

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF SEPTEMBER 2, 2010

Prepared on August 3, 2010

ITEM NUMBER: 23

SUBJECT: Executive Officer's Report to the Board

This item presents a brief discussion of issues that may interest the Board. Upon request, staff can provide more detailed information about any particular item.

WATER QUALITY CERTIFICATIONS

[Kim Sanders 805/542-4771]

In general, staff recommends "Standard Certification" when the applicant proposes adequate mitigation. Measures included in the application must ensure that beneficial uses will be protected, and water quality standards will be met.

Conditional Certification is appropriate when a project may adversely impact surface water quality. Conditions allow the project to proceed under an Army Corps permit, while upholding water quality standards.

Staff will recommend "No Action" when no discharge or adverse impacts are expected. Generally, a project must provide beneficial use and habitat enhancement for no action to be taken by the Regional Board. A chart on the following pages lists applications received from June 1, 2010 to July 31, 2010.

WATER QUALITY CERTIFICATION APPLICATIONS RECEIVED FROM JUNE 1, 2010 THROUGH JULY 31, 2010

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage¹	Status of Application
Dong Kim -- CSC Of America, Ltd.	CSC Property Parking Lot Expansion	Construction of a parking lot to accommodate 40 new spaces and requires fill of wetland on site	Watsonville	Santa Cruz	?	0.23	Under Staff Review
Resource Conservation District	Santa Cruz PIR Permit Coordination Program	To reduce non-point source pollution and enhance wildlife habitat in Santa Cruz County	Santa Cruz	Santa Cruz	All waterways in Santa Cruz County		Incomplete Application, Under Staff Review
Gregory Barr	Secondary Access Road	Provide alternative access for harvest trucks	Paso Robles	San Luis Obispo	Huer Huero Creek, Estrella River	0.02	Under Staff Review
Dan Van Beveren -- City of SLO	City of San Luis Obispo Creek Maintenance -- Annual Work	Silt removal from culvert at Tank Farm road and Hollyhock Way.	San Luis Obispo	San Luis Obispo	Acacia Creek, San Luis Obispo Creek	0.13	Under Staff Review
Joel Neel -- Cal Poly	Pennington Creek Wooden Bridge Removal Project	Remove a potential for damage to or flooding of downstream resources if all or part of the wooden bridge were to collapse or be washed away by storm flows.	San Luis Obispo	San Luis Obispo	Pennington Creek	0.22	Under Staff Review

¹ Total Acreage includes both temporary and permanent impacts to riparian, streambed, and/or wetland environments within federal jurisdiction.

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage ¹	Status of Application
Taj Dufour -- Soquel Creek Water District	Valencia Creek Crossing Main Repair	To repair a leaking fitting on an 8-inch diameter water main	Aptos	Santa Cruz	Valencia Creek	0.007	Completeness Pending
Lorren Deakin -- Construction and Facilities Management Officer	Bridge Removal at Camp San Luis Obispo	Bridge 109 is in a deteriorated condition and collect debris during high flow events. Removal is proposed for safety reasons and to improve flow within the channel	San Luis Obispo	San Luis Obispo	Chorro Creek	0.02	Under Staff Review
Dan Conner	Arizona Creek Crossing	To install a 20-foot by 12 foot concrete crossing	Paso Robles	San Luis Obispo	Arizona Creek	0.86	Incomplete Application
City of Gilroy	Wren to Kern Trail	Construct a bicycle trail to connect existing trails adjacent to Lion's Creek.	Gilroy	Santa Clara	Lions Creek	0.02	Applicant Withdrew
Caltrans	Waddell Bluffs Talus Disposal	Annual maintenance of existing catchment ditch at base of Waddell Bluffs to protect the roadway from landslide material	Davenport	Santa Cruz	Pacific Ocean	n/a	Certification Pending
Santa Ynez Community Services District	Sewer Protection Measures	To protect existing sewer lines from being undermined and to prevent highly undesirable sewage spills.	Santa Ynez	Santa Barbara	Zanja de Cota Creek	0.02	Under Staff Review

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage ¹	Status of Application
Matt Horn -- City of SLO	Andrews Creek Bypass Storm Drain Improvements	Improvements will connect deficiencies in the current water conveyance structures and the condition of the creek	San Luis Obispo	San Luis Obispo	Andrews Creek	0.04	Under Staff Review
City of Monterey	Monterey Harbor Maintenance Dredging Project	Remove up to 100,000 cubic yards of accumulated sand from Monterey Harbor over 10-year period, depositing the dredged material on designated section of adjacent Del Monte Beach.	Monterey	Monterey	Pacific Ocean	0.73	Under Staff Review
Rick Chiapa	L36-1008 Span Replacement and Exposure Repair Project	To remove and replace the existing exposed natural gas pipeline span with an underground bored section of new pipeline along the same alignment.	Atascadero	San Luis Obispo	Salinas River	0.02	Completeness Pending
Jeffrey R. Single- - California Department of Fish and Game	Parson's Slough	The proposed project includes construction of a partially submerged tidal barrier (sill), which would span the Parsons Slough Channel, and establishment of artificial Olympia oyster reefs in the northeastern portions of the Parsons Slough Complex.	Parsons Slough	Monterey	Elkhorn Slough and Parsons Slough	0.96	Under Staff Review

REGIONAL REPORTSRegional Monitoring [Karen Worcester 805/549-3333]

A new Central Coast Ambient Monitoring Program publication entitled "Interpreting Narrative Objectives for Biostimulatory Substances for California Central Coast Waters" has been posted to the Surface Water Ambient Monitoring Program website at: http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/reglrpts/rb3_biostimulation.pdf. This peer-reviewed document provides a rationale for identifying waters as impaired by nitrate as a biostimulatory substance. Staff utilized this approach to make several listing decisions for the proposed 2010 303(d) list recently adopted by the State Board.

The Basin Plan has narrative language to protect against eutrophication, stating that "waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses." The paper provides guidance for interpreting this language, particularly in the context of 303(d) listing of waters as impaired. In this approach, Central Coast Water Board staff employed Basin Plan Objectives, U.S. Environmental Protection Agency (U.S. EPA) standards, guideline values from the literature, our own monitoring data, and modeled estimates of potential algal growth and resultant oxygen deficits. The resulting numeric endpoints can be used for regional water quality assessments and to support assessment decisions for the California Integrated Report for addressing Clean Water Act Sections 303(d) and 305(b). Based on this analysis, we can identify water bodies as impaired for aquatic life use when nitrate concentrations exceed 1.0 mg/L NO₃-N and there is additional evidence of eutrophication, including depressed or supersaturated dissolved oxygen concentrations, predicted oxygen deficits over 1.25 mg/L, pH over 9.5, predicted or measured benthic algal biomass or chlorophyll a concentrations over levels recommended by the "Technical Approach to develop Nutrient Numeric Endpoints for California" (Creager, 2006), water surface cover by floating algal mats exceeding 50% or water column chlorophyll a concentrations over 15 ug/L.

Lake Postings Due to Pesticides [Roger Briggs 805/549-3140]

The State Board recently published the California Lakes Study. Although for Oso Flaco Lake in southern San Luis Obispo County, the dieldrin was high and the DDT results we received were the highest in the state (and perhaps highest in the nation), they didn't trigger the OEHHHA (the state Office of Environmental Health Hazard Assessment) posting requirements. However, Executive Officer Briggs thought people fishing the lake should be warned of the data that we do have so they can make an informed decision about eating the fish they catch. This should be done as an interim measure until more testing will satisfy OEHHHA's posting protocol. State Parks operates this lake and agreed to the posting (we also met with the County Environmental Health at the same time we met with St Parks about this posting - see attached letter). State Parks asked us to help with the flyer so we wrote a flyer in English and Spanish and sent it to them for handing out from their kiosk. State Parks then put out a media release to inform the public and began using the flyers. State Parks went one step further and came up with some money to do follow up sampling and will do that analysis as soon as possible. We are doing additional analyses of fish that were iced but not tested from the previous sampling. We have prompted this type of posting in another lake (this one was the city owned lake, Pinto Lake in Watsonville) a couple years ago, and we also just recently pursued posting in English and Spanish for still another lake in Santa Barbara County (Bradley

Lake in Santa Maria) that has high pesticide results in upstream sediment. The City has replaced their "fishing ok" signs with "No Fishing" and/or "No Fishing and No Swimming."

AGRICULTURAL REGULATORY PROGRAM INFORMATION

Coordination with Department of Pesticide Regulation and Draft Surface Water Regulations
[Angela Schroeter 805/542-4644]

Follow-up Related to July 8, 2010 Ag Order Workshop

At the July 8, 2010 Board Meeting (Item 12 - Ag Workshop), Board members asked staff to clarify the relationship between the authority of the Water Board and the authority of the Department of Pesticide Regulation (DPR). Board members also asked staff to provide the status of the DPR draft Surface Water Regulations. Specific questions and staff responses are provided below.

General Questions

- 1) **What is the relationship between the authorities of DPR and the Water Board and how does the Management Agency Agreement work?** The Water Board and DPR are regulatory departments in the California Environmental Protection Agency (Cal/EPA), and both have responsibilities to protect water quality from the adverse effects of pesticides. The Food and Agriculture Code authorizes DPR and the County Agricultural Commissioners (CAC) to regulate pesticide use with the purpose of protecting the environment from harmful pesticides. The Water Code authorizes the Water Board to implement and enforce requirements to protect water quality from degradation resulting from the discharge of waste (including pesticides). DPR and the Water Boards developed a Management Agency Agreement (MAA) for protecting water quality with the intention of avoiding duplication of effort, inconsistencies and confusion for the regulated public. The MAA and the associated California Pesticide Management Plan for Water Quality identifies the roles and responsibilities of the two agencies regarding water quality protection and pesticide regulation, and describes how the Water Board, DPR and the CAC will cooperatively work together to protect water quality. An additional agency agreement that facilitates agency cooperation is the Process for Responding to the Presence of Pesticides in Surface Water (Surface Water Response Process), which outlines response steps when exceedances of water quality objectives in-stream are determined.
- 2) **How does DPR insure protection of the environment?** The following is an excerpt from a letter from John S. Sander, PhD., Environmental Program for DPR to Susan Fregien of the Central Valley Water Quality Control Board dated May 30, 2008 regarding protection of the environment.

"DPR is the lead agency for regulating the sales and use of pesticides in California and is mandated by State law to protect the environment from adverse effects of pesticide use. Specifically, DPR is mandated to:

- *Protect the environment (including surface water and associated habitat) from environmentally harmful pesticides by prohibiting, regulating, or ensuring proper stewardship of those pesticides (Food and Agricultural Code [FAC] section 11501).*
- *Prohibit or regulate the use of environmentally harmful materials and to take whatever steps necessary to protect the environment (FAC section 14102).*

- *Endeavor to eliminate from use in the state any pesticide that endangers the agricultural or nonagricultural environment (FAC section 12824)."*

- 3) **Does DPR sample surface waters for toxicity?** DPR's Environmental Monitoring Branch conducts studies and monitors pesticides in surface waters in urban and agricultural areas of the state. DPR has a long-term surface water monitoring program sampling for pesticides in primarily high agricultural use areas of the Central Coast. In addition, as part of reevaluation of chlorpyrifos, the registrant DOW Agrosience has been monitoring Central Coast Surface waters for chlorpyrifos and assessing BMP effectiveness. Water Board staff coordinates with DPR on the monitoring of Central Coast waters.
- 4) **Does DPR or CAC conduct onsite inspections?** Field agricultural biologists from the CAC's office regularly conduct onsite inspections of agricultural operations to ensure compliance with pesticide regulations. Currently inspections are generally oriented towards areas such as worker safety, public health and compliance with pesticide labeling requirements and not towards the protection of surface water quality. In some cases, compliance with pesticide labeling requirements may still result in a discharge of waste and impair water quality.
- 5) **How does DPR enforce its regulations and what is the enforcement role of County Agricultural Commissioners with enforcement?** Pesticide regulations are enforceable sections of the California Code of Regulations (CCR). DPR and the CAC have authority under California Food and Agriculture Code to enforce pesticide sections of the CCRs. DPR works closely with the CAC, who serve as the primary enforcement agents for State pesticide laws and regulations. The CAC receives pesticide mill tax funds for enforcement of pesticide regulations. Section 6130 is the code section that defines the classification and range of fine amounts for each violation of pesticide laws and regulations. The fines range from \$50 to \$5,000 per violation depending on how they are classified. See CCR 6130 for details. The CAC can also consider other penalties such as referring cases to the District Attorney if the violations are flagrant or, if the respondent is a licensee, they can request DPR to take a licensing action to deny or revoke their state license. As stated above, enforcement focuses on pesticide use violations and not on discharges of pesticides to waterbodies.
- 6) **How has Region 3 coordinated with DPR?** Water Board staff actively coordinate with DPR to address surface water toxicity problems associated with pesticide applications on the Central Coast. Chlorpyrifos and synthetic pyrethroids have been under reevaluation by DPR's Registration Branch for surface water and sediment toxicity problems. Staff has worked with DPR and the manufacturers to understand how these pesticides enter surface waters and which management measures prevent them from entering surface waters from agricultural and urban lands.

Due to the presence of the pesticides diazinon and chlorpyrifos in Central Coast surface waters, Water Board staff, as per the MAA, sent a formal letter of determination of water quality violation to DPR. The determination letter and DPR's response letter initiated the interagency Surface Water Response Process to cooperatively address the problems. DPR responded in part with a statewide evaluation of irrigation season diazinon use and surface water quality monitoring data. After evaluating the data, DPR determined that the existing reevaluation of diazinon for dormant spray application must be expanded by the registrants to all irrigation season applications throughout the state.

Water Board staff consulted with DPR staff regarding the preliminary draft agricultural order. Staff made a deliberate effort to align the preliminary draft agricultural order with water quality protection concepts in DPR's draft surface water regulations. In addition, DPR provided comments to the Water Board regarding the preliminary draft agricultural order. Similarly, the Water Board provided comment to DPR on their draft surface water regulations.

The Water Board convenes quarterly roundtables of the Irrigated Lands Regulatory Program (ILRP). DPR is a participant in the ILRP Roundtable and Region 3 staff members routinely attend the quarterly meetings. In addition, several Region 3 staff members participated in a recent MAA meeting with DPR and in a DPR 101 training session.

- 7) **Where in our draft order is language that suggests overlap of DPR and Water Board authority? What else does DPR or the CAC recommend to resolve toxicity given the pervasive toxicity and likelihood that current practices need tightening?** DPR commented that the draft order stated that dischargers and persons performing pest control must comply with certain pesticide application requirements (Preliminary Draft Agricultural Order, Attachment B, Part E., Pesticide Runoff/Toxicity Elimination, 55, February 1, 2010). Further, DPR commented that if the Regional Board feels that these particular pesticide use requirements still need to be addressed in some way, then it should continue to work with DPR to address them through their regulatory efforts, which would be consistent with the understanding established between DPR and the Water Boards under the MAA. Staff plans to revise this language to focus on requirements to reduce or eliminate discharge of pesticides rather than specifying application requirements and will work with DPR to address any practices that contribute to pesticide discharges or to share water quality information that might lead DPR to reevaluate pesticides or pesticide uses.

DPR staff thinks that adoption and implementation of their Surface Water Regulations in conjunction with Water Board implementation of water quality regulations and revised Order conditions will resolve the toxicity problems (see discussions in Questions 11 and 12 below). However, the Surface Water Regulations are not likely to become effective for more than one year (see discussion of process in Question 8 below).

In addition to Water Board and DPR efforts to restrict pesticides to control impacts to water quality, federal restrictions on pesticide use may be on the horizon. According to the article, the nation's farmers could face severe restrictions on the use of pesticides as environmentalists want the courts to force federal regulators to protect endangered species from the ill effects of agricultural chemicals. A ruling eight years ago by a federal judge in Seattle required the National Marine Fisheries Service and the environmental Protection Agency to review whether 54 pesticides, herbicides and fungicides were jeopardizing troubled West Coast salmon runs. The agencies moved recently to restrict the use of three of the chemicals, including a widely used one with the trade name Sevin, near bodies of water that flow into salmon-bearing streams, and they're considering restrictions on 12 additional chemicals. The Washington State Department of Agriculture says such restrictions would prevent pesticide use on 75 percent of the state's farmland. A federal judge in California has issued a similar ruling that involves 11 endangered and threatened species and 75 pesticides in the San Francisco Bay area. The entire article is in **Attachment 1**.

DPR Draft Surface Water Regulations

- 8) **What is the status and future of DPR's Draft Surface Water Regulations?**

In February 2009 DPR initiated informal dialogue on the proposed draft regulations with interested parties including the State and Regional Boards. The informal dialogue has formally concluded but they are still receiving and reviewing informal comments. If they go forward with the draft regulations, they plan to have a package ready to send out for public notice by the end of 2010. Generally, formal rulemaking takes six months to one year from the time of public notice. Once the Office of Administrative Law approves the package, the regulations will go into effect within a couple of months. Therefore, if they go forward with the draft regulations, DPR expects the regulations to become effective in late 2011. In a recent communication with DPR, DPR staff noted that they are considering a number of changes to the concepts in the draft surface water regulations. It is not certain that the draft regulations will be adopted and if adopted the extent that they will address pesticide related water quality problems on the Central Coast.

9) How will the surface water regulations be implemented? If adopted, DPR's draft surface water regulations would be implemented by DPR's Enforcement Division and would be enforced at the local level by the CAC. See discussion in Question 11 below.

10) Has DPR implemented regulations similar to the Surface Water Regulations? DPR adopted regulations controlling dormant spray applications in 2006. The dormant spray regulations were primarily implemented to address contamination of Central Valley streams from organophosphate pesticides, such as diazinon, chlorpyrifos and synthetic pyrethroids. DPR determines the extent to which the dormant spray regulations reduce pesticide contamination through ongoing monitoring of rivers and streams. DPR placed chlorpyrifos and diazinon, the two dormant spray pesticides found most often in streams and rivers, into a special review status. Manufacturers are being required to conduct studies to document the factors that result in the pesticides contaminating waterways. They must also develop mitigation strategies that will reduce or eliminate these residues in surface water. Chlorpyrifos and the pyrethroids are under reevaluation by DPR to determine the mechanism of offsite movement and develop mitigation measures to protect surface water. Diazinon is also under reevaluation by DPR to determine the effectiveness of label modifications to protect surface water.

11) How will DPR ensure regulatory compliance of the Surface Water Regulations? DPR's Enforcement Branch and the CAC will ensure regulatory compliance of the Surface Water Regulations. The Surface Water Regulations will apply to irrigated agricultural pesticide applications and persons applying pesticides for hire on outdoor structural, residential, industrial and institutional sites. All applications are reported to the CAC and are compiled into a DPR pesticide use data base. The regulations include specific mitigation measures that pesticide users must implement but these need additional analysis to ensure that they are fully protective of surface water beneficial uses. The mitigation measures include: prohibiting ground spray applications within 25 feet of sensitive aquatic sites, prohibiting aerial applications within 150 feet of sensitive aquatic sites, and treating or retaining irrigation or stormwater runoff from agricultural production fields prior to releasing water to sensitive aquatic sites. The regulations only apply to pesticides that DPR has determined have a high potential to contaminate surface water. If the Draft Surface Water Regulations are approved, we are uncertain to what extent DPR and the CAC will conduct inspections or enforcement focused on protecting surface water compared to worker safety, etc. The proposed regulations do not require operations to meet water quality discharge requirements or conduct onsite water quality monitoring to verify compliance of water quality objectives.

- 12) How has Region 3 contributed to and provided comments on the Draft Surface Water Regulations?** DPR provided the Water Board an early, informal opportunity to review the draft regulations and provide comments. Region 3 staff reviewed the draft regulations and submitted comments to the State Board MAA coordinator who compiled comments from all regions for submittal to DPR. Region 3 staff participated in a statewide round table meeting with DPR and the Water Boards to discuss and comment on the Draft Surface Water Regulations. The Water Boards are supportive of the regulations. They are a promising effort by DPR to help address water quality problems from agricultural and urban applications of approximately 50 pesticide active ingredients with high potential to contaminate surface water. The regulations apply across the whole State of California and engage additional regulatory resources to address water quality problems. Additionally, staff consulted with DPR staff regarding the preliminary draft agricultural order. Staff made a deliberate effort to align the preliminary draft agricultural order with water quality protection concepts in DPR's draft surface water regulations.

Coordination with Department of Fish and Game and Other Agencies on Aquatic Habitat Protection [Angela Schroeter 805/542-4644]

Regional Board staff received a comment letter from the California Department of Fish and Game (CDFG) dated July 8, 2010 expressing general support for the requirements in the Preliminary Draft Agricultural Order (draft Order) to protect aquatic habitat requirements. This letter prompted several questions from board members. Regional Board staff presented the questions to DFG and through email and follow-up telephone conversations with DFG staff have provided the following answers:

- 1) Do the aquatic habitat protection requirements in the preliminary draft Agricultural Order duplicate or contradict existing CDFG regulations?** Generally speaking the draft Order does not contradict CDFG regulations. Existing CDFG rules already require project proponents to notify CDFG when they want to alter the bank, bed or channel of a stream or lake, including modifying or removing riparian vegetation. CDFG jurisdiction extends from the top of bank across the channel to the other top of bank, and includes the outer edge of the riparian zone on either side of the waterway. The preliminary draft agricultural order provides protection provisions similar to CDFG's Fish and Game Code Section 1602 and its policy to protect wetlands. Where we differ is that CDFG manages buffers where a project is proposed within existing riparian areas. In our preliminary draft, we propose to provide buffers along already disturbed or farmed areas. According to CDFG's July 8, 2010 letter, signed on behalf of the regional manager for CDFG's Central Region, they "concur with and support the Board's planning efforts to protect one of California's most valuable wetland habitats."
- 2) What does CDFG staff think about the buffer/setback distances identified in the preliminary draft Agricultural Order (50, 75, 100 feet)?** Generally, CDFG uses 50 to 100-foot buffer recommendations in their CEQA comment letters and in their Lake and Stream Alteration Agreements (SAA's). CDFG does not have formal setback distances. The buffers vary and are based on biologists' recommendations and site-specific conditions.
- 3) Does the CDFG allow control and removal of native and non-native vegetation? Please provide a copy of the SAA application.** CDFG allows removal of dead and downed material and occasionally removal of live trees needed to enhance flows on a case-

by-case situation as deemed appropriate by a regional biologist. When riparian removal is allowed, mitigation such as erosion control and replanting is required.

See notification of Lake or Streambed Alteration in **Attachment 2, pg. 2.**

- 1) **Can CDFG staff identify areas (especially high priority) within Region 3 where they know aquatic habitat/riparian corridor is impaired, and in need of protection and restoration?** CDFG can identify areas within Region 3 where they know that aquatic habitat is impaired and regional board staff is currently working with them to identify these areas.
- 5) **Can CDFG provide a data base that shows all the 1602 permits issued in our region with location and responsible party?** All CDFG SAA notifications are logged into a statewide database. The database will indicate the applicant, location of the project, and name of the stream along with other information included in the SAA notification. For access to this information, waterboard staff needs to submit a formal request listing the purpose of our request and specific needs. It would then go to CDFG's Office of General Counsel for review and to see if there are any limitations on the information that can be shared.
- 6) **How much follow up does CDFG do with the SAA permits to determine compliance?** Historically, very little compliance follow-up occurs. However, since CDFG's Streambed Program became more fully staffed in Region 4 in late 2009, more regular compliance monitoring has typically occurred following issuance of Streambed Agreements. In spring 2010, a new, more formal compliance follow-up program was developed at the statewide level. Implementation of this program started on July 1, 2010, and is intended to prioritize and focus compliance monitoring of Streambed Alteration Agreements, and to provide better documentation of this monitoring.
- 7) **How does CDFG handle enforcement actions for violations of Fish and Game Code Section 1602?** Fish & Game Code Section 1602 violations are typically discovered by CDFG staff, wardens, and concerned citizens who report violations. In most cases CDFG tries to resolve the violation through the administrative process and prepares an after-the-fact agreement. Where major damage has occurred, CDFG prepares a "Natural Resource Damage Assessment Report," where they conduct field measurements, describe the damage in detail, and list mitigation requirements. Their enforcement branch then makes the final decision on whether to file the case with the local district attorney's office.
- 8) **Does CDFG have suggestions for how to improve the aquatic habitat protections proposed in the preliminary draft agricultural order?** According to CDFG, it would be helpful to include that project proponents must contact CDFG and the US Army Corps of Engineers for any work proposed within riparian areas or waterways.
- 9) **How does staff propose to define riparian area and native vs. non-native riparian vegetation in the Order and what is the basis? How does that compare with definitions that NRCS or local coastal plans use?** In the preliminary draft order staff used the United States Fish and Wildlife Service definition of riparian area as follows:

Vegetation affected by the surface water or groundwater of adjacent perennial or intermittent streams, lakes or other waterbodies. Vegetation species are distinctly different from

adjacent areas or are similar to adjacent areas but exhibit more vigorous or robust growth forms indicative of increased soil moisture (Dall et. al. 1997, p.3)²

Staff did consider other definitions but selected this definition since it is consistent with what Region 1 and Region 2 are currently proposing for their stream and wetland systems protection policy basin plan amendment. Staff did not define native vs. non-native vegetation and is still evaluating how we may define riparian and whether we need to identify and clarify native vs. non-native vegetation. The staff report for the revised agricultural order will explain the definitions considered and the rationale for selecting the definition(s) we recommend.

10) What amount of farms in Region 3 will be affected by aquatic habitat requirements in the Order? How is that determined? All farms adjacent to waterbodies will be affected. The extent to which farms will be affected depends on existing conditions and the proposed requirements. Staff is considering modifying the recommendation in the preliminary draft agricultural order but has not determined the details. Staff plans to evaluate the acreage and areas affected by our recommendation in the final staff report.

11) What are Cal Fire's local practice rules as they apply to stream protection? The California Forest Practice Act requires maintenance of riparian vegetation in buffer strips called watercourse and lake protection zones (WLPZs). The WLPZs must be specifically addressed in a written timber harvest plan by a registered professional forester with the California Department of Forestry and Fire Protection (Cal Fire). There are four classes of watercourses based on the watercourse's use as described below in Table 1:

Table 1.

Class	Description
I	Perennial streams that contain fish or are domestic water supplies.
II	Perennial streams that do not contain fish but do contain other aquatic life or are within 1,000 feet of a Class I stream.
III	Watercourses that do not support aquatic life but have the potential to deliver sediment to a Class I or II stream
IV	Human-made streams for domestic, agricultural, or hydroelectric supply or for other beneficial use.

The WPLZ for class I watercourses range from 75 to 150 feet on each side of the stream depending on slope. On class II watercourses, the WPLZ ranges from 50 to 100 feet. Class III and IV streams require equipment exclusion or limitation zones that prevent equipment from operating near the watercourse and buffers are established on a case-by-case basis. Table 2 has a description of the slopes and recommended widths in feet.

Table 2.

% slope	Class I	Class II	Class III	Class IV
<30	75	50	varies	varies
30 – 50	100	75	varies	varies
>50	150	100	varies	varies

² Dall, D.C., Elliot, and D. Peters. 1997. *A System for Mapping Riparian Areas in the Western United States*. U.S. Fish and Wildlife Service, National Wetlands Inventory. 15 pp..

Update on Agriculture Waste in Nipomo Creeks (Corinne Huckaby 805/549-3504)

Water Board staff issued a 13267 letter to Property Owners adjacent to portions of tributaries (Hermrick and Deleissigues Creek) to Nipomo Creek requesting specific property ownership, waste discharge prevention and remedial actions. On June 16, 2010, Water Board staff accompanied by Department of Fish and Game staff and the Property Owners' Farm Manager, conducted a site visit. While no mass amounts of irrigation tubing were observed, field participants observed minimal remnants of tubing, including a couple of locations where tubing was imbedded in the creek. Field participants identified both in-creek and on-farm management potential problem areas and corrective actions. Water Board staff will follow-up with a requirement for the Property Owners/Farm Manager to submit a report describing actions taken along with photo documentation.

Water Board staff will find this matter closed upon satisfactory completion of corrective actions with adequate supporting documentation (including written field monitoring reports and photo documentation) provided to our office. If, however, we receive additional information that relates to potential threat to water quality, we will consider further investigation.

On May 19, Water Board and DFG staff also conducted a field visit in those portions of Nipomo Creek adjacent to another landowner and found minimal irrigation tubing. Some urban-type debris was observed and remnant materials. This landowner is active with annual Creek Cleanup Days and will continue with those activities.

Staff has referred the urban waste matter to the Stormwater Unit to follow-up. As time permits and access locations along Nipomo Creek become available, Water Board staff will conduct additional field work to determine additional potential deposits of agriculture waste.

ADMINISTRATIVE REPORTSPresentations, Education, and Training [Roger Briggs 805/549-3140]

Water Board staff participation in the Elkhorn Slough Early Mitigation Partnership has garnered recognition from the Federal Highway Administration (FHWA). The Elkhorn Slough Early Mitigation Partnership received the 2009 Exemplary Ecosystem Initiative award from FHWA for development of a collaborative process to develop mitigation sites for sensitive resources and funding strategies that provide for advanced, regional-scale mitigation for multiple transportation projects in the watershed. Caltrans staff who lead the Partnership will present the award to the Water Board.

Engineering Geologist David Schwartzbart, who works on Site Cleanup Program projects, passed the CA Certified Hydrogeologist examination. Engineering Geologist Donette Dunaway, who works in the Department of Defense Program, passed the CA Professional Geologist examination. The Executive Officer congratulates both David and Donette on their professional registrations and accomplishing another career goal.

Budget Status [Roger Briggs 805/549-3140]

As of this writing, the legislature and the administration are four weeks late in approving a 2010-11 budget, and there is very little light in the tunnel or at the end of it. We have received our budget allocation for 10-11 from the State Water Resources Control Board, based on the Administration's proposed budget. The Grand Total for our region is \$7,643,075, which is a nearly 20% reduction from last year's budget (**Attachment 3**).

This new budget includes a 10% reduction for salary savings (savings from holding funded positions vacant), compared to previous years' 5% reduction for salary savings. That means that although our budget for Personnel Years is \$5.76 M, we are expected to contain spending under \$5.19 M by holding 10% of our positions vacant for the year. Although we have had a couple of recent staff departures and are expecting a couple more this year, we will likely not meet the 10% salary savings mark for our region. However, for budget purposes, the administration expects the Water Boards as a whole to meet the requirement. As some other regions and some divisions at the State Board have much higher vacancy rates, they will basically carry the rest of us who have had budget cuts that exceed our attrition rate. The most recent statewide vacancy report has a 9.7% vacancy rate, with a trend toward a higher vacancy rate (June was 9.0%). Among the regions, the highest number of vacancies is in the Los Angeles Region, with a total of 17 vacancies (14% of their positions). At the State Board, the Division of Water Rights and the Division of Financial Assistance have nearly 53 vacancies (18% of their positions). We have one vacancy at our region (1.5%), and with a 10% salary savings requirement, we would need to lose six more people through attrition before we can hire any replacement personnel.

This year's tentative budget is 28% less than our budget for 08-09, but we have not had anywhere near that many staff leave in the last two years. As long as other water board organizations are having to carry us until our attrition catches up with our 10% salary savings requirement, we will not be able to replace staff who leave our office. So for example, Senior Engineering Geologist Burton Chadwick retired recently. He was supervising the permitting unit for NPDES permits and Waste Discharge Requirements. By not being able to replace him, we have had to reorganize and consolidate our ten units into nine with commensurate increases in each seniors' supervisory role (more people to supervise, and in some cases, new programs to learn). Associate Government Program Analyst Sandy Cheek, who has been instrumental in our CIWQS, or California Integrated Water Quality System, and Paperless Office programs, has accepted a job with the State Board's Office of Information Management and Analysis, so we are re-assigning her work among other staff. At our off-site meeting, we discussed performance measures and critical prioritization of our work to pursue the most important water quality issues in our watersheds. These budget reductions emphasize the importance of our prioritization efforts.

ATTACHMENTS

1. Pesticide Article
2. Notification of Lake or Streambed Alteration
3. 2009-2010 Budget Report