

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

MEETING DATE: March 9, 2022

Item: 4

Executive Officer's Report

Executive Officer’s Report March 2, 2022

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Climate Actions Related to Groundwater Rise Impacts

Water Board staff have recently expanded climate actions to address potential impacts from groundwater rise in addition to sea level rise, drought, fire and other impacts.^{1, 2, 3} These actions include collaborating to plan for shoreline resilience, expanding use of our permitting and regulatory authority and securing needed funding.

We are collaborating with Environmental Justice Advocates and other state agencies about cleaning up subsurface contamination located in areas where the science suggests that groundwater and sea level rise can mobilize contamination and create exposure risk. We met with Greenaction and other environmental justice advocates from Oakland, Richmond, Marin, and San Francisco on March 4, 2022. The purpose of the meeting was to discuss their concerns about contaminated sites. We learned about their priorities and were able to share our roles and responsibilities to address vulnerable contaminated sites and identify actions we are taking or can take.

We also will be contributing funds to a [study in progress](#), led by the Aquatic Science Center, to expand the science and fill data gaps that exist for assessing groundwater rise impacts in the Region. The most vulnerable areas identified to date are commonly low lying areas near the Bay that also have communities that were historically red-lined, have the highest populations of Black, LatinX and Indigenous people, and have suffered disproportionate environmental injustices. Additional study of these areas is necessary to improve serving these communities and because the existing published information for the Bay Area is based on a rapid assessment interpolation method to create a depth-to-groundwater map for the San Francisco Bay shore zone.¹ The researchers used empirical data that reflect existing human impacts from pumping, storm sewer infiltration, and leaky water pipes in a complex urban environment. The method is useful as a rapid assessment technique for comparing relative exposure to groundwater hazards and identifying hotspots where localized dynamic modeling is needed.

The [study in progress](#) will develop a series of shallow groundwater maps that consider the response to a range of sea level rise scenarios. It is funded to cover four of the nine Bay Area counties with shoreline. Project partners, which include the San Francisco Estuary Institute, Silvestrum Climate Associates, UC Berkeley, and the Bay Conservation and Development Commission, are seeking funding to expand the study to the other Bay Area counties. We have agreed to fund the study of one additional county with our limited discretionary contract funds available for planning and

¹ [A Rapid Assessment Method to Identify Potential Groundwater Flooding Hotspots as Sea Levels Rise in Coastal Cities | MDPI Open Access Journals | Water | 25 October 2019.](#)

² [Rising groundwater and sea-level rise | Nature Climate Change | Coastal Hydrology | 17 August 2020.](#)

³ [May, C.L., Mohan, A.T., Hoang, O., Mak, M., Badet, Y. | The Response of the Shallow Groundwater Layer and Contaminants to Sea Level Rise | Report by Silvestrum Climate Associates for the City of Alameda, California | September 2020.](#)

assessment. Staff Geologist Alyx Karpowicz represents the Water Board on the Technical Advisory Committee for this project.

Our staff in the Toxics Cleanup and Groundwater Protection Divisions have reprioritized sites being investigated or cleaned up due to chemical contamination in soil and/or groundwater in order to better manage, accelerate (and enforce, as appropriate) progress at sites located in communities with higher populations of Black, LatinX and Indigenous people and currently incurring higher health and environmental burdens (per [CalEnviroScreen](#)).

We have also drafted a general Waste Discharge Requirements Order for 15 bay front landfills that will amend existing landfill requirements to include a flood protection and vulnerability assessment due to climate change. The proposed amendment sets expectations for facility operators to base flood protection and vulnerability assessments on the latest science and guidance for sea level and groundwater rise predictions and regional adaptation planning, and to emphasize nature-based solutions. We are considering a similar approach for shoreline cleanup sites to inform our decisions about remedy selection (for example, the use of contaminant removal versus caps and physical barriers) and cleanup timeframes. The information we gain from these assessments and the knowledge we learn from the groundwater rise study will help us further prioritize investigation and cleanup actions at contaminated shoreline sites.

E-D Coat gets Cleaned Up (Brian Thompson)

U.S. EPA recently completed a cleanup project at E-D Coat to remove hazardous wastes from the defunct metal plating shop at 715 4th Street in Oakland. The East Bay Municipal Utility District revoked E-D Coat's wastewater discharge permit in 2012 due to unauthorized discharges to the sanitary sewer, and the Water Board imposed administrative civil liabilities in 2010 and 2013 for violations of the Industrial Stormwater General Permit.

In 2017, Cal-EPA coordinated an environmental justice task force that targeted East Oakland. The task force facilitated a joint agency inspection that included Water Board staff. Inspectors discovered a range of violations that included unacceptable storage of relic plating substances and waste products in degrading and unlabeled containers. Because the conditions posed unreasonable risks to human health and the environment, the Department of Toxic Substances Control issued a Substantial Endangerment Order and a Remedial Action Order, and U.S. EPA stepped in to oversee cleanup.

The cleanup removed hazardous wastes from within the facility and from an outdoor storage yard exposed to stormwater. U.S. EPA containerized the hazardous wastes for offsite disposal and power-washed the facility floors, collecting the wash-water for disposal. From August to November 2021, U.S. EPA removed the following materials at a cost of around \$2 million.

Type of Material	Amount of Solid Waste (cubic yards)	Amount of Liquid Waste (gallons)
Acidic	11	7,324
Alkaline	132	3,254
RCRA Classified*	853	40,365
Non-RCRA Classified*	-	28,038
Asbestos	1	-
Filter Cake	1	-
Unidentified	81 overpack drums	-

*The Resource Conservation and Recovery Act (RCRA) classifies wastes that are subject to federal regulations. Wastes classified as Non-RCRA are subject to California regulations.

Status of Former Prosperity Cleaners (Marinwood) Case (Cleet Carlton and Brian Thompson)

The Prosperity Cleaners cleanup case was referred to the Board's Enforcement Section in December 2020. Staff are working with the responsible parties on compliance with Cleanup and Abatement Order No. R2-2020-0025 (Order) and are evaluating the adequacy of compliance. While details about the latter are confidential due to an enforcement investigation, following are updates on progress and the status of compliance with past and pending deadlines of the Order.

Background

Prosperity Cleaners is a former dry cleaner at a commercial property called Marinwood Plaza in Marin County. A dry cleaner business that operated in the plaza used perchloroethene (PCE) that was released to soil and migrated into groundwater onsite and offsite to the west of the property.

The Order requires cleanup of PCE and its degradation products from soil, groundwater, and soil vapor. Cleanup activities conducted under prior orders issued by the Board included groundwater injections in 2010 and 2013 and soil excavation under the dry cleaner in 2017. The current Order requires additional cleanup because the soil vapor and groundwater monitoring conducted to evaluate the effectiveness of prior remediation actions indicates more work is needed.

Status of Order Compliance

The responsible parties named in the Order are making progress on the remediation but have missed some deadlines. Deliverables and their status pursuant to the Order are summarized below.

- **Progress Report (Task 1a)** – A report on the progress of groundwater remediation was submitted late. It was due by January 15, 2021, and submitted in April 2021. The report provided adequate verification that groundwater remediation at and downgradient of the site was on schedule and that the groundwater remediation was being conducted according to schedule in April and May 2021. We approved the report in May 2021.
- **Groundwater Remediation Report (Task 1b)** – A report documenting the groundwater remediation work was submitted in two parts, the first of which met a June 30, 2021, deadline, and the second of which was submitted late in August 2021. We approved the report in October 2021.
- **Monitoring (Provision D.5)** – The Order requires implementation of a self-monitoring program that includes quarterly monitoring and reporting of soil vapor and groundwater contamination. The first report due after adoption of the Order (the third quarter report for 2020), was not submitted, nor was the monitoring conducted. We issued a notice of violation in November 2020 for this failure. The fourth quarter report was also not submitted, nor was the monitoring conducted.

Since then, the responsible parties have resumed conducting the monitoring and have submitted the quarterly reports on time. The monitoring indicates that groundwater concentrations exceed the drinking water standards by less than a factor of 10 and appear to have declined in response to the groundwater remediation injections that occurred last spring and summer. The monitoring also indicates that soil vapor concentrations have mostly remained well above our screening levels and increased slightly in one area between the former dry cleaner area and the nearby residences, indicating that soil vapor remediation remains a necessity.

- **Public Participation Plan (Task 3)** – A Public Participation Plan for remedial action was due by January 6, 2022. The report has not been submitted. We were informed that the plan will be submitted by March 11, 2022.

Order Requirements Pending

The next deliverable required by the Order is a Remediation Effectiveness Evaluation due on June 30, 2022 (Task 7). The report requires the responsible parties to document the effectiveness of the approved remedial action plan for groundwater and the plan for soil and soil vapor. The groundwater remediation work has been implemented; the remedial action plan for soil and soil vapor has not. In April 2021, the responsible parties decided to change the remedy from building demolition and soil excavation to soil vapor extraction. In response, we approved a soil vapor extraction pilot test work plan while informing the responsible parties that the new soil vapor extraction remedy must be at least as effective and timely as the previously approved demolition and excavation plan. In December 2021, the responsible parties then decided to revert to the original demolition and excavation plan. We have asked for, but not yet received, an implementation schedule for this demolition and excavation work. The responsible parties have proposed to submit the schedule by March 21, 2022.

Codornices Creek – Kains Avenue Restoration (Keith Lichten)



The newly-restored Kains Avenue reach of Codornices Creek. In the background is a 2002 mural by Berkeley artist Stefen showing the planned restoration, now realized.

On February 19, Board Chair McGrath joined the California Urban Streams Partnership, community members, and city and agency representatives in celebrating the completion of the restoration of the Kains Avenue reach of Codornices Creek. The project, in the works for more than 20 years, resulted in the restoration of about 170 feet of Codornices Creek between Kains and San Pablo Avenues in Berkeley and Albany. The restoration included the removal of a concrete box culvert, widening the low flow channel, sloping back the creek banks, and planting riparian vegetation, including willows, which will reduce water temperatures and improve habitat for fish. Funded by a Department of Water Resources grant and the City of Berkeley, the reach joined more than 1,100 feet of restored creek downstream, between San Pablo Avenue and the Union Pacific railroad tracks, that is providing habitat to salmonids and other aquatic life. The Board's Watershed Stewards, Jacqueline Hewitt and Jamal Jaffer, and Watershed Management Division Chief Keith Lichten also joined the celebration, which was noted in a [Berkeleyside article](#).

Staff Presentations

On February 23, Brian Thompson gave a presentation to the Bay Conservation and Development Commission's Enforcement Committee as part of a briefing on abandoned and derelict vessels and homeless living on boats (anchor-outs) and along shorelines. The presentation discussed the Water Board's involvement in vessel removals, including the Oakland Estuary Cleanup in 2013 and 2014, how funding from the State Water Board Cleanup and Abatement Account has been used to protect water quality, permitting for vessel salvage operations, and our participation in agency partnerships that address spills and homeless issues. Other agencies that participated in the briefing included the cities of Oakland and Alameda, the Port of Oakland, the Department of Fish and Wildlife, the State Lands Commission, Cal-EPA, and the U.S. Coast Guard.

On March 2, Keith Lichten presented to UC Berkeley's Hydrology for Planners graduate seminar on the history and status of stormwater regulation and green stormwater infrastructure implementation in the Bay Area.

Enforcement Actions (Brian Thompson and Jessica Watkins)

The following table shows the proposed enforcement action since February's report. As the proposed settlement is pending and could come before the Regional Water Board, ex parte communications are not allowed. Please refer to the [Pending Enforcement Liabilities and Penalties](#) webpage for more information on the details of the alleged violation and proposed settlement.

Proposed Settlement

The following is noticed for a 30-day public comment period. If no significant comment is received by the deadline, the Executive Officer will sign an order implementing the settlement.

Discharger	Violation	Proposed Penalty ^[1]	Comment Deadline
Lennar Homes of California, LLC	Unauthorized discharge of domestic sewage to waters of the United States.	\$212,300	March 30, 2022

^[1] The proposed penalty includes \$106,150 to fund the "Characterizing Per- and Polyfluoroalkyl Substances (PFAS) and Chlorinated Paraffins in San Francisco Bay Sediment" Regional Monitoring Program project. The Regional Monitoring Program is managed by the San Francisco Estuary Institute to collect water quality information in support of management decisions to restore and protect beneficial uses of the Region's waters.

401 Water Quality Certification Applications Received (Abigail Smith)

The table below lists those applications received for Clean Water Act section 401 water quality certification from February 1 to February 10, 2022. A check mark in the right-hand column indicates a project with work that may be in BCDC jurisdiction.

Project Name	City/Location	County	May have BCDC Jurisdiction
Berkeley Marina Pile Replacements	Berkeley	Alameda	✓
Curtner Road Booster Station Upgrade	Fremont	Alameda	✓
2021 Routine Maintenance Stoneman Channel Repairs	Pittsburg	Contra Costa	
Bale Slough Bear Creek Tributary Restoration	Rutherford	Napa	
1080 Greenfield Road Slope Restoration	St. Helena	Napa	
St. Helena Public Cemetery Sulphur Creek Streambank Reveg and Stabilization	St. Helena	Napa	
Eppleton Hall Mooring Replacement	San Francisco	San Francisco	✓
Emergency Slip-Out on Tunitas Creek Road Mile 2.2		San Mateo	
Routine Creek and Channel Maintenance	Burlingame	San Mateo	✓
Dam Maintenance Program Fellows Dike Access Road Culvert Replacement Project		Santa Clara	
Mare Island Causeway Bridge Preventive Maintenance	Vallejo	Solano	✓
Vallejo Storm Drain Replacement Work	Vallejo	Solano	✓
Lakeville Landing Pile Repairs	Petaluma	Sonoma	✓