 2000 and February 8, 2002.

Mr. Ernest said coliform could be controlled through use of a metered dosage of chlorine. He said the discharger's ability to control coliform was demonstrated by the cessation of violations when chlorine dosage was increased. He said the discharger has not provided evidence of an operational upset.

Mr. Ernest said, as the result of new legislation that becomes effective January 1, 2004, the Board has discretion to remove two acute toxicity violations and reduce the penalty by \$6,000.

Shar Maglione, Napa Sanitation Wastewater Plant Manager, said the Sanitation District began using a new activated sludge system during the time violations occurred. She said start-up problems occurred with the new equipment.

Kathryn Wagner, attorney representing Napa Sanitation District, requested the Board remove the two acute toxicity violations. She said a number of factors that occurred at the start-up of the activated sludge system suggest there was an operational upset.

Mr. Reininga said coliform violations occurred for more than 30 days before corrective action was taken.

Mr. Eliahu asked whether the discharger disputed the \$6,000 penalty for acute toxicity violations or the entire \$153,000 penalty for all violations. Ms. Barsamian said the entire \$153,000 penalty was disputed.

Mr. Eliahu said he thought the cause of the coliform violations was improper plant operation.

Mr. Schumacher said ratepayers would pay any penalty that was imposed.

Mrs. Warren expressed concern that coliform violations occurred repeatedly.

Shar Maglione said a communication problem developed between laboratory and plant operation staff. She said plant operation staff took corrective action after becoming aware of the violations.

Doreen Chiu asked if steps had been taken to correct the communication problem.

Shar Maglione said the District has spent over \$200,000 to correct the situation. She said individuals involved in the communication problem no longer work for the District.

Ms. Barsamian recommended adoption of the tentative order with a Mandatory Minimum Penalty in the amount of \$153,000.

Motion: It was moved by Mr. Eliahu, seconded by Mr. Reininga, to adopt the tentative order as recommended by the Executive Officer.

Mr. Reininga asked if the Board could eliminate the \$6,000 acute toxicity penalty. Dorothy Dickey said the Board had the discretion to eliminate the penalty.

Mr. Muller said multiple violations were involved and recommended the entire \$153,000 penalty be imposed.

Ms. Barsamian said a Mandatory Minimum Penalty complaint was issued in December 2002. She said the discharger then submitted material for staff's review. She said the complaint was reissued in August 2003.

Motion: It was moved by Mr. Schumacher, seconded by Mrs. Chiu to amend Mr. Eliahu's motion by removing \$6,000 for acute toxicity violations from the \$153,000 penalty.

Roll Call:

Aye: Mrs. Chiu; Mr. Reininga; Mr. Schumacher; and Mrs. Warren.

No: Mr. Eliahu; Mr. Waldeck; and Mr. Muller.

Motion passed 4 – 3.

A roll call vote was taken on Mr. Eliahu's motion, as amended, for a Mandatory Minimum Penalty in the amount of \$147,000.

Roll Call:

Aye: Mrs. Chiu; Mr. Eliahu; Mr. Reininga; Mr. Schumacher; Mr. Waldeck; Mrs. Warren; and Mr. Muller.

No: None.

Motion passed 7 – 0.

Item 11 – General Waste Discharge Requirements for Confined Animal Facilities – Adoption of General Waste Discharge Requirements

Item 12 – Renewal of Waiver of Waste Discharge Requirements for Confined Animal Facilities – Adoption of Resolution Waiving Waste Discharge Requirements

Laurie Taul gave a staff presentation covering both Items 11 and 12. She said there are 51 dairies located in Region 2, and they are situated near streams that drain to Tomales Bay, Petaluma River, and Sonoma Creek. She said dairies are a potential source of pollutants.

Ms. Taul said staff has conducted on-site inspections of the dairies over the past two years. She said each dairy was given an opportunity to correct compliance problems found as a result of the inspections. She said 85% of the dairies in Region 2 currently comply with regulatory requirements and are eligible for waiver coverage.

Ms. Taul said regulatory requirements attempt to: (1) prevent clean water from contacting animal waste and (2) ensure liquid and solid waste are collected and contained on-site. She said, in addition to the basic requirements, the general permit and the waiver include provisions requiring: (1) disposal of wastes other than manure, (2) visual monitoring, and (3) annual compliance certificates. She noted the general permit also requires implementation of a (1) waste management plan and (2) schedule for structural improvements.

In response to a question, Ms. Taul said regulatory requirements apply to animals confined in facilities and not to animals located in pastures.

Mr. Schumacher asked if regulatory requirements are putting dairies out of business. Ms. Taul said a representative from the dairy industry was present and could answer the question at a later time.

Shana Lazerow, WaterKeepers Northern California, complimented staff for doing an excellent job in preparing the tentative order for waste discharge requirements and the tentative resolution for waiver of waste discharge requirements. She expressed concern that staff did not prepare an environmental impact report for the tentative order and resolution. She said the exemption in California Environmental Quality Act Guidelines Section 15301 did not apply. She expressed concern that the tentative order and resolution require visual monitoring and do not require samples be taken from receiving waters.

Paul Martin, Director of Environmental Services for Western United Dairymen, spoke in support of the tentative order and resolution. He said dairies in Region 2 were unlikely to expand operations because available land is scarce. He noted dairies incur costs when

complying with the regulatory requirements. He said dairies could contract with a former Western United Dairymen employee to do monitoring downstream from their facilities.

Ms. Barsamian complimented the dairies in Region 2 for working collaboratively with staff. She said many dairies complied with regulatory requirements in order to be eligible for waiver coverage.

Mr. Reininga congratulated Ms. Barsamian and staff for their work on the tentative order and resolution.

In response to a comment by Ms. Lazerow, Yuri Won said the tentative order for waste discharge requirements takes into account that dischargers may expand their facilities. She said page 10 of the tentative order provides that the Executive Officer may terminate coverage under the order when a discharger makes changes to its facility, and coverage under individual waste discharge requirements would be more appropriate.

Ms. Barsamian recommended adoption of the tentative order for General Waste Discharge Requirements for Confined Animal Facilities.

Motion: It was moved by Mr. Reininga, seconded by Mrs. Warren, and it was voted to adopt the tentative order as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Chiu, Mr. Eliahu, Mr. Reininga, Mr. Schumacher, Mr. Waldeck, Mrs. Warren and Mr. Muller

No: None.

Motion passed 7 – 0.

Ms. Barsamian recommended adoption of the tentative resolution for Renewal of Waiver of Waste Discharge Requirements for Confined Animal Facilities.

Motion: It was moved by Mr. Waldeck, seconded by Mr. Reininga, and it was voted to adopt the tentative order as recommended by the Executive Officer.

Roll Call:

Aye: Mrs. Chiu, Mr. Eliahu, Mr. Reininga, Mr. Schumacher, Mr. Waldeck, Mrs. Warren and Mr. Muller

No: None.

Motion passed 7 – 0.

Item 13 – Resolution in Support of Collaboration between the Regional Board and Bay Area Clean Water Agencies to Report and Manage Sanitary Sewer Overflows – Adoption of Resolution

Jenny Chen gave the staff report. She said the tentative resolution authorized staff to work with the Bay Area Clean Water Agencies to develop a program to minimize sanitary sewer overflows. She said the program would help agencies to: (1) report overflows by using an electronic reporting system and (2) develop Sewer System Management Plants. She said SSMPs would address operation and maintenance of

collection systems and would be used to improve performance. She said BACWA would organize and fund workshops to provide outreach to staff of collection systems.

Ms. Barsamian recommended adoption of the tentative resolution.

Motion: It was moved by Mr. Reininga, seconded by Mrs. Warren, and it was unanimously voted to adopt the tentative resolution as recommended by the Executive Officer.

Item 14 – Resolution in Support of Collaboration between the Regional Board and Bay Area Clean Water Agencies on Pollution Prevention Program Development and Excellence – Adoption of Resolution

Linda Rao gave the staff presentation. She said the tentative resolution authorized staff to work with the Bay Area Clean Water Agencies to develop pollution prevention guidelines. She said Publicly Owned Treatment Works would use the guidelines, called P2 Menus, when developing their pollution prevention programs. She outlined 11 Guiding Principles that would be used in establishing P2 Menus.

Ms. Rao gave Ms. Barsamian several items that promote pollution prevention. Phil Bobel, City of Palo Alto, talked about several of the items, including a digital thermometer. He said the thermometer did not contain mercury.

Ben Hornstein, representing Bay Area Clean Water Agencies, spoke in support of the tentative resolution, and said BACWA looks forward to working collaboratively with staff.

Ms. Barsamian emphasized the importance of developing pollution prevention strategies. She recommended adoption of the tentative resolution.

The Board unanimously voted to adopt the tentative resolution as recommended by the Executive Officer.

Item 16 – Closed Session – Personnel

At approximately 12:10 p.m., the Board went into a closed session to discuss personnel issues. The meeting was adjourned at the completion of the closed session.

Adjournment

The meeting was adjourned at approximately 12:45 p.m.