

**Contra Costa County**  
**HAZARDOUS MATERIALS COMMISSION**

**Draft Minutes**  
March 26, 2015

**Members and Alternates Present:** Henry Clark, Lara DeLaney, Fred Glueck, Frank Gordon, Steve Linsley, Ralph Sattler, George Smith, Leslie Stewart, Audrey Albrecht (alternate), Ed Morales (alternate), Jack Bean (alternate)

**Absent:** Rick Alcaraz, Don Bristol, Don Tatzin, Jim Payne, Matt Buell (represented by alternate),

**Staff:** Michael Kent, Randy Sawyer

**Members of the Public:** Peter Dragovich, Martinez Environmental Group; Amy Wilson, Gary Gunderson, TRC

**1. Call to Order:** Chair Smith called the meeting to order at 4:03 p.m.

**Announcements and Introductions:**

Michael Kent announced:

- The State Refinery Safety Task Force is holding a public meeting to discuss the transportation of oil and the Community Warning System at the Crockett Community Center immediately following the Commission meeting tonight.
- The dates for the public meetings on pipeline safety that the Commission is co-sponsoring have been set for June 3 in Alamo and June 6 in Martinez. The locations have not yet been determined.
- PG&E will soon start transferring the contaminated soil they removed from their wastes ponds in Bay Point a couple of years ago to Keller Canyon landfill in Pittsburg. They plan to move about 400 truckloads over several months.
- The Commission meeting with Supervisor Gioia on March 17<sup>th</sup> went well, and he expressed his interest in the Commission's opinion on the safety regulations being proposed for the movement of crude by rail.
- The next CAER Safety Summit meeting is scheduled for June 4<sup>th</sup> at the Shell Clubhouse in Martinez.

Commissioner Smith announced that he got word that Shell is now moving forward with their Greenhouse Gas reduction project which had temporarily been put on hold because of the drop in the price of crude oil.

**2. Approval of the Minutes:**

The minutes of the February 26, 2015 meeting were moved by Commissioner Stewart, seconded by Commissioner DeLaney, and approved by a vote of 8-0-0. Commissioner Clark arrived at the meeting after the vote.

**3. Public Comments:** None

#### **4. Hazardous Materials Programs Report:**

Randy Sawyer, Hazardous Materials Program Director, reported:

- Next Tuesday the Board of Supervisors will consider the recommendations made by the National Chemical Safety Board in response to the August 6, 2012 Chevron fire. One of the recommendations, to require 3<sup>rd</sup> party safety culture audits is being reviewed by the joint County/Richmond Industrial Safety Ordinance ad hoc committee in April.
- Three congressmen recently held a roundtable meeting with Federal, State and local regulatory agencies and local elected officials to discuss safety issues around the shipment of crude oil by rail. They recommended that people should write to the Office of Management and Budget and the Department of Transportation with their concerns. Mr. Sawyer said that he had written a draft letter for the Board of Supervisors to consider. The congressmen also wanted input on the issue of reducing the vapor pressure of crude oil being shipped out of the Bakken region of North Dakota. They wanted to know if reducing it to 13.7 pounds was sufficient.
- He is still hiring staff for his program. They are interviewing people for an open Pollution Prevention Specialist next week, and have open Board exams for the Hazardous Materials specialist position. They are also still looking for qualified candidates for the open Accident Prevention Engineer position.
- He is continuing to work with the State Department of Industrial Relations on developing new Process Safety Management regulations for refineries to be consistent with the new California Accidental Release Program regulations.

#### **5. Operations Committee Report:**

Pharmaceutical collection - The legality of the Alameda County Pharmaceutical Collection Ordinance is still under appealed to the US Supreme Court by the pharmaceutical industry after the Federal Appeals Court upheld it earlier in 2014. There is no timeline for determining when they will decide to hear the case or not.

Dave Wyatt from the Central Contra Costa Sanitation District had preliminary discussions with the Office of the Sheriff about their interest in collecting controlled substances as well as other unused pharmaceuticals and transporting themselves to the incinerator in the Central Valley. They told him they currently only make this trip a couple of times a year to dispose of evidence, and so developing a full collection program would be a significant increase in labor costs. As a result, interest in developing a program did not appear to be high.

The committee discussed the pros and cons of encouraging law enforcement to set up collection bins versus waiting to see if the County might develop a producer responsibility ordinance similar to the Alameda Ordinance, and decided that some additional cost information would be helpful to the discussion. They therefore directed staff to develop a cost estimate for a law enforcement program.

Environmental Justice - The committee reviewed response letters from the Public Works, Agricultural, and Conservation and Develop Departments. Michael Kent let the committee know that he had met with the Health Services Director and the Public Health Director and they were

interested in talking to the Committee about how Environmental Justice concerns might be addressed through a Health in All Policies approach. The committee said they would be interested in hearing about this at their next meeting. The committee agreed they need to do more follow-up on this issue.

The committee also interviewed Peter Dragovich for the open Environmental Alternate seat, and recommended that he be considered for this seat.

## **6. Planning and Policy Development Committee Report:**

The committee continued to review information about the shipment of crude oil by rail, and discussed whether they should develop recommendations for the Board of Supervisors to consider, but no consensus was reached on whether they should do so.

The committee also received an update on the North Shoreline Revitalization effort. Commissioner Gordon brought up a concern he has about development in the City of Pittsburgh. He cited the case of Marine Express Terminal where City staff put requirements on them to accommodate more business than they were planning on doing, which resulted in the Planning Commission initially turning down the project before the City Council changed the project back to what the applicant wanted. He felt this case calls into question the City staff's commitment to the goals of the Northern Shoreline Revitalization effort of helping business get established in Pittsburgh.

## **7. Old Business:**

None

## **8. New Business:**

### **a) Consider recommendation from the Operations Committee to recommend Peter Dragovich for the open Environmental Alternate Seat.**

The Operations Committee interviewed Mr. Dragovich at their March 13, 2015 committee meeting and voted 4-0 to recommend that the full Commission forward his nomination to the Board of Supervisors. The Commission voted 8-0 to accept this recommendation.

### **b) Review the root-cause analysis of the December 18, 2014 Chevron flaring event**

The Commission reviewed the root-cause analysis prepared by Chevron that was included in the agenda packet. Commissioner Glueck asked Mr. Sawyer why the Hazardous Materials Program oversaw the completion of the root cause analysis since it was done in response to Bay Area Air Quality Management District regulations and not in response to the Richmond Industrial Safety Ordinance. Mr. Sawyer responded that Chevron asked them to oversee the completion of the root cause analysis because the highly visible nature of the event triggered great public concern and interest. Mr. Sawyer said he felt the analysis was properly prepared.

### **c) Presentation on Brownfield remediation funding**

Amy Wilson from TRC gave the presentation. (power point is attached). In general, she said that a lot has changed since the Commission heard from her firm several years ago. When the recession hit one of the major players in the field, AIG, went bankrupt, and this had a big impact. But also, firms that were engaging in Environmental Liability Transfer agreements just weren't doing a good job of accounting for the risks or estimating costs, and so this approach simply fell out of favor. Now they just use liability insurance for unknown problems. They have developed solutions that give themselves risk/reward incentives so that the client knows they have skin in the game. She also talked about different funding opportunities available to enact cleanups.

Commissioner Glueck asked if the process would go smoother if there weren't law suits allowed by the public. Commissioner Morales commented that this is why site developers look to partner with jurisdictions, because it reduces the chances of law suits. Mr. Gundersen gave several examples of how they worked with interested third parties to address their concerns during the cleanup process to avoid law suits, so the lesson is cooperation is the key.

Michael Kent asked who, in their experience, is the best party to work with to clean up a site – the buyer or the seller. Ms. Wilson said that in her opinion, the best party to work with is the one that is the most motivated to get the site clean-up in that particular instance. In general, right now the market isn't as strong as it has been in the past, so right now buyers aren't as motivated to take on liability.

Commissioner Smith asked if local development not profits organizations have been successful at getting grants to get sites cleaned up. Mr. Gundersen gave several examples of where they have worked with non-profits to get grants to achieve site cleanups. In general he said there are a wide range of grants available from the federal government. The only drawback is that they don't really address future liability or indemnification issues. These are addressed by DTSC.

Michael Kent asked if they had any experience with site cleanups through use of the Polanco Act by local jurisdictions, but they had not. Commissioner Gordon mentioned that this was how the Pittsburgh Unified School District got a gas station near a school site cleaned up.

### **9. Reports From Commissioners On Matters of Commission Interest:**

Commissioner Clark reported that the California Environmental Justice Coalition has meet with the new Director of DTSC, Barbara Lee, to discuss potential reforms at the agency. One of the issues they talked about was the Kettleman City hazardous waste landfill application to expand. Even though the community was disproportionately impacted, the permit was issued due to overriding considerations. As a result, a Title VI Civil Rights Act complaint has been filed.

**10. Plan Next Agenda:** The next agenda was not discussed

**11. Adjournment:** The meeting adjourned at 5:45 p.m.