



Executive Board Meeting Minutes

Thursday, February 28, 2013, 9:00 a.m. – 12:00 p.m.

EBMUD Treatment Plant Lab Library

2020 Wake Avenue, Oakland, CA

ROLL CALL AND INTRODUCTIONS

Executive Board Representatives: Ben Horenstein, Chair (East Bay Municipal Utility District); Laura Pagano, Vice Chair (San Francisco Public Utilities Commission); Curt Swanson (Central Contra Costa Sanitary District); Mike Connor (East Bay Dischargers Authority); Jim Ervin (City of San Jose).

Other Attendees: Tim Potter (Central Contra Costa Sanitary District); Amanda Roa (Delta Diablo Sanitation District); Dan Stevenson (Sunnyvale); Denise Conners (LWA); Tom Hall (EOA); Monica Oakley (RMC); Holly Kennedy (HDR); Lorien Fono (Patricia McGovern Engineers); Jim Kelly (J.M. Kelly Engineering); Dave Williams (BACWA); Alexandra Gunnell (BACWA).

PUBLIC COMMENT

There were no public comments.

CONSIDERATION TO TAKE AGENDA ITEMS OUT OF ORDER

None.

CONSENT CALENDAR

Item 3, Resolution Honoring James M. Kelly, was pulled from the Consent Calendar for discussion. It was noted that this action was just a formal Executive Board approval of the resolution that was presented to Jim at the BACWA Annual Meeting on January 24, 2013. Each of the Board members expressed their appreciation for Jim Kelly's service to BACWA and contributions to the wastewater community.

Agenda items 1 – 3 were approved in a motion made by Laura Pagano and seconded by Mike Connor. The motion carried unanimously.

1. January 3, 2013 BACWA Executive Board Meeting Minutes
2. November 2012 and December 2012 Treasurer's Report
3. Resolution Honoring James M. Kelly; File 12,916.

REPORTS

Committee Reports were reviewed under **agenda item 4**.

BAPPG's 2012 Annual Summary was included in the Executive Board meeting Handout Packet and contained a link to the most recent BAPPG Committee Meeting (2/6/2013). The Board suggested that the Committee may want to include information about how their efforts support permit compliance for member agencies. The Board also inquired about whether member violation data influenced the committee's planning and prioritization. It was noted that BAPPG has several regional initiatives that address permit compliance, though pollution prevention projects are typically designed to go beyond what is required, and stormwater issues are also taken into account when prioritizing annual projects. Amanda Roa, the BAPPG representative for BACWA Board meetings, explained that BAPPG priorities are determined each September. In addition to reporting

out for BAPPG at upcoming BACWA meetings, she will work to bring Board feedback to BAPPG in September 2013 during the prioritization process.

The Collection Systems Committee Report, included in the handout packet was reviewed by Dan Stevenson, Committee Chair, and Monica Oakley. They explained that Committee representatives are continuing to communicate their concerns to the State Water Resources Control Board (SWRCB) about revisions to the Sanitary Sewer Overflow Waste Discharge Requirements Monitoring and Reporting Program (SSO WDR MRP). Attendees also discussed the issue of SSO's and civil complaints. The Executive Director will work with the Regulatory Program Manager, the Collection Systems Committee, and CASA to investigate options for addressing this issue in upcoming discussions with the San Francisco Regional Water Quality Control Board staff (SF Bay Water Board).

The Permits Committee Report was included in the handout packet and reviewed by Committee Chair, Jim Ervin. Tim Potter will become Committee Chair after next month's meeting but a Vice Chair has yet to be named. Second quarter data reported in response to the Nutrients 13267 Letter has not been posted on SF Bay Water Board website yet, but Jim Ervin encouraged everyone to review it once it is available. Lorien Fono is reviewing chronic toxicity violations that have been reported over past two years. The Board requested that Lorien prepare a quarterly report to members listing permit violations. Her last report was based on information available on the SWRCB website and did not include an analysis or evaluation of the data.

The Recycled Water Committee written report was included in the handout packet.

Tim Potter reported that during the P3S conference, held on February 25 – 27, SWRCB representatives advised agencies that the State Board will be working with Regional Boards to review pretreatment enforcement efforts. Tim will contact member agencies to prepare them for possible implications.

Under **agenda item 5, Executive Board Reports**, members of the Board were given an opportunity to report out.

Ben Horenstein informed attendees that EBMUD recently hosted a tour of their facility for representatives from USEPA Region 9. During their visit, Region 9 reps discussed national and regional efforts regarding "Next Generation Compliance", utilizing technology for emissions monitoring, communication, reporting and regulatory compliance. They also expressed interest in asset management.

Curt Swanson and Dave Williams attended the CASA DC Conference, held on February 25 – 27. Conference topics included discussions about conflict of interest issues for Regional Board representatives pertaining to income restrictions and the possibility of utilizing recusing options to address these issues. Funding mechanisms for infrastructure projects, including Water Infrastructure Finance and Innovation Authority (WIFIA) and State Revolving Fund (SRF) programs, were also discussed. A third topic discussed at the conference was EPA's integrated planning

process for wastewater and stormwater, including concerns about how the approach would address enforcement issues and Clean Water Act requirements.

Curt Swanson and Tim Potter reported that CCCSD received ten bids for a recycled water project, partially financed by Prop 84 grant funds. They are continuing the nutrient studies required by their permit. It was also noted that they are involved in legal action concerning groundwater contamination from a dry cleaning facility in their service area.

Jim Ervin reported that San Jose has extended the comment period for their master plan, and the first major project RFO, for digester upgrade work, was issued on February 25th.

Mike Connor, of EBDA, informed attendees about an article published by the San Jose Mercury News on February 24th highlighting the Bay Institute's report on use of treated wastewater in wetlands restoration projects. He also noted that the Coastal Conservancy is looking for partnerships for these types of projects.

Laura Pagano reported that SFPUC will be hosting a tour of their new offices for Regional Board staff, and agreed to investigate hosting BACWA's next Board meeting at their new facility.

The Interim **Executive Director's January Report** for **agenda item 6** was included in the handout packet and reviewed by the former IED, Jim Kelly. Jim Kelly attended the January 31st SWAMP meeting along with SWFCA, Water Contractors and Region 5. Sacramento Regional indicated that they are interested in participating in funding nutrient investigations. Jim Kelly and Dave Williams will schedule a meeting with Sac Regional to continue to investigate how the two regional nutrient efforts may be linked. BACWA will need to decide if they will file an amicus brief on the Sac Regional litigation.

BACWA has re-filed the appeal for the Mercury/PCB Permit on the basis that the issues called out in the original appeal are still relevant. SF Bay Water Board staff was notified of this action on February 11th, and the permit was put into abeyance upon filing. The permit has a two year cycle, so BACWA will need to continue to examine these issues and determine whether to dismiss the appeal within the next two years. BACWA has now dismissed all other outstanding permit appeals.

The ED, Dave Williams gave verbal report to the Board at the February 22nd Special Meeting, and distributed action items from the 2/22 morning and afternoon sessions, as well as a summary of the 2013-14 Budget Planning discussion.

It was also noted that Jim Kelly and Dave Williams met with SF Bay Water Board staff to discuss possible nutrient load limits, and specifically discussed how numeric limits might be implemented in a watershed permit.

The **Regulatory Program Manager (RPM) Report** for **agenda item 7** was included in the handout packet and reviewed by the RPM. Lorien Fono noted that adoption of the Whole Effluent Toxicity Policy (WET) is expected this summer. Lorien will meet with Lila on March 13th to discuss proposed implementation of chronic toxicity requirements. Prior to that meeting Lorien will schedule a conference call for the workgroup. Work continues with Tom Mumley and Karin North on the Contaminants of Emerging Concern (CECs) management article for the Pulse. A draft has been circulated to the Board and feedback should be directed to Lorien. The State Board has put realignment efforts on hold. The Issue Summary Matrix, prepared by the RPM was distributed at

the Annual Members' Meeting on January 24th and posted to the BACWA website. Lorien and the ED will determine whether this document should be updated annually. West County's permit is up for renewal, and there is concern about their proposed ammonia limits. These items will be added to the agenda for discussion with the SF Bay Water Board at the upcoming Joint Meeting. The deadline for submitting comments is March 29th.

The following **Chair and Executive Director Authorized Actions** took place since the last regular monthly BACWA Executive Board meeting of January 3, 2013, and were included on the **agenda under item 8**. Supporting material was provided for informational purposes in the Handout Packet.

- a. Executive Director authorization of agreement with RMC Water & Environment for SSS WDR Monitoring and Reporting Program Revisions in an amount not to exceed \$4,999.00 to be reimbursed by CASA; File 12,892.
- b. Executive Director authorization of agreement with Adammer, LLC for BAPPG Baywise Website support in an amount not to exceed \$2,100.00 in FY2012-13; File 12,904.
- c. Executive Director authorization to increase contract amount with Downey Brand for Regulatory Legal Support by \$420.00 for a new not to exceed total of \$2,420.00; File 12,740.
- d. Executive Director authorization of agreement with Downey Brand for Regulatory Legal Support not to exceed \$4,999.00 in FY 2012-13; File 12,906.
- e. Chair authorization of agreement with James M. Kelly for Executive Director Transition Support not to exceed \$9,999.00 in FY 2012-13; File 12,905.
- f. Chair authorization of agreement with Larry Walker Associates for Nutrient Permit MOU Considerations support not to exceed \$9,999.00 in FY 2012-13; File 12,916.
- g. Executive Director authorization of agreement with InnerWorkings for BAPPG display graphics and production assistance not to exceed \$3,000.00 in FY 2012-13; File 12,915.

OTHER BUSINESS

Under **agenda item 9**, the **BACWA Board nominated and elected Mike Connor to be the new BACWA Chair**, *in a motion made by Laura Pagano and seconded by Ben Horenstein. The motion carried unanimously.* Laura Pagano will remain as Vice Chair. The Board expressed their appreciation to Ben Horenstein for all the work done during his term as Chair.

Under **agenda item 10** the BACWA Board **authorized establishing a Conflict of Interest Ad Hoc Committee**, *in a motion made by Ben Horenstein and seconded by Jim Ervin that carried unanimously.* Laura Pagano and Mike Connor volunteered to serve on the committee.

Board authorization to appoint new representatives **to the Aquatic Science Center Board** was considered under **agenda item 11**. The Board requested that Dave Williams remain as the BACWA representative through the end of his term, which would expire on December 31, 2013. Dave Williams notified the Board that the new governance structure of the ASC Board does not allow designation of alternates. It was noted that Kirsten Struve has expressed an interest in continuing her participation. Thus the ASC BACWA reps are Laura Pagano with Jim Ervin as her Alternate, Dave Williams with Kirsten Struve as his Alternate and Stan Dean from Stan Dean from Sac Regional.

Dave Williams and Mike Connor will discuss the issue of alternates with Kirsten and Rainer Hoenicke.

Under **agenda item 12**, the Board reviewed **Nutrients** discussion items. Dave Williams reviewed the Action Items from BACWA Workshop Afternoon Session of February 22, 2013.

- Laura Pagano noted that she will have SFPUC staff review the latest draft documents from Larry Walker Associates and provide feedback. Jim Kelly emphasized that a preamble might be helpful in whatever document is produced as a means of providing background to the regulatory model. A draft preamble will be created and circulated to the Board for feedback.
- Regarding outreach to Associate and Affiliate Members, the Board clarified that this would require a workshop, and that the plan would need to include efforts led by both the Board and Permits Committee.
- Jim Kelly will continue to work with Tom Grovhoug and Dave Williams to revise the draft Nutrient Watershed Permit Letter Agreement and circulated it to the Board for feedback.
- Dave Williams will revise the Governance Org Chart as requested at the February 22nd meeting.
- A Joint Meeting for the BACWA Board and SF Bay Water Board staff will be scheduled for mid-March. Prior to the meeting, the ED will discuss agenda items with Tom Mumley, and will review the revised Org Chart with Naomi Feger. Continued funding of nutrient studies will be included on the Joint meeting agenda, and Dave Williams will discuss this matter with David Senn.

Discussion **item 13, NPDES Permit Petition Dismissal update**, was previously covered under the Interim Executive Director Report.

For discussion, **item 14, Consider Joining Bioenergy Association of California**, the Board emphasized their desire to develop criteria to approve funding for sponsorships and collaboration opportunities and decided to decline participation at this time. They would like to receive updates about this initiative and may reconsider joining in the future.

Mike Connor provided an update on ReNUWIt efforts by reviewing the handout he provided in the Board packet, for **agenda item 15**. As under the previous discussion item the Board reiterated the need for a strategic and prioritized approach to sponsorship/collaboration funding. Dave Williams noted that these contributions would fall into two categories: those that were included in the approved fiscal year budget, and those requests that come up throughout the year that have not been included in the budget/workplan. Mike Connor and Ben Horenstein volunteered to serve as BACWA representatives to ReNUWIt for one year and will periodically (every six months) provide an update to the Board.

Under **agenda item 16** the Board discussed **Joint RWQCB/BACWA Meeting January 11th - Follow Up**. The Permits Committee will continue to discuss P2 requirements for the PCB Watershed permit with Lila Tang. Dave Williams will discuss planning for Pardee 2014 with Tom Mumley and determine whether an alternate venue, such as Orinda, should be considered. Jim Ervin will continue to investigate removing some data fields from the 13267 reporting requirements, and work with the Permits Committee to outline concerns about the cost efficiency of Nutrients 13267

requirements, for future discussions with SF Bay Water Board staff. The Board noted that this effort may be part of a Nutrients Workshop, and requested that planning for a Nutrients Workshop be added to the March 28th Executive Board meeting agenda for discussion.

For **agenda item 17, BACWA Annual Member Meeting - Follow Up**, the ED referred to the survey summary included in the packet and explained that the feedback would be used to plan future meetings.

Agenda item 18, Fiscal Year 2013-14 Budget Process/Planning was covered under the ED Report. The ED will send a letter to members by March 1st notifying them that Clean Bay Collaborative contributions will increase for 2013-14.

The next regular BACWA Board meeting is scheduled for, March 28, 2013. SFPUC has offered to host the meeting at their new offices located at 555 Golden Gate Avenue. Laura Pagano will investigate the option of providing a tour at 8:30 and scheduling the regular meeting from 9:30 a.m. – 12:00 p.m.

The meeting adjourned at 12:00 p.m.