

Contra Costa County
HAZARDOUS MATERIALS COMMISSION

Draft Minutes
July 22, 2021

Members and Alternates Present: Jonathan Bash, Marielle Boortz, Ken Carlson, Audrey Comeaux, Fred Glueck, Sara Gurdian, Mark Hughes, Steve Linsley, Gabe Quinto, Tim Bancroft (alternate), Madeline Kronenberg (alternate), Ron Chinn (alternate), Edi Bursan (alternate),
Absent: Rick Alcaraz, Don Bristol, Jim Payne, Mark Ross (represented by alternate), George Smith (represented by alternate)

Staff: Michael Kent; Matt Kaufmann, Steve Morioka, Adam Springer, Devra Lewis, Karine Abramians, Nick Umemoto, Hazardous Materials Program; Ryan Graham, Contra Costa Fire District

Members of the Public: Jan Warren, Ed Tanenbam, Patti Bartlebaugh, Nancy Rieser, Lisa Martell, Miguel Riso, Cho Kai, David Lacount, Charlie Davidson, Maureen Brennan

1. Call to Order: Commissioner Glueck called the meeting to order at 4:03 p.m.

Announcements and Introductions:

Michael Kent announced:

- He will be giving an update to the Transportation, Water and Infrastructure committee of the Board of Supervisors on August 9, 2021 on the Commission's efforts around developing specific recommendations concerning sea level rise.
- The Board of Supervisors Sustainability Committee will be meeting at 1:00 on July 26th via zoom.

2. Approval of the Minutes:

A motion was made by Commissioner Carlson and seconded by Commissioner Hughes to approve the minutes for the June 24, 2021 meeting with corrections. The motion passed 8-0 with Commissioners Glueck, Chinn, and Bursan abstaining.

3. Public Comments: None

4. Hazardous Materials Program Director Report

Matt Kaufmann, Hazardous Materials Programs Director, reported:

- Chevron Refinery Oil Spill (February 9, 2021) - At the direction of Supervisors Gioia and Glover at the Industrial Safety Ordinance Ad Hoc Committee, the County will hire a third-party incident investigator to review the incident investigation conducted by Chevron Richmond Refinery for this incident. Should any gaps or questions arise from this review of Chevron's investigation that cannot be resolved, the County can always

conduct its own incident investigation. At the February 2021 HMC Meeting, the Commission voted unanimously to nominate Fred Glueck to the Oversight Committee. The Oversight Committee issued a Request for Proposal to review Chevron's incident investigation. Four (4) bids were received from very qualified contractors. Two (2) of the contracts were interviewed this week. A decision will be made shortly.

- NuStar Tank Fire Incident (October 15, 2019) - As directed by Board of Supervisors Gioia and Glover at the Industrial Safety Ordinance Ad Hoc Committee Meeting, our division is working with the Department of Conservation and Development (Planning/Building Department) and Contra Costa County Fire Protection District to examine the regulatory framework at storage tank facilities. Each agency will be sending subject matter experts to discuss potential changes moving forward – both from the policy perspective (which may include recommending changes to the ISO) and operations side (better coordination between agencies, etc.).
- Chevron Richmond Refinery Fire/Flaring Incident (May 14, 2021) - The County was notified through the Community Warning System (Level 1 Incident) of a flaring incident by the Chevron Richmond Refinery at 5:42 AM on the morning of May 14, 2021. Chevron submitted a 30-day report today (July 22nd). As noted on Chevron's 30-day report, the incident is still under investigation. Chevron is required to submit 30-day reports until the investigation is complete.
- Chevron Richmond Refinery Flaring Incident (May 27, 2021) - At approximately 5:45 PM on May 27th, the refinery experienced a loss of all boilers that were in operation at the time which resulted in a significant loss of steam production throughout the refinery. This resulted in a process plant flaring incident. Chevron submitted a 30-day report identifying the root causes found from their incident investigation.
- Discovery Bay Marina Gasoline Release (June 28, 2021) - At about 8:25 a.m., CCHSHMP was on site for a scheduled routine Hazardous Materials Programs inspection. Upon arrival, the Harbor Master had been contacted by staff that the premium gasoline was dispensing slowly with minimal gasoline being dispensed. It was determined that the piping from the tank to the dispenser was leaking directly into the water. The Harbor Master closed the pipelines and staff began deployed boom and absorbent materials. It was estimated that about 366 gallons of gasoline was released to the water. A contractor was on site to further cleanup and remove all gasoline contaminated debris. There were wildlife impacts as a result of the release. Department of Fish and Wildlife was the lead agency for the response.
- They are hiring one Accidental Release Prevention Engineer. The position application period was extended through July 23rd (today). Please feel free to spread the word regarding this recruitment near and far. The application period was extended to allow for posting on the American Institute of Chemical Engineers (AIChE) website.
- They have requested freeze approval to fill two opens Hazmat I positions. They are working with their Personnel Division to open this classification for applications.
- As he reported to the commission at previous meetings, they are going through a Certified Unified Program Agency evaluation by the California Environmental Protection Agency over the next ten (10) months or so. They have uploaded all requested documents to CalEPA as of Tuesday, July 20th. CalEPA will be reviewing these documents and making inquiries to their agency as necessary to complete the evaluation. They typically participate in so called "oversight inspections" conducted by the State Water Resource

Control Board (SWRCB) – Underground Storage Tank Program – and the Department of Toxic Substances Control – Hazardous Waste Generator Program. A final exit interview is scheduled with their agency in February 2022. He will keep the commission updated on the status and findings from this evaluation.

- They met with one refinery that provided us additional comments on the proposed HazMat Notification Policy. As a result of that meeting, they made some minor changes to the document – primarily with respect to the definition of “flaring”. They will be presenting the revised document to the Community Awareness and Emergency Response Notification Committee meeting next week. If the County does not receive any additional major comments, the document will go before the Board of Supervisors (most likely the consent calendar) for approval. They are proposing that the new policy goes into effect sixty (60) days after approval – this will allow them to advise facilities of the changes, allow facilities to train staff, and make system updates to accommodate the three new levels (vs. four that currently exist).

5. Operations Committee Report:

The Operations Committee met on July 9, 2021. Commissioner Glueck reported that the committee continued to work on language for a survey to find out how businesses view the issue of Sea Level Rise, and which businesses to survey. The committee also reviewed upcoming open seats on the Commission including the Labor seat, the Industrial Association seat and the Environmental Engineer seat. The committee also reviewed the flyer for the open Commission intern positions. Finally, the committee continued to discuss ways to follow-up the recommendations of the two previous interns to look into the promotion of lithium-ion battery recycling and pipeline safety around schools.

6. Planning and Policy Development Committee Report:

The Planning and Policy committee met on July 21, 2021. The committee reviewed the proposed language of the survey for the business community concerning sea level rise issues and reviewed the draft DTSC regulatory framework addressing SB 673 requirements. The Committee came to consensus that the Commission should wait to address this issue in detail until the draft regulatory language comes out next year.

7. Old Business:

a) Discuss the survey for Businesses about Sea Level Rise

The Commission began this discussion by looking at the draft language for the survey that was developed by both committees, and the ART maps showing the number of business impacted at various amounts of sea level rise.

Commissioner Glueck said he felt that businesses won't be interested in planning for something that won't happen until 2100. But if the government is going to be taking action on sea level rise based on these impacts or impacts happening sooner, then businesses would be interested in this.

Commissioner Hughes said he appreciates this perspective, but wants to make this survey address real concerns. He said he didn't want the survey to be about impacts that will happen in 2100 because businesses aren't thinking about this and won't be around by then and so won't take the survey. Commissioner Chinn agreed that this is a challenge, and so recommend leaving the survey broad and open ended so it doesn't focus on the 2100 end point.

Commissioner Boortz said she agreed with casting a wide net, and pointed out that the impacts of 100 year floods is going to be increased due to sea level rise. Commissioner Quinto agreed with that and said he wants to make sure businesses don't build in impacted areas, especially in 100 year flood plains, especially since he felt we really don't know how bad future impacts are going to be.

Commissioner Linsely said that if the Commission limits the businesses sent the survey to only 20 or 30 and only 20% are returned then this number of responses may be too low to be meaningful. The more businesses that are surveyed, the more that will be returned.

Commissioner Glueck added that if a representative number of surveys are returned, the information they contain will help the Board to decide on next steps, which could include surveying even more businesses.

Commissioner Chinn suggested the survey include businesses impacted by SLR by 2100 and say they are potentially impacted by climate change, flooding and sea level rise to get a better response. Commissioner Hughes thought using the phrase climate change would get less of a response and adding the issue of flooding in would make it less interesting.

Commissioner Bursan made a motion to use the language in the introduction that the Commission was concerned about the 24 inches of SLR predicted by 2050, but send all 2200 businesses in the Hazmat data base in the survey. The motion did not receive a second.

Commissioner Hughes then made a motion, seconded by Commissioner Quinto to amend the survey narrative with the following language, and to send the survey to businesses potentially impacted by SLR by 2100.

Based on State guidelines that predict a 24 inches of sea level rise by 2050, the Commission is concerned about the potential impact of future sea level rise caused by climate change on the transportation, storage and use of hazardous materials in areas of the County near the shoreline susceptible to flooding.

The Commission is conducting this survey to better understand the interests and concerns of others so that they can better advise the Board of Supervisors about what actions to take to address the impacts of sea level rise. The Commission is sending this survey to businesses that

use, store, generate or transport hazardous materials or hazardous waste, and are predicted to be in an area impacted by sea level rise. Some of these businesses will be impacted at a lower levels of sea level rise at earlier dates. The Commission chose to include this set of businesses in this survey to cast the widest net possible for understanding the actions and planning efforts of businesses possibly expected to be impacted by sea level rise.

The motion carried 10 – 0.

The Commission also agreed to leave off Question concerning providing contact information.

8. New Business:

a) Presentation on Nustar fire investigation report

Captain Ryan Graham of the Contra Costa Fire District's Fire Investigation Unit made the presentation. He began by saying that the Crockett-Carquinez Fire Department, who was the lead agency for the response to the October 15, 2019 NuStar tank fire, asked his department to take the lead on the investigation into the cause of the fire because his is a full-time investigation unit, and the Crockett-Carquinez Fire Department did not have the capacity to conduct an investigation of this size. He said that in addition to the Fire Departments, the investigation included Contra Costa Hazardous Materials Department, CalOHSAs, Federal ATF and the Bay Area Air Quality Management District. They had an agreement with NuStar that they would discuss and agree with them before hand on any actions taken.

Captain Graham then reviewed the findings of the report which can be found at:
<https://cchealth.org/hazmat/pdf/nustar-incident-2019-1015-final-report.pdf>

He then opened the floor for questions.

Commissioner Glueck asked who did the API tank inspection done several years before the fire. Captain Graham said it was done by an independent consultant.

Lisa Martell asked in the remaining tanks at the facility had been grounded. Captain Graham said that the remaining tanks had been grounded and the air space above the product had been filled with inert gas. Ms. Martell then asked if the tanks that exploded had been built too close to each other, and if this contributed to the second tank exploding. Captain Graham said that the tanks were not placed too close to each other.

Commissioner Chinn asked if the American Petroleum Institute was interested in the findings of the investigation since they issue standards for tank safety Captain Graham said that his Department has not reached out to API. Commissioner Chinn also asked if they measured the explosive limits in the tanks. Captain Graham said they do not. Commissioner Bancroft said that in general, for fire safety reasons electronic devices are not put inside tanks, and this includes monitors for explosive limits.

Captain Graham said there are other tanks like this in Contra Costa County, which is why the Board of Supervisors asked his agency to work with the Hazardous Materials Program and the Department of Conservation and Development to examine the regulatory framework at storage tank facilities. Commissioner Chinn noted that there are two types of tanks, those with fixed roofs, like these tanks, and those with floating roofs, and the industry is tending towards using tanks with floating roofs to reduce fire risk. Commissioner Bancroft noted that fixed roof tanks are designed to have the roofs pop off if there is an explosion rather than let the tank explode.

Charles Davidson asked if they looked at the possibility of a static charge being built up in the tank causing the explosion due to the earthquake the day before. Captain Graham said they did consider this possibility and acknowledge that earthquakes can cause a static charge to build up in a tank, but they have no way of knowing if the explosion was caused by a static charge or a spark, or the origin of either.

Maureen Brennan asked if the County is intending to properly permit the tanks now and why they are allowed to operate without permits. Captain Graham said that while their investigation could not find any permits for these tanks, that does not necessarily mean none exist. But he is not able to answer her questions about permitting. Ed Tanenbam relayed the story Howard Adams had told people that when the tanks were being built Howard had asked the County about what was being done, and was told that until the facility submitted a permit they didn't get involved.

Jan Warren asked if there is a date scheduled for the report back to the Board of Supervisors Ad Hoc committee on the Industrial Safety Ordinance about the regulatory framework for storage tanks facilities. Matt Kaufmann said there is no date set yet, and it will take 6 – 8 months to complete their work.

Captain Graham was asked if Cal OSHA was considering penalties against NuStar. He said he didn't know. Matt Kaufmann added that the Hazardous Materials Program was still evaluating this issue.

Nancy Rieser asked if the Crockett-Carquinez Fire Department found any of the problems identified in the report in their last inspection of the site. Captain Graham said they only looked at fire suppression issues.

Lisa Martell said she would like some accountability for what had happened and would like to know who can press charges. Chair Glueck directed staff to add a discussion on who is responsible for this at the next Commission meeting.

The Commission thanked Captain Graham for his time and his presentation.

- b) **Discuss draft informal regulatory framework for addressing community vulnerability and cumulative impacts of hazardous waste facilities per SB 673 requirements.**

The Commission heard the recommendation from the Planning and Policy Development committee that they should wait until the draft regulations are published by DTSC to review the proposed language in detail. The Commission agreed by consensus.

9. Reports from Commissioners on Matters of Commission Interest:

None

10. Plan Next Agenda:

The Commission will hear a follow-up to the presentation about the Nustar facility fire investigation and will develop specific recommendations to the Board of Supervisors concerning sea level rise.

11. Adjournment: The meeting adjourned at 6:00 pm.