

California Regional Water Quality Control Board  
San Francisco Bay Region  
**EXECUTIVE OFFICER'S REPORT**

A Monthly Report to the Board and Public

**July 2008**

*The next regular scheduled Board meeting is July 8 & 9, 2008.*

See <http://www.waterboards.ca.gov/sanfranciscobay/> for latest details and agenda

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**Delta Strategy Workplan** (Wil Bruhns)

In January the Board adopted a Resolution “Specifying Actions the Water Boards Will Take to Protect Beneficial Uses of the San Francisco Bay/Sacramento San Joaquin Delta Estuary.” The State Board and the Central Valley Board adopted similar resolutions. The resolutions were in response to mounting concerns related to the protection of beneficial uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta), and they directed staff from all three Boards to prepare a strategic workplan to assure coordinated and timely implementation of actions to address the concerns. Board staff collaborated on the development of a draft Workplan, which is scheduled for State Board consideration at its July 16<sup>th</sup> meeting. The Workplan is available at [http://www.waterrights.ca.gov/baydelta/strategic\\_workplan.htm](http://www.waterrights.ca.gov/baydelta/strategic_workplan.htm).

The main elements of the Workplan are:

- 1) Water Quality and Contaminant Control
- 2) A Comprehensive Delta Monitoring Program
- 3) Southern Delta Salinity and San Joaquin River Flow Objectives
- 4) Suisun Marsh Objectives
- 5) Comprehensive Review of the Bay-Delta Plan, Water Rights, and Other Requirements
- 6) Activities to Ensure that the State Water Project’s (SWP) and Central Valley Project’s (CVP) Methods of Diversion in the Delta are Reasonable, Beneficial, and Protect the Public Trust
- 7) Water Right Compliance, Enforcement, and Other Activities to Ensure Adequate Flows to Meet Water Quality Objectives
- 8) Water Use Efficiency for Urban and Agricultural Water Users
- 9) Other Actions

Staff anticipate that the water rights aspects of the Workplan (elements 5, 6, and 7) will be the most controversial. Those portions of the Workplan that most affect the San Francisco Bay Region, and towards which our staff resources will primarily be directed, include: implementation of the San Francisco Bay mercury TMDL, development and implementation of San Francisco Bay TMDLs for PCBs and selenium, issuance of permits for cooling water discharges in Pittsburg, and participation in the development of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan. Notwithstanding the importance of these specific actions, continued participation by staff on the Bay-Delta Team is paramount since this is the first time that the two Regional Water Boards and the State Water Board have considered a unified set of actions to address their mutual concerns.

### **TWC Storage Loses in Superior Court (Max Shahbazian and Yuri Won)**

On June 26, 2008, a Superior Court judge denied a challenge by TWC Storage, LLC, to overturn this Water Board's enforcement action against TWC. In May 2006, the Water Board imposed an administrative civil liability of \$25,000 against TWC for a 250-gallon release of the solvent PCE from an abandoned transformer at a former federal Superfund site in Sunnyvale that TWC was redeveloping. TWC unsuccessfully petitioned this enforcement action to the State Board and subsequently filed suit against the Water Board. In its lawsuit, TWC maintained its innocence, claiming there was no evidence in the record that TWC actually caused or permitted the release. TWC also alleged that the Water Board exceeded its legal authority and violated TWC's due process rights to a fair hearing. It asked that the Water Board's decision be set aside. The Superior Court declined to do so in its June 26 judgment. We will soon file a notice of entry of judgment, after which TWC has 60 days within which to file an appeal to the Court of Appeal. It is unknown whether TWC will appeal.

### **South Bay Salt Pond Project Update (Robert Schlipf)**

#### Tentative Order

A Tentative Order for the South Bay Salt Pond Restoration Project is out for public comment. Comments are due on July 17. The main focus of the order is planned "Phase I" restoration actions specified in the Project's Environmental Impact Report/Statement completed in December 2007. These actions involve new tidal marsh restoration or management of approximately 3,069 acres of former salt ponds in the 15,100-acre complex. Specifically, this will include tidal habitat restoration (960 acres), reversible muted tidal habitat (1,400 acres), pond reconfiguration (709 acres), and improved recreation/public access. In addition to addressing these actions, the Tentative Order will also permit (a) ongoing management of ponds, and thus rescinds an order issued by the Board in March 2004 on the Initial Stewardship Plan, and (b) ongoing operation and maintenance. We plan to bring this Tentative Order for your consideration at the August 13, 2008, Board hearing.

Initial Stewardship Plan

In order to more fully evaluate the causes of low dissolved oxygen levels within former salt ponds, we recently modified monitoring requirements for the U.S. Fish & Wildlife Service (USFWS) and the California Department of Fish & Game (CDFG) to focus data collection efforts towards information that is more relevant for evaluating adaptive management alternatives for managed ponds in the longer-term.

As we last reported in October 2007, three former salt ponds (A1, A5, and A7) managed by the USFWS experienced a significant fish kill on September 4, 2007, because of a severe depletion in dissolved oxygen levels. Excessive algal proliferation in former salt ponds was the main cause of low dissolved levels in these systems. To address low dissolved oxygen levels, USFWS has tried a number of corrective measures (e.g., installing baffles, switching flows from directional to muted tidal flows, installing solar powered aerators, and implementing discharge timing); however, at this point, it does not appear that simple operational changes will significantly increase low dissolved oxygen levels. To ensure that former salt ponds contain safe dissolved oxygen levels, it is likely that USFWS will need to physically alter some of the former salt ponds (e.g., changes to pond geometry, residence times, and/or water depths).

To evaluate if/how former salt ponds should be altered in the long term, we modified monitoring requirements to require applied studies this summer and fall at select ponds. These applied studies involve extensive within-pond monitoring that may provide insight into the best way to manage these systems in the longer term. For example, certain ponds may accumulate more dying algae than others, and sediment oxygen demand may reduce dissolved oxygen to unsafe levels. A potential corrective measure for this situation may be altering pond geometry to eliminate stagnant points within pond systems. Alternatively, it may be that algal growth reaches a threshold level and cloudy days (i.e., reduced solar radiation) disrupt the balance between photosynthesis and respiration. A potential corrective measure for this situation may be reducing residence times to limit algal growth. Once we evaluate data from this year's applied studies, we will work with USFWS and CDFG on appropriate monitoring requirements and/or changes to pond systems for the coming year. We will keep the Board informed on these efforts.

**Brownfield Restoration at Arcadia Park, Oakland (Barbara Sieminski)**

Cleanup activities for the first development phase at the Arcadia Park project have been completed, and the developer has started construction of the first houses. The property was contaminated by historical industrial uses, including a Fleishmann's Yeast factory. The City of Oakland has approved redevelopment of the site into a residential complex consisting of over 360 single- and multi-family units. The Board in early 2007 approved a cleanup plan for the property.

The first development phase of the Arcadia Park project includes the northern and eastern portions of the site, about one-third of this 27-acre property in East Oakland. Site cleanup activities involved excavation and off-site disposal of contaminated soil that exceeded residential screening levels. Confirmation sampling was conducted after the excavation to

confirm that cleanup goals were met. A large volume of groundwater was also removed from the former underground storage tank location. In late June, the developer placed a deed restriction on the property, to prohibit well installation and groundwater use on the property. This will prevent future-resident exposure to residual groundwater contamination. As an extra precaution, the developer will install a vapor barrier beneath the houses overlying and adjacent to the area of the former underground storage tanks to prevent any subsurface vapors from entering the buildings.

Currently, the developer is completing the cleanup activities for the second development phase. We will keep you informed of significant milestones in the restoration of this major Oakland Brownfield site.

### **Bay Area Underground Storage Tank Program Roundtable (Chuck Headlee)**

On June 24, we hosted the second annual Bay Area Underground Storage Tank (UST) Program Roundtable. Representatives from the seven local oversight programs and the four local implementing agencies attended. This roundtable provides an opportunity for local, state, and federal agencies involved in Bay Area UST cleanup to discuss common issues and solutions. The State Board UST Cleanup Program manager and the UST Cleanup Fund manager led discussions on various aspects of their programs of interest to the participants, such as program workplans, the Fund's 5-year review project, and compliance issues. U.S. EPA representatives presented data on case closure rates in California and across the nation. They also offered contractor support to any of the local agencies that wanted or needed help (e.g., data entry to GeoTracker or review of back logged cases). Elizabeth Allen of our staff gave a presentation on the Board's updated Environmental Screening Levels, and led a good discussion amongst the participants about soil gas and indoor-air intrusion issues related to petroleum sites. We intend to continue hosting this roundtable in the future, as well as implementing quarterly meetings between Board staff and each local oversight agency.

### **Staff Presentations**

On June 13, Bruce Wolfe spoke about water quality regulation and the development of the municipal regional stormwater permit to the Environmental Task Force of the Contra Costa Council. He emphasized the evolving connections between water quality protection, urban runoff controls, green building approaches, and climate change regulations. The hosts noted that it was the most well-attended Task Force meeting ever.

On June 17, Shin-Roei Lee gave a presentation to 32 graduate students from China on pollution control in San Francisco Bay. They were environmental science graduate students who were here for a 3-week environmental education program offered by the University of San Francisco.