

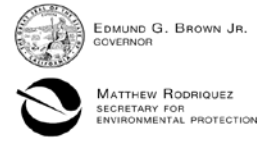
STATE OF CALIFORNIA

**REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

MEETING DATE: March 14, 2018

ITEM: **3**

SUBJECT: **MINUTES OF THE FEBRUARY 14, 2018 BOARD MEETING**



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

February 14, 2018 Board Meeting
ADOPTED March 14, 2018

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 (415) 457-4417.

Item 1 – Roll Call and Introductions

Meeting called to order at 9:06 a.m. in the Elihu M. Harris Building, First Floor Auditorium.

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Status</u>
Chair Terry Young		QUORUM
Vice-Chair James McGrath		
Cecilia Ogbu		
Newsha Ajami		
William Kissinger		
Steve Lefkovits		
Jayne Battey		

Senior Engineer Dale Bowyer introduced Zach Rokeach who is joining the Watershed Division as a Staff Engineer.

Senior Engineer Brian Thompson introduced Julia Beals who is joining the NPDES/Enforcement Division as a Scientific Aid.

Item 2 – Public Forum

David Lewis of Save The Bay commented that Caltrans is failing to comply with its requirements under the Clean Water Act because there is trash along its roadways. He said the Board issued a Notice of Violation to Caltrans fourteen months ago and has not followed up; once trash gets into the storm drain it becomes the cities’ responsibility and the cities have to reduce the trash load to comply with their requirements under the Municipal Regional Stormwater Permit. This is a visible problem that is affecting the Board’s credibility because solutions are known; trash capture devices can address the problem. He concluded that the case is clear, and Save the Bay stands ready to help the Board take enforcement action to solve this problem affecting the Bay and all Bay Area cities.

Allison Chan of Save the Bay said they look forward to a robust discussion next month about the Municipal Regional Stormwater Permit. This is a preview of what they will say at that

workshop. They urged the Board to require detailed remediation plans with identified funding sources to insure that permittees who are not meeting trash reduction requirements catch up.

Item 3 – Minutes of the January 10, 2018 Board Meeting

Executive Officer Bruce Wolfe recommended adoption of the Minutes from the January 10, 2018, Board Meeting.

Chair Young asked if all were in favor of adoption of the Minutes – all Ayes. Chair Young then asked if anyone was opposed - none opposed.

ITEM ADOPTED

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

Board Member Battey reported a meeting with Supervisor Dave Pine of San Mateo County, and some of his staff and most recently some of Supervisor Horsley’s staff as well. She said she learned that many people are doing great work regarding sea level rise.

Vice Chair McGrath reported that he met with David Lewis of Save the Bay yesterday who made him aware that Save the Bay is disappointed with trash compliance. Chair Young said she and Vice Chair McGrath are the point Board members assigned to trash issues. She reported that they met with Board staff on January 23, 2018, to discuss the status of the municipal stormwater permittees’ compliance with trash reduction requirements and requested a presentation at a future Board meeting about that and Caltrans permit compliance at the same time. She reported that she also met with Save the Bay staff prior to this meeting. Board Member Kissinger suggested that the Board send the letter from David Lewis of Save the Bay to Caltrans and ask Caltrans to come to the Board meeting to discuss their compliance with the Board.

Chair Young said she discussed the status of the winery order with Board staff on January 23, 2018. Subsequently, she met with Felicia Marcus, State Water Board Chair, and will be meeting with other Board chairs who have vineyards and wineries in their regions. Also, she has been reviewing the budget and acknowledges that there are no new resources for our Region for fiscal year 2018-19. Mr. Wolfe commented that we are starting the process now of seeking new resources for fiscal year 2019-20.

Mr. Wolfe gave an overview of this month’s Executive Officer’s Report. He specifically pointed out the data visualization project to identify PCBs hot spots in the Bay and the complaint system description, noting the recent complaint forwarded by Board Member Battey. He reported that he met with Santa Clara Valley Water District managers and staff, along with several Board managers, as reestablishment of on-going coordination meetings and understanding of their projects. The group visited the following projects/sites: a short-term flood protection project in the neighborhood where Coyote Creek flooded last year; an area where non-native vegetation was removed and resulted in eliminating a homeless encampment; and Anderson Dam. Regarding Anderson Dam, Board staff heard about the seismic upgrade project and were able to let District staff know that our staff has experience

with permitting of dam retrofitting and can assist. Mr. Wolfe also provided an update on Measure AA. Money is coming in. The Governing Board of the San Francisco Bay Restoration Authority put out a request for proposals and received 22 proposals from public agencies and one private entity. The Restoration Authority will determine what projects to fund for the first round given the total asks are greater than the funds and based on a mix of nexus criteria specified by the enabling legislation. Mr. Wolfe also mentioned that the Ross Valley Sanitary District, the San Rafael Sanitation District, and the Southern California Alliance of POTWs submitted a petition to the Central Marin Sanitation District's NPDES permit adopted by the Board at the January meeting.

Board Member Battey asked who was at the meeting with the Santa Clara Valley Water District. Mr. Wolfe said Board Member Linda Lezotte greeted us and Melanie Richardson, Watershed Division Manager, attended. Chair Young said that she and Board Member Battey will reach out to District Board members to follow up with commitments to meet Board-to-Board.

Board Member Ajami said that she and Mr. Wolfe are part of a de facto steering committee for workshops on wastewater reuse presented by the California Water Environment Association. The first workshop, Bay Area Regional Partnerships for Sustainable Water: Part 1 Potable Reuse, will be on March 9 and will focus on potable reuse of treated wastewater. They are working on getting elected officials to attend.

Chair Young gave a shout out to staff on the progress of the Vineyard Permit, specifically that four organizations have been approved to serve as third parties to facilitate vineyard operators' implementation of permit requirements.

Uncontested Items

Item 5A – City of Pinole, Pinole-Hercules Water Pollution Control Plant and Wastewater Collection System, Pinole, Contra Costa County – Reissuance of NPDES Permit

Item 5B – Silicon Valley Clean Water, Wastewater Treatment Plant and Wastewater Collection System, Redwood City, San Mateo County – Reissuance of NPDES Permit

Item 5C – Dow Chemical Company, Pittsburg Facility, Pittsburg, Contra Costa County – Update of Waste Discharge Requirements and Rescission of Order No. R2-2002-0007

Item 5D – California Coastal Conservancy, Phase 1 of the Bel Marin Keys Unit V Restoration Project, Marin County – Adoption of Waste Discharge Requirements and Water Quality Certification

Item 5E – Cleanup Programs – Status Report including Case Closures

Mr. Wolfe recommended adoption of items 5A through 5D, noting that Item 5E did not require action. Board Member Ajami moved approval of all items. Vice Chair McGrath seconded the motion.

Vice Chair McGrath asked about the increase in volume of per capita overflows relative to Item 5B, Silicon Valley Clean Water's NPDES Permit reissuance, acknowledging that this is not a violation of the permit, nor is affecting water quality, but wondered why the volume of discharge appeared to have increased. Monte Hamamoto of Silicon Valley Clean Water said the flow per capita for their cities is very low, and they have improved their collection system force main. He also said they record and report everything, including many small leaks but have not had any large or enforceable spills or leaks. They are challenged by many users in their service area who come to work but do not live there so they have to deal with flow increases during the day even though they are built out.

Board Member Kissinger asked about Item 5D, the Bel Marin Keys project, and how it fits into the Hamilton Wetlands Restoration Project, specifically how this land came under jurisdiction of the State Lands Commission. Mr. Wolfe explained that this area was intended originally to be developed for residential use, but the developer realized that the regulatory would not permit that use so sold the property to the State. The original goal was to join the Bel Marin Keys restoration together with Hamilton project, but the Hamilton project was able to move forward and take dredge material from the Port of Oakland. The Novato Sanitary District's treated wastewater effluent pipeline is located in between Bel Marin Keys restoration land and Hamilton Wetlands Restoration land, so the levee cannot be breached right now. The wetland parcels can be reconnected in the future per plans to move the effluent pipeline.

Board Member Ogbu said she appreciated Figure 2 in Item 5E, the Cleanup Programs status report that listed the number of cases relative to the universe of all the projects. This was helpful and responsive to the Board members' previously expressed interest in having more context for understanding what staff is working on or prioritizing. Mr. Wolfe said we would inherit more cases as the local programs wind down, including Solano County and Sonoma County, so this will keep our workload up. He expressed confidence that our staff will be able to manage these as well as the existing workload. Vice Chair McGrath said he has been following the Treasure Island cleanup and sees that good reuse projects help move cleanup along. He suggested that we give credit to local agencies who work to promote reuse projects.

Chair Young said the description of the abandoned mine project in Item 5E is a very good example of the information that the Board has asked for to explain work priorities. She asked if we are the only region working with State Board staff and Department of Toxics Substances Control on the Vapor Intrusion Guidance. Toxics Division Chief Stephen Hill said that we are the main region helping, largely because of the level and extent of redevelopment in our region, but the Los Angeles Water Board is also involved.

Mr. Wolfe mentioned that the Dow facility permit in Item 5C includes requirements to evaluate and report the level of protection from sea level rise to insure no water quality impacts occur from waste management and control authorized in the permit.

Board Member Ajami reiterated that stakeholders do not know that our agency is proactive in protecting water quality from sea level rise. We need to get the message out better. Vice Chair McGrath said we can thank the environmental justice communities for keeping this alive and expecting the Board to address potential water quality impacts of sea level rise.

Ayes: Young, McGrath, Ogbu, Ajami, Lefkovits, Battey, Kissinger

Nos: None

ITEM ADOPTED

Waste Discharge Requirements (WDRs)

Item 6A – Construction and Maintenance of Overwater Structures in San Francisco Bay – Adoption of Initial Study and Mitigated Negative Declaration for General WDRs and Water Quality Certification

Mr. Wolfe introduced the item. He pointed out that this is a two-part item. As lead agency under CEQA for permitting these activities, the Board has to first certify the environmental document that considers the environmental impacts of the proposed activities. He recommended that the Board take up Item 6A first.

Environmental Scientist Fred Hetzel made the staff presentation covering both items 6A and 6B. Board Member Ajami asked what we did with these types of projects before. Board Member Battey asked how much disagreement there was between the Board and the State Lands Commission noting Board staff's disagreement with most of the comments submitted by State Lands. Senior Environmental Scientist Xavier Fernandez responded that he spoke with State Lands Commission staff, and they were comfortable with our disagreement on the points but wanted to be on record that they are a permitting entity for many of these projects. Board Member Battey asked if staff memorialized that they held further discussions with the State Lands Commission and how the State Lands Commission responded. Mr. Wolfe said that State Lands Commission often cannot enforce their own agreements so prefer to have coordination with us to ensure that we have permitting and enforcement authority.

Item 6B – Construction and Maintenance of Overwater Structures in San Francisco Bay – Adoption of General Waste Discharge Requirements and Water Quality Certification

Board Member Kissinger asked if we have previously used the option for no additional action after a party enrolls for general permit coverage and how it works. Mr. Wolfe said yes, we do it for streamlining permitting, like enrollment in the industrial or construction stormwater general permits. Mr. Kissinger asked how staff would approach checking and insuring that those who should not be covered by the permit are notified. Mr. Wolfe said we are trying to strike a balance between facilitating projects moving forward and retaining opportunities to require compliance and enforcement if necessary. Mr. Kissinger expressed concern about the

burden on a party to enroll if they are exercising an abundance of caution and then having to carry the obligation to file a notice of completion even if that party never needed permit coverage. Mr. Wolfe acknowledged that this provides a challenge. We will conduct outreach and respond to individual questions about who needs permit coverage and provide an off-ramp to those that do not need permit coverage. Mr. Fernandez replied that we expect to continue trouble-shooting with project proponents to provide clarity to those who do not need permit coverage and to help guide projects to be implemented with beneficial, least environmentally-impacting approaches so those projects can be minimally regulated. Board Member Ajami asked if there is a way to set up a streamlined application online to capture locations and types of projects so we can view and consider data more easily. Vice Chair McGrath commented that this permit approach provides the best coordination amongst regulatory agencies and on behalf of streamlining for permittees.

Mr. Wolfe recommended adoption of Item 6A. Vice Chair McGrath moved approval of the item, and Board Member Kissinger seconded it.

Ayes: Young, McGrath, Ogbu, Ajami, Lefkovits, Battey, Kissinger

Nos: None

ITEM ADOPTED

Mr. Wolfe recommended adoption of Item 6B. Board Member Ajami moved approval of the item, and Board Member Ogbu seconded it.

Ayes: Young, McGrath, Ogbu, Ajami, Lefkovits, Battey, Kissinger

Nos: None

ITEM ADOPTED

Other Business

Item 7A – Operational Landscape Units for San Francisco Bay – Presentation on Shoreline Resilience by Julie Beagle of the San Francisco Estuary Institute – Aquatic Science Center

Mr. Wolfe introduced the item. Planning Division Chief Naomi Feger introduced Environmental Scientist Julie Beagle of the San Francisco Estuary Institute (SFEI), who presented the item.

Board Member Ajami said she is glad SFEI is doing this because it provides multiple ecological benefits and social benefits, and it is important to engage stakeholders who are not traditionally part of these processes. Vice Chair McGrath said he missed Ms. Beagle's talk at the State of Estuary Conference and found the presentation very effective. Chair Young also commented that the presentation was excellent and acknowledged the challenge of packaging complex concepts and data into a simple, presentable form. She asked Ms. Feger to describe how we will use this information in our regular business. Ms. Feger said staff will use this information in conditioning water quality certification orders and hopes to see more permit applications where project applications are submitted as multi-benefit projects with resilience built-in. Mr. Wolfe said Foster City provides a concrete example in which the city previously

proposed to just raise the levees within city limits, which would likely have impacted adjacent cities' shorelines and sloughs, but now the City is revising the project. This Operational Landscapes Units project outcome should provide for advanced alternatives analyses and the ability to permit projects more efficiently if addressed with this science and framework. Ms. Feger said this allows us to look beyond the basic areas where projects will be built, look beyond project footprints, connect shoreline projects to uplands, and will encourage managed retreat where and when it is the best alternative.

Chair Young said she recommends conducting outreach on this project to the Bay Conservation and Development Commission, the Metropolitan Transit Commission, and the Corps of Engineers since this is a "science" project and not a regulatory approach. She asked about the next stage of funding. Ms. Feger said we proposed the next stage of the project for State Board contract funds. That funding is limited and we do not know yet how it will be distributed in the future, but the Operational Landscape Units Project should be in line for next year's funding. Chair Young requested staff to keep her and Vice Chair McGrath informed of efforts to find funding as this is so important and exactly what is needed.

Board Member Ajami said that the Board or SFEI should do outreach extensively as this is a practical tool about what to do, and it does not just call out the need to do something about climate change. Board Member Kissinger said he lives in Mill Valley where roads flood regularly, and this work can compel solutions. Vice Chair McGrath said we may have to change the rules for the Resilient-By-Design. He also commented that there is a gateway project at the base of the Bay Bridge that was designed without sea level rise in mind so it needs adaptation. Chair Young said Ms. Feger should track Board member involvement with other agencies for example, Vice Chair McGrath for Bay Conservation and Development Corporation, Board Member Kissinger for the Association of Bay Area Governments, and Board Member Battey for foundations. She said Ms. Feger is authorized to bother these Board members about their outreach and seeking funding for next steps.

Board Member Lefkovits asked if anyone has offered a framework for coordinated leadership and multi-agency involvement, along with the science. Ms. Beagle said they are proposing a Joint Powers Authority for each Operational Landscape Unit. Once they finish the project, they are proposing to coordinate stakeholders in each Operational Landscape Unit and try to come up with institutional structures for implementation and a vision for that area. Board Member Battey said this is great work, and she asked to hear what Ms. Beagle thought are the two or three top challenges for moving conversations from science to action and how the Board can help with those challenges. Board Member Battey also said that the Coastal Conservancy is doing work on the Oceanside; San Mateo County is getting thinner, so she wondered if San Mateo County is coordinating its work on the bay side. Someone needs to emphasize managed retreat as houses are falling in the ocean and no one is talking about it. She asked for a copy of the presentation, and Ms. Feger said she would circulate it. Ms. Beagle said the top two challenges are money for planning and coordination between jurisdictions. Each jurisdiction has a narrow focus on shorter-term needs like flood recovery and protection.

Mr. Wolfe stated that another aspect of managed retreat is to push on project proponents to move shoreline resiliency projects farther inland from proposed placement versus building horizontal levees out into the Bay; we also want to promote these approaches in lieu of creating impacts that then need mitigating. Science and policy folks want to keep discussing but do not know who in the State is in a lead role. Board Member Ajami commented that everyone is focused on greenhouse gas reduction as a climate change response. Vice Chair McGrath said Zach Wasserman was appointed to BCDC by the Governor to get Climate Adaptation and Resiliency laws, and State Senator Nancy Skinner works on climate change. Board Member Battey asked if we can be the convener for coordination, since we are a board for a regional agency that encompasses the entire bay. Ms. Toms said the technical and advisory teams for this project are coordinating with those developing green engineering standards for the coast. Ms. Beagle said they are looking at transferring technology from this project to the oceanside and other estuaries on the west coast. This was an information item and no action was taken.

Item 7B – Letter of Support for State Water Resources Control Board Resolution to Allow Supplemental Environmental Projects to Fund Regional Monitoring Program Projects – Proposed Letter of Support

NPDES/Enforcement Division Chief Bill Johnson presented background and context for this item. He explained the requirement in the new State Board Enforcement Policy that requires the State Board to approve if any Regional Water Board wishes to direct some Supplemental Environmental Project funding to any specific organization, in this case, monitoring projects undertaken by the Regional Monitoring Program.

Board Member Battey wanted to make sure that this does not prevent dischargers from doing Supplemental Environmental Projects that do other things beyond what the Regional Monitoring Program does. She asked how an organization gets on the list of entities that have projects for SEPs. Mr. Johnson said she could send the information to him. Assistant Executive Officer Thomas Mumley said the new policy has a requirement for more education.

Craig Johns, representing the Partnership for Sound Science in Environmental Policy, commented that he supports this whole-heartedly and wants to know when it will be before the State Board so he can go to the State Board meeting and support it. He said he likes keeping the money in the region as much as possible. He advised the Board that staff at the State Board have become more interested recently in keeping more money in the Cleanup and Abatement Account in Sacramento, so it would be helpful for the Board members to advocate in favor of the Board's request to allow Supplemental Environmental Projects to fund projects undertaken by the Regional Monitoring Program.

Chair Young said she sees agreement amongst Board members and asked if she took a voice vote would she get everyone's hands up. She then stated that she would like to have the letter say this is proposal is unanimously supported by all Board members and have the Executive Officer and Board Chair both sign the letter. Board members agreed.

Items 9 through 11 - The Board did not hold any closed sessions this month.

Item 12 - Adjournment

Meeting adjourned at 12:11 p.m. until the next Board Meeting – March 14, 2018