

California Regional Water Quality Control Board

San Francisco Bay Region

EXECUTIVE OFFICER'S REPORT

A Monthly Report to the Board and Public

March 2009

The next regular scheduled Board meeting is March 11, 2009.

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

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State Revolving Fund and Federal Stimulus Package (Dale Hopkins /A.L. Riley)

The recently passed federal stimulus package provides significant funds to the State Board's Clean Water Act State Revolving Fund (SRF). The following information is rapidly evolving, but is our staff's understanding as of the end of February. Staff will give an update during the March Board meeting.

There is a total of \$281 million being made available to the State Board's SRF, of which approximately \$270 million will be allocated for local assistance as both grants and very low interest loans. A total of 50% of this (i.e., \$135 million) must be for projects ready for construction within 120 days and the rest within in year (from passage of federal stimulus legislation on Feb. 17, 2009); although a greater amount than the 50% can be spent sooner. Of this \$270 million, at least 20% is required to be spent on "expanded use" or "green" projects – water efficiency, energy efficiency, green infrastructure, or environmentally innovative projects. Green infrastructure is a flexible term established by U.S. EPA that refers to systems and practices that use or mimic natural processes to infiltrate, evapotranspire, capture or reuse stormwater. More information is available at http://cfpub.epa.gov/npdes/home.cfm?program_id=298

More information on the economic stimulus package funding and how it pertains to the SRF is available on the State Board website at

http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/econ_recovery_info.shtml . This link includes reference material and quick links to the application forms.

The State Board's Department of Financial Assistance is preparing a resolution for State Board consideration at its March 17th Board meeting that will include guidelines on how to distribute the funds, how to define green infrastructure projects, and timelines for distribution. This will be an amendment to the existing intended use of SRF funds, which focuses on loans, in order to allow the use of SRF funds for grants and change some of the current restrictions on the funds.

To be consistent with the federal stimulus package's requirements, State Board staff are proposing changes in policy and process, including allowing 50% or more of the funds to be used for grants, allowing 20% or more to be spent on the so-called "expanded use" or "green" projects, allowing non-profit organizations to apply for funds, suspending current project funding caps, defining Disadvantaged Communities (DAC) subsidies, and removing match requirements, as well as proposing timelines and changes in the process. This March 17 Board action will be process-oriented and will not include a final project list, though it will include an amendment to the existing "Intended Use Plan" of projects submitted to U.S. EPA.

At this point, State Board staff recommends that anyone interested in getting projects funded by the SRF apply ASAP to the State Board, as all timelines are being expedited and funding decisions will be made soon. It is unclear at this time whether any of the SRF's stimulus funds can be used to pay existing and future obligations on the currently frozen Proposition 13, 40, 50 and 84 funds, but State Board staff recommends that all current bond project recipients fill out the application forms.

Enforcement - Pending Complaints & Orders (Brian Thompson)

The Assistant Executive Officers issued two Cleanup and Abatement Orders for spills of partially-treated sewage into San Francisco Bay in the past month. They were issued to the Sausalito-Marin City Sanitary District in response to a 720,000-gallon spill on February 17 and to the City of Richmond and Richmond Municipal Sewer District No. 1 for a 890,000-gallon spill on February 22. More information about the cleanup and abatement of these spills can be found on our web site:

http://www.waterboards.ca.gov/sanfranciscobay/pending_en.shtml.

I have publicly noticed a Tentative Order setting Administrative Civil Liability (ACL) for a case in which the Water Board's prosecution team and the Sewerage Agency of Southern Marin have agreed to a \$1,600,000 settlement that includes a supplemental environmental project. I intend to issue the ACL Order if no significant comments are received within the 30-day comment period. A copy of the Tentative Order can be found on our web site: (http://www.waterboards.ca.gov/sanfranciscobay/pending_en.shtml).

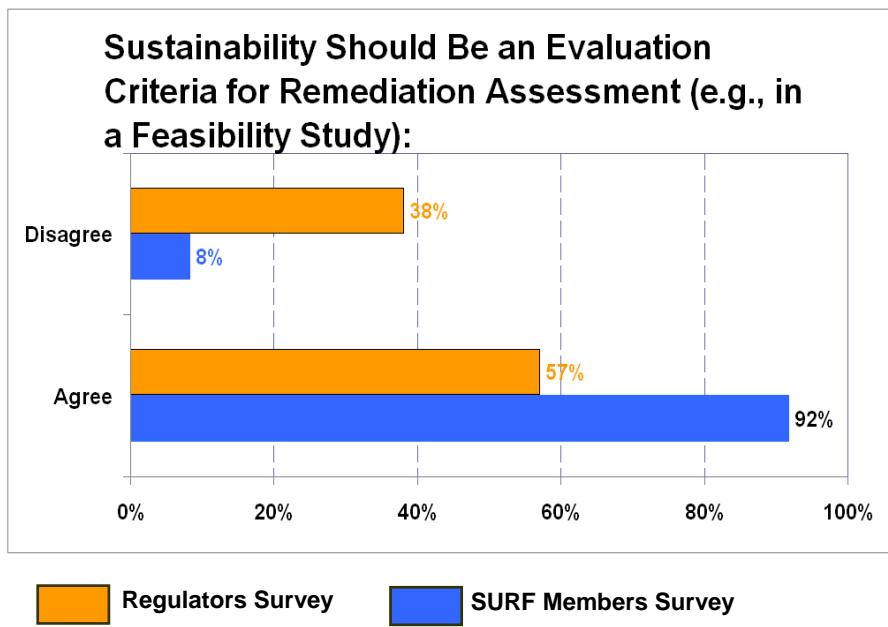
Three dischargers have agreed to conditional offers to settle mandatory minimum penalty violations through the Water Board's Expedited Payment Program. The Zone 7 Water Agency, the Fairfield-Suisun Wastewater Treatment Plant, and Shell Oil Products US/Equilon Enterprises LLC will pay penalties of \$15,000, \$99,000, and \$57,000, respectively, if no significant comments are received within the 30-day comment period.

More information about these offers can be found on our web site:
(http://www.waterboards.ca.gov/sanfranciscobay/pending_en.shtml).

Vulcan Materials Company has paid \$190,000 in ACL penalties in accordance with a revised complaint where Vulcan waived its right to a hearing before the Board. No comments were received during the public comment period and the matter is settled.

Green Remediation Seminar (Elizabeth Wells)

On February 4, Elizabeth Wells presented findings of a Sustainable Remediation Forum (SuRF) survey on "Green Remediation" at a symposium hosted by the Department of Toxic Substances Control (DTSC). Findings were based on a survey of more than 150 regulators across the United States about the concept of sustainable (i.e., "green") remediation. Green remediation is the idea that in selecting a cleanup strategy, one should consider the environmental affects of the cleanup method itself (e.g., energy use, green-house gas emissions). For example, does it make sense to excavate petroleum fuel-impacted soil if it must be hauled by truck over long distances to a landfill? How do energy consumption and green-house gas emissions from excavating equipment and haul trucks compare to the cleanup benefits? SuRF also surveyed industry and consulting representatives. In comparing the responses, SuRF found that the regulators appear to be more cautious than industry about application of the green remediation concept, perhaps because guidelines have not been fully developed and road-tested.



A full discussion of survey results is included in a White Paper to be printed in Remediation Journal later this year. Board staff plan to continue working with DTSC and U.S. EPA to develop workable guidelines for implementation of green remediation concepts.

Construction Site Stormwater Inspections (Cecil Felix, Michelle Rembaum-Fox, Wendy Katayanagi)

We reported to you last month our approach toward achieving effective oversight of stormwater management practices at over 1900 active construction sites throughout the Region regulated under the State Board's Construction Stormwater Permit. Given this large inventory, but limited staff resources, we have developed a process of site prioritization based on level of concern, use of curb-side inspections for first-round assessment of site conditions, and geographic-based inspection planning to optimize our field work. Our February efforts are summarized below:

INSPECTIONS	
Curbside	44
Onsite	15*
Total	59

* One site was inspected four times; two other sites inspected two times each

FOLLOWUP ACTIONS	
Sites found in compliance	30
Notices to Comply	2
ACL Recommended	1
Notices of Violation	8
Staff-level enforcement	4
Compliance Status under Review	12

Recent Complaint Investigations

Our inspection work includes followup on complaints received about particular projects. Three recent complaint investigations are discussed below.

Oakland Hills

Board staff investigated two sites in the Oakland hills in mid-February. At one site, staff observed extensive grading and construction during the rainy season, inadequate erosion controls, inadequate sediment controls and improper waste management and disposal. At the other site, staff observed extensive construction waste materials strewn about the site and inadequately maintained erosion/sedimentation controls. Board staff issued Notices to Comply to both sites, which gave the property owners five days to implement corrective actions. Staff followed up with inspections at both sites and determined that one of the sites is not yet in compliance. We will follow up with additional enforcement action. Staff is also working with City of Oakland municipal stormwater staff to determine the adequacy of its stormwater program and if actions are necessary.

Lake Merritt

Board staff also inspected the City of Oakland's construction activities related to its Lake Merritt trail improvement project during storm events in recent weeks. Staff observed construction activities and conditions that can result in potentially significant erosion and sedimentation, which can impair surface water quality. Issues identified include wet-weather grading, denuded ground surfaces, uncovered soil stockpiles, sediment tracking from equipment, and unprotected stormdrain inlets. Board staff is actively working with the City's stormwater staff toward minimizing impacts from the project and preventing similar problems from recurring in the future.

Future Efforts

Our field inspection work to evaluate stormwater management practices at construction sites will continue throughout the rainy season. We plan to provide a followup report with a comprehensive assessment of our efforts and accomplishments in late spring or early summer. Also at that time, we will update the inspection and followup action numbers we initially reported to you last month.

Soil Cleanup at Union Pacific Rail Spur, East Palo Alto (Mark Johnson)

The Union Pacific Railroad has just completed cleanup of more than 5,000 cubic yards of arsenic-impacted soil along a one-mile section of former rail spur that connects the Dumbarton Main Line with the Ravenswood Industrial Area of East Palo Alto, San Mateo County. The cleanup was conducted in accordance with Site Cleanup Requirements adopted by the Board in April 2008.

The spur is bounded by wetlands and industrial properties on the eastern side and about 75 homes immediately to the west. In about 1990, the spur was taken out of service and the tracks removed. Since that time, several homeowners have extended their fences out over the spur incorporating it into their backyards, thereby potentially exposing themselves to the arsenic-impacted soil. In addition, because of the proximity of the adjacent wetlands containing endangered species, the spur has been a threat to water quality and ecological health.

Soil cleanup on the spur consisted of removing the impacted soil, replacing it with clean soil and a layer of topsoil, and then hydro-seeding it to prevent erosion (see photos below). This type of cleanup is usually simple and straightforward. In this case, cleanup was complicated by the 75 adjacent homes. In many cases, fences needed to be demolished to allow for the cleanup. Mature trees and other homeowner improvements had to be worked around. In order for the cleanup effort to be successful, an extensive community involvement program was necessary. The City of East Palo Alto, Union Pacific, and Board staff all worked together to inform homeowners of planned work. We provided translation services at two community meetings and in various written materials in order to effectively involve the community.

The cleanup began last December and was completed by the end of January of this year. Staff will recommend rescission of the 2008 Site Cleanup Requirements at a future Board meeting.



Excavation along Spur



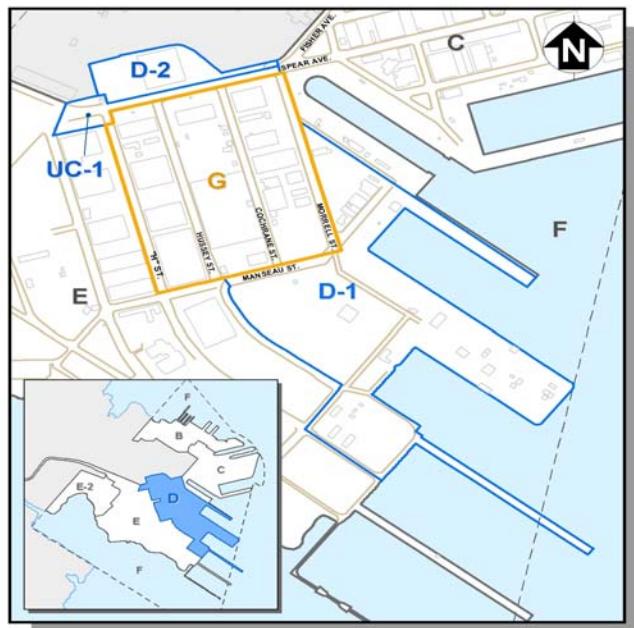
Restored site

Hunters Point Shipyard (Erich Simon)

In the past two months, the Navy has finalized two records of decision (RODs) at the Hunters Point Shipyard in San Francisco for areas referred to as Parcel B and Parcel G. The Parcel B ROD was discussed in the January 2009 Executive Officer's Report.

As with Parcel B, the Parcel G ROD documents the approved cleanup approach that will ultimately be completed after the land is transferred for redevelopment to the City and County of San Francisco and subsequently to the Lennar Corporation (Lennar). Both parcels are slated for "early transfer" because cleanup will be completed after transfer.

According to reuse plans, future uses will include open space, industry, mixed use (e.g., commercial and residential), research and development, and educational/cultural uses. Parcel G could also be used for a new stadium for the San Francisco 49ers.



Map of Hunters Point Shipyard, showing Parcel G.

The Parcel G ROD documents the following cleanup actions:

- Decontaminate buildings and structures
- Excavate contaminated soil, storm drains, and sewer lines
- Apply vapor extraction to remove volatile compounds from soil
- Treat groundwater to reduce organic compounds and metals
- Install protective soil, asphalt, and concrete covers
- Implement land use, engineering, and administrative controls to maintain cover integrity and protect future site occupants, utility workers, and the public from unintentional exposure to residual contaminants

Transfer of Parcel G is currently scheduled for early 2010. Consistent with other early transfers (e.g., Point Molate, Mare Island), Board staff intend to draft tentative site cleanup requirements for your consideration in late 2009 to ensure that cleanup is completed on schedule by San Francisco and Lennar after transfer.

This spring, the Navy expects to issue its third ROD, for Parcel D-2 (see map). This will be a "no further action" ROD, which means that cleanup will be completed before transfer.

Cleanup at the Potrero Power Plant site in San Francisco (Nancy Katyl)

Cleanup of the Potrero Power Plant site has been in the news recently. The site is located on San Francisco's southeastern shoreline, in a commercial/industrial area that has supported various industrial uses since the 1870s. Over time this area, which was formerly part of San Francisco Bay, has been filled in with various materials including building debris and industrial waste. Past uses in the site vicinity included manufactured

gas plants, sugar refining, iron and steel manufacturing, shipbuilding, and power generation for each of these industries. Since 1965, the 34-acre site has served as an electric power generating plant. In 1999, Mirant took over operation of the power plant from Pacific Gas & Electric (PG&E), which retained responsibility for any site contamination. The City's Board of Supervisors and numerous stakeholders wish to see Mirant close the Potrero Power Plant, but that issue is not associated with the cleanup of the site.

In 2001, Cal/EPA designated the Board as the lead agency for purposes of overseeing site investigation and cleanup of the plant site. This designation carries with it the obligation to coordinate with other agencies and consider all agency and public comments. Since then, Board staff has been overseeing remedial work by PG&E. This is a complex site, owing to its large size, long history of industrial use, complex hydrogeology, shoreline location, and various agencies and stakeholders with an interest in site cleanup. We have solicited comments from various agencies (including the Port of San Francisco) and the public at each step of the process. At this point, upland investigation work is complete and no interim cleanup tasks have been identified. Sediment investigation work began last month, and we expect initial results later this spring. We expect that at least one additional phase of sediment sampling will be necessary. A site-wide cleanup plan will probably await completion of the sediment investigation, since cleanup will need to address both the upland and offshore areas.

The primary contaminants of concern at the site are petroleum hydrocarbons. These are generally found as thick tar-like deposits in the fill material overlying the Bay Mud. While this material may have historically released contaminants into the Bay, it is now heavily weathered and does not appear to be an active source of contamination. The lateral and vertical extent of these deposits has been defined in most areas of the site except on some portions of the northeastern shoreline. At present there is no conclusive evidence of an active seep or discharge of contaminated groundwater into the Bay.

A February 26 article in the *San Francisco Chronicle* drew attention to sediment issues at the site ("S.F. pushes PG&E on bay sediment toxicity probe"). The article highlighted the Port's concern that PG&E has been slow to investigate the site's potential impacts to sediments and aquatic life in the Bay near the site. According to the article, the Port believes that site contaminants have migrated onto the Port's adjacent property as well as to Bay sediments, and it wants the Board to establish strict deadlines for the sediment investigation and possible cleanup.

Board staff is satisfied with the pace of site investigation, given the site's complexities and given the lack of evidence of an ongoing discharge of contaminants to the Bay. PG&E has complied with our previous directives to submit workplans and reports. Multi-agency review of PG&E's draft submittals has contributed to this deliberate pace. For example, the Port submitted its comments on the sediment sampling workplan in March 2008, more than a year after the draft workplan was submitted in November 2006.

We plan to meet with Port staff soon to hear directly from them on the Port's concerns about site investigation/cleanup and to discuss next steps. We met earlier this month with

PG&E to discuss the recent sediment sampling. We will update the Board as needed as this project proceeds.

Film Festival (Dyan Whyte)

On March 11, Board Members, staff and the public are invited to attend the first Water Board Academy Environmental Film Festival featuring the premier of *Working for Water*.

Working for Water, a 23-minute documentary tells the stories of a few Water Board employees, what their jobs entail and why they have chosen to work for the Water Boards. The film is intended to educate the public about the essential work performed by the Water Boards and will also be used to recruit new staff. Directed by Sally Lundburg and Elizabeth Pepin.

Liquid Assets, a 90-minute documentary, tells the story of essential infrastructure systems: water, wastewater, and stormwater. These systems — some in the ground for more than 100 years — provide a critical public health function and are essential for economic development and growth. Largely out of sight and out of mind, these aging systems have not been maintained, and some estimates suggest this is the single largest public works. Produced and directed by Tom Keiter and Stephanie Ayanian, Penn State University.

The Film Festival will be held on March 11 in the Board Hearing Room (First Floor Auditorium) beginning at 1:30.

In-house Training

Our February training was on communication styles and presentations (organized by Leslie Perry and Sandi Potter). We have no training planned for March. Brownbag seminars included a February 18 session on the Board's recent resolution granting a SIP requirements exception for drinking water discharges (by our own Xavier Fernandez) and a February 25 session on chlorine residual "false positives" at sewage treatment plants

Staff Presentations

On February 5, Carrie Austin opened the Regional Monitoring Program Annual Mercury Research Coordination meeting. Board staff open this meeting each year with a regulatory update. Carrie focused on adaptive implementation, and what research projects on the meeting agenda may provide new scientific findings to be incorporated into mercury TMDLs for SF Bay, Walker Creek, Guadalupe River, Tomales Bay, and lakes and reservoirs.

On February 18, Adriana Constantinescu and Cherie McCaulou represented the Board at U.C. Berkeley's job fair for summer employment and internships. This event was geared toward students majoring in "technical" fields such as science and engineering. Adriana and Cherie spoke with about 40 students, explaining the work we do and encouraging them to apply for one or more internships currently available in the Planning/TMDL Division. About 50 employers participated in the fair, representing a wide range of

opportunities, including information, business, and government. Contact information collected from students is available for staff who are hiring student assistants.

On February 21, Wil Bruhns gave a presentation at the Friends of San Leandro Creek's annual Environmental Forum. He was part of a panel that included State Senator Ellen Corbett, Alameda County Supervisor Alice Lai-Bitker, San Leandro Mayor Tony Santos, and a member of Assemblymember Mary Hayashi's staff. The elected officials discussed various environmental bills they were sponsoring and environmental projects they were working on. Wil (the panel's token technocrat), at the request of the Forum sponsors, discussed the Delta, including general issues and the Bay-Delta Strategic Workplan that the Board approved last November.

On February 26, I gave a presentation at the annual CLE International California Wetlands Conference in San Francisco on the scope and status of the State Board's plans to adopt a statewide wetland and stream policy. In my presentation, I discussed the need for such a statewide policy, the history of the State's and this Board's regulation of wetlands and streams, and the work this Board is doing in conjunction with the North Coast Water Board to update our basin plans to address wetland and stream protection.

On March 2, I gave one of the opening session presentations at the California Water Environment Association's (CWEA) annual Pretreatment, Pollution Prevention, and Stormwater Conference in Monterey. In my presentation, I emphasized the growing challenge to address water supply/conservation/reuse, energy efficiency, and climate change impacts as part of all state and local water quality agencies' missions.

At the same CWEA conference, Dale Bowyer gave a presentation on the reissued tentative order for the regional municipal stormwater permit and how the tentative order has been changed, Richard Looker made a presentation on the impacts of trash and the Board's recent action recommending the listing of 26 water bodies as impaired by trash, and Heather Ottaway made a presentation on her review of annual pollution prevention program reports and the most effective implementation measures she noted. Dale also led a training session on stormwater inspections and Heather chaired a session on pollution prevention basics. Approximately 200 water quality professionals attended from around the State.