

REGIONAL WATER QUALITY CONTROL BOARD - SAN FRANCISCO BAY  
BOARD MEETING MINUTES

January 21, 2004

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Item 1 - Roll Call and Introductions

The meeting was called to order on January 21, 2004 at 9:04 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; John Reininga; and Mary Warren.

Board members absent: Doreen Chiu and William Schumacher.

Nancy Sutley, State Board member, discussed the proposed budget for fiscal year 2004-2005 and said staff layoffs are not anticipated at this point. She said petitions regarding agricultural waivers and timber waivers would be considered at the next State Board meeting. She thanked John Muller for providing steady leadership during his tenure as Chair.

Item 2 – Election of Chair and Vice-Chair

Shalom Eliahu gave a report on behalf of the nominating committee. He recommended Clifford Waldeck serve as Chair and Mary Warren serve as Vice-Chair for the year 2004.

Motion: It was moved by Mr. Reininga, seconded by Mrs. Warren, and it was unanimously voted to elect Mr. Waldeck as Chair.

Roll Call

Aye: Kristen Addicks; Josephine De Luca; Shalom Eliahu; John Reininga; Clifford Waldeck; Mary Warren; and Mr. Muller.

No: None

Motion passed 7 – 0.

Motion: It was moved by Mr. Reininga, seconded by Mrs. De Luca, and it was unanimously voted to elect Mrs. Warren as Vice-Chair.

Roll Call

Aye: Kristen Addicks; Josephine De Luca; Shalom Eliahu; John Reininga; Clifford Waldeck; Mary Warren; and Mr. Muller.

No: None

Motion passed 7 – 0.

Mr. Waldeck began serving as Chair.

John Muller thanked Board members for giving him the opportunity to serve as Board Chair. He said he valued the experience very much. He reviewed issues and projects addressed during his tenure, including mercury issues, dredging, stormwater, Hamilton Airfield, and the Bay Bridge. He said it is our charge to leave the environment a little better than we found it and thanked Water Board staff for their work.

Josephine De Luca thanked Mr. Muller for providing 3 years of distinguished service as Chair. She said Mr. Muller brought energy, commitment, dedication, and a sense of cordiality to his endeavors. She said he carried out his responsibilities with great dignity. She congratulated Clifford Waldeck on being elected Chair.

Mary Warren thanked Mr. Muller for his leadership. She commended him for the courtesies he has shown to people who have appeared before the Board. She congratulated Mr. Waldeck on his election.

John Reininga congratulated Mr. Muller for a job well done, and thanked him for his dedication and hard work. Mr. Reininga also thanked Mr. Muller for his fairness and openness in treating people who have appeared before the Board.

Kristen Addicks thanked Mr. Muller for his hard work and enthusiasm. She said she enjoyed serving under his leadership and thought he gave 110% to his efforts. She said she also looks forward to working with Mr. Waldeck.

Shalom Eliahu thanked Mr. Muller for his work as Chair and said he brought energy and dignity to the Board.

Clifford Waldeck presented Mr. Muller with a Resolution of Appreciation from the Board for his distinguished service as Chair.

Bruce Wolfe thanked Mr. Muller for his service to the Board and said staff has enjoyed working with him. Mr. Wolfe commended Mr. Muller for the respect he has shown to stakeholders appearing before the Board. Mr. Wolfe said staff also is looking forward to working with Mr. Waldeck.

### Item 3 - Public Forum

Craig Johns thanked Mr. Muller for his work as Chair. He said Mr. Muller demonstrated concern both for the environment and for reasonable regulations on businesses and municipalities. He congratulated Mr. Waldeck and Mrs. Warren on being elected Chair and Vice-Chair.

Leo O'Brien, San Francisco BayKeeper, thanked Mr. Muller for his leadership, sense of humor, and dedication. He congratulated Mr. Waldeck and Mrs. Warren on their new roles.

### Item 4 – Minutes of the December 3, 2003 Board Meeting

Motion: It was moved by Mrs. Warren, seconded by Mr. Reininga, and it was unanimously voted to adopt the minutes of the December 3, 2003 Board Meeting.

Mrs. Addicks and Mrs. De Luca recused themselves because they did not attend the December Board meeting.

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

Mr. Waldeck thanked Board members for the confidence they have placed in him. He said he is honored to serve as Chair and looks forward to working collaboratively with people involved in water quality issues.

Mrs. De Luca reported attending the State of the Estuary Conference conducted in October by the San Francisco Estuary Project. She said presentations given by the scientists and engineers were excellent. She said Leon Panetta’s keynote address was inspiring. She said he urged that citizens not wait for crisis to drive policy on water quality issues. She reported Mr. Panetta said it was vital to the American dream that we create a legacy of clean air and clean water in order to build a better world.

Mr. Wolfe said Shin-Roei had been appointed Chief of the South Bay Watershed Division. He said Lila Tang had been appointed Acting Chief of the NPDES Permits Division.

Mr. Wolfe reported the Water Board received an award from the San Francisco Estuary Project at the State of the Estuary Conference. He said the award was given in recognition of the Board’s work in educating the Bay Area construction industry and municipalities in pollution prevention practices at new construction sites.

#### Item 6 - Uncontested Calendar

Mr. Wolfe recommended adoption of the uncontested calendar.

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

#### Item 7 – Shell Oil Products US, Martinez Refinery, Contra Costa County – Hearing to consider Mandatory Minimum Penalty for Discharge of Partially Treated Wastewater to Waters of the State

Mr. Wolfe said Shell Oil Products US, Martinez Refinery signed a waiver of the Refinery’s right to a hearing on the proposed MMP. He said no Board action was necessary. Mr. Wolfe said the discharger agreed to pay a Mandatory Minimum Penalty

in the amount of \$3,000. He said \$3,000 would be used for a supplemental environmental project.

Item 8 – Union Sanitary District, Old Alameda Creek Intermittent Wet Weather Discharge, Union City, Alameda County – Reissuance of NPDES Permit

Mr. Wolfe said outstanding issues had been resolved and recommended adoption of the tentative order.

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

Item 9 – Proposed Amendment to the Water Quality Control Plan (Basin Plan) for San Francisco Bay Region to Update Water Quality Objectives and NPDES Implementation Provisions – Hearing to Consider Adoption of Proposed Amendment

Steve Moore discussed water quality objectives for metals. He said the Proposed Amendment includes objectives based on dissolved concentration rather than total concentration. He said the Proposed Amendment applies region wide water quality objectives for metals.

Mr. Moore said the salinity definitions in the Proposed Amendment are based on the California Toxics Rule. He said the Proposed Amendment applies definitions region wide for marine, estuarine, and freshwater.

Mr. Moore said implementation provisions in the Proposed Amendment are based on the State Board's September 2000 Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California.

Mr. Moore said the cadmium objectives in the Proposed Amendment may change based upon an update from U.S. EPA.

Mr. Moore said the Water Board, State Board, State Office of Administrative Law, and U.S. EPA must approve the Proposed Amendment.

In response to a question, Mr. Moore said not all forms of a metal, like copper, are available to cause toxicity to Bay aquatic life. He said forms of the metal that bind to sediments, or dissolve and bind to organic matter, generally are not bioavailable.

Tom Hall, EOA, representing Cities of Sunnyvale and San Jose, said staff has worked in a positive way with the cities on the Proposed Amendment and congratulated staff on their work.

Bruce Wolfe recommended adoption of the tentative resolution as supplemented.

Motion: It was moved by Mr. Muller, seconded by Mrs. De Luca, and it was voted to adopt the tentative resolution as supplemented and recommended by the Executive Officer.

Roll Call

Aye: Mrs. Addicks, Mrs. De Luca, Mr. Eliahu, Mr. Reininga, Mr. Waldeck, Mrs. Warren and Mr. Muller.

No: None.

Motion passed 7 – 0.

Item 10 – Hookston Station, 228 Hookston Road, Pleasant Hill, Contra Costa County – Status Report

Roger Brewer said groundwater plumes that contain volatile chemicals emit vapors to overlying soil. He said vapors sometimes move upward through the soil, enter buildings constructed on the surface, and contaminate indoor air.

Dr. Brewer said a screening level is a threshold value that serves as a flag for investigation. He said screening levels for TCE are: 530 micrograms per liter in groundwater; 1,200 micrograms per cubic meter in soil gas; and 1.2 micrograms per cubic meter in indoor air. He said 1.2 micrograms per cubic meter is equal to about 1/10<sup>th</sup> of a drop of TCE dispersed into the air of the Auditorium in the State Building.

Dr. Brewer gave a hypothetical example to show how a vapor intrusion investigation is conducted. He said groundwater is tested, and if the groundwater screening level is exceeded, soil gas is tested. He said if the screening level for soil gas is exceeded, indoor air samples are tested.

Dr. Brewer said if the indoor air screening level is exceeded, construction techniques can be used to reduce the chance vapors would enter residences. For example, he said perforated pipe could be installed in a foundation and connected to a roofline vent to allow vapors to disperse to ambient air.

George Leyva said Hookston Station covers about 8 acres and is used for commercial and light industrial activities. He said a former industrial tenant used TCE in the manufacture of mag wheels and the chemical impacted groundwater. He said the impacted groundwater, covering between 30 to 50 acres, has migrated beneath an adjacent residential development known as Colony Park.

Mr. Leyva said testing results show (1) part of the impacted plume exceeds the groundwater screening level for TCE and (2) areas of soil exceed the soil gas screening level for TCE. He said the dischargers are taking indoor air samples from 12 residential units. He said a Final Risk Assessment Plan is scheduled to be completed in February 2004.

Mr. Leyva said the Board issued an Order for Site Cleanup Requirements in April 2003. He said the dischargers have completed 6 of 10 required tasks and basically are in compliance with the Order.

Mr. Wolfe said if indoor air samples exceed the screening level, mitigation measures like installing vents in residences would be taken as soon as possible.

Mr. Hill said staff does not believe TCE in the Colony Park neighborhood presents a crisis situation based on the concentrations that have been measured.

In response to a question, Mr. Hill said vapor at levels like those in the Colony Park area would disperse readily when vented from residences.

Mr. Wolfe said TCE was discovered in the groundwater when an environmental investigation was conducted during a property transfer of a Hookston Station site.

Steve Morse said residential units in the Colony Park area include multifamily units built on slabs and houses with crawl spaces.

Don Mount, Chair External Affairs, Colony Park Neighbors Association; Ron Block, Block Environmental Services and Colony Park homeowner; and Wini Curley, Earth Risk, Inc., and representing Colony Park Neighbors Association; requested air samples from both crawl space and indoor air be tested for single family homes. They said parties should be able to understand the relationship between vapor in a crawl space and indoor vapor. They said residents would have greater confidence in the Final Risk Assessment if both samples were tested.

Mr. Block expressed concern that the dischargers' air-sampling plan uses State of Massachusetts guidelines. He said climates in the Bay Area and East Coast are very different.

Ms. Curley requested screening levels be based on toxicity criteria from both U.S. EPA and Cal/EPA. She said U.S. EPA criteria are more stringent than Cal//EPA.

Mike Grant, Environmental Manager, Union Pacific Railroad Company, said Southern Pacific Railroad used to own Hookston Station property. He said Union Pacific became the property owner upon merging with Southern Pacific.

Mr. Grant said air sampling is being conducted according to direction provided by Board staff. He said the discharger would like to meet with residents and staff after air samples have been tested.

Brian Bjorklund, Environmental Resource Management, said the dischargers have started sampling indoor air. Also, he said backyard wells located within the area of the Hookston Station groundwater plume would be tested.

Alan Nye, Center for Toxicology and Environmental Health, talked about using risk assessments as regulatory tools.

Mr. Hill said staff believes indoor air samples will provide adequate data to prepare a Risk Assessment. He said staff requested residents run their heaters during days when air samples are taken in order to simulate a worst-case scenario. He said Massachusetts has done more work on indoor vapor intrusion than California and that is the reason there are references to Massachusetts guidelines.

In response to a question, Mr. Wolfe said only indoor air samples currently are required to be tested.

Mr. Wolfe said staff will keep the Board informed when significant events in the Hookston Station case occur.

Mr. Reininga suggested staff might serve as a moderator to help parties work together.

Mrs. Addicks suggested data collection be as thorough as possible. She said she was sympathetic to concerns of both residents and dischargers.

#### Item 11 – South Bay Salt Ponds Restoration – Status Report

Steve Moore gave the staff report. He said the U.S. Fish and Wildlife Service and the California Department of Fish and Game bought 16,500 acres of salt ponds in the South Bay. He said the long-term goal is to restore the ponds to tidal wetlands.

Mr. Moore said U.S. FWS and CDFG did not buy all the salt ponds in the South Bay. He said Cargill Salt continues to own about 1/3 of the ponds. He said the firm uses the ponds to produce salt.

Mr. Moore said the ponds bought by U.S. FWS and CDFG can be categorized in two ways: those with higher salinity levels and those with lower salinity levels. He said the agencies would focus efforts on ponds with lower salinity levels when work begins on what is called the Initial Stewardship Phase.

Mr. Moore said during the Initial Stewardship Phase there would be two types of discharges into the Bay: (1) initially pond water would be discharged, and then, (2) bay water would be circulated through the ponds and discharged. He said salinity levels in the Bay would be elevated on a short-term basis when pond water is initially discharged.

Mr. Moore said the U.S. FWS and CDFG submitted an application for Waste Discharge Requirements to the Water Board for regulation of discharges during the Initial Stewardship Phase. He said staff plans to present a tentative order at the March Board meeting.

Mr. Moore said U.S. EPA concurred with Board staff that an NPDES permit is not required because Cargill Salt did not add pollutants to the pond water that will be discharged.

Mr. Moore said the State Coastal Conservancy is taking the lead in developing a long-term restoration plan for the salt ponds. He said Board staff participates in a workgroup organized by SCC. He said it is expected to take about 5 years to develop the long-term plan.

Leo O'Brien, San Francisco BayKeeper, spoke in support of work to be conducted in the Initial Stewardship Phase. However, he said pond water discharged to the Bay should be regulated under an NPDES permit.

Mr. Eliahu asked if Cargill Salt is regulated under an NPDES permit for discharge from ponds that are currently producing salt.

Mr. Moore said Cargill Salt is not regulated by an NPDES permit for discharge of waste from salt ponds that is known as bittern. However, he said sometimes bittern commingles with stormwater and the commingled water would be regulated under Cargill Salt's industrial stormwater permit.

Mr. Moore said it is likely that an NPDES permit would be required when U.S. FWS and CDFG discharge water to the Bay from ponds that contain the higher salinity levels. He said a lot of salt precipitation has occurred in the higher salinity ponds and a change in the balance of salt remaining in pond water has occurred.

Mr. Eliahu asked if Cargill Salt would phase out use of bittern ponds.

Mr. Moore said the salt pond restoration project does not include Cargill Salt's bittern ponds. However, he said the firm has indicated that a bittern pond might be moved from the Redwood City area to Newark.

Mr. Moore said the Long Term Restoration Plan developed by the State Coastal Conservancy would undergo a scientific review process.

Mr. Wolfe said San Francisco Bay Conservation and Development Commission would issue a permit to U.S. FWS and CDFG in the salt pond restoration project.

Mr. Moore said the U.S. Army Corps of Engineers also would issue permits for fill and excavation work done in conjunction with pond restoration.

#### Adjournment

The Board meeting was adjourned at approximately 12:08 p.m.