

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

A Monthly Report to the Board and Public

April 2011

The next regular scheduled Board meeting is April 13, 2011.

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

Items in this Report (Author[s])

Bay Area Watershed Network Annual Meeting (A.L. Riley, Dale Hopkins)	1
State Board Approval of Bacteria Objectives (Richard Looker).....	2
Redwood Saltworks (Shin-Roei Lee)	2
Hayward Shoreline Marsh Beneficial Use Evaluation (Jan O'Hara).....	3
Enforcement: Complaints and Settlements (Brian Thompson)	3
Aramburu Island Update (Sandi Potter)	5
Vapor Intrusion Dispute Resolution, Moffett Field (Elizabeth Wells).....	6
Environmental Leadership Award	6
Another Tiny (Ticket) Way the Water Board Helps the Environment.....	7
In-house Training	7
Staff Presentations.....	7

Bay Area Watershed Network Annual Meeting (A.L. Riley, Dale Hopkins)

In February, we hosted the annual meeting of the Bay Area Watershed Network (BAWN). Despite challenging weather conditions and the threat of snow, approximately 45 people representing a wide diversity of stakeholders attended. Board Member Jim McGrath and a representative of State Senator Loni Hancock's office also attended.

The meeting featured the District Director from Assemblymember Nancy Skinner's office, who reported on State budget issues, recently introduced legislation, the outlook on future water bonds, potential new State revenue ideas for water management needs, rainwater storage incentives, and AB32 carbon "cap and trade". The director of Northern California AmeriCorps then spoke about his interest in promoting the use of the federal Watershed Stewards Program to assist with Bay Area fisheries habitat restoration efforts. Speakers from the Environmental Justice Coalition for Water and from Zone 7 Water Agency described their collaboration with the Water Board, the San Francisco Bay Estuary Partnership, the recently-formed Bay Area Association of Flood Control Agencies, and other BAWN members, to develop a suite of watershed improvement projects in disadvantaged communities. The Bay Area Integrated Regional Water

Management Program included these projects in its recent Proposition 84 grant program application. Other BAWN collaborations in 2010 included work to change the U.S. Army Corp's policy on removing riparian habitat from levees along streams and rivers.

State Board Approval of Bacteria Objectives (Richard Looker)

On April 5, the State Water Board unanimously approved our Basin Plan amendment to establish enterococcus (a bacterial indicator) water quality objectives to protect water contact recreation in marine and estuarine waters of our region. The Board adopted this amendment on April 14, 2010. The amendment will now be submitted to the State's Office of Administrative Law and U.S. EPA for their approvals before officially becoming part of the Basin Plan.

Redwood Saltworks (Shin-Roei Lee)

On March 30, I sent a comment letter to the City of Redwood City in response to its CEQA-required notice of preparation (NOP) for the proposed Saltworks project. The Saltworks project is a proposed development project on 1,436 acres of salt ponds that are owned and operated by Cargill. The photo below is an aerial view of the proposed project area, which mainly consists of federal and State waters. As such, a number of federal and State agencies, including the Board, will have to issue permits before any fill can be placed in these waters.

The Saltworks project, as described in the NOP, would fill about 1,000 acres of salt ponds for mixed-use development and upland open space uses. Approximately 632 acres of fill would be mixed-use development to include 8,000 – 12,000 housing units; up to 1,000,000 square feet of low-density office space; 140,000 square feet of commercial space; up to 5 new schools; a library; a 4-H Club; a fire station; and a place of worship. Approximately 35 percent (223 acres) of the mixed-use development area would be roads. The remaining 368 acres of fill would be upland open space uses, including a sports field complex, multi-use perimeter open space, and a Bayside park complex. The project would also restore 436 acres of salt ponds to tidal marsh.

In response to comments received on the NOP, the City plans to circulate a second NOP with a description of project alternatives, including a no project alternative, prior to developing a full environmental impact report. In our comment letter, we recommended that the City evaluate the environmental impacts and benefits of an alternative project that would consist solely of restoring tidal marshes or open water habitat, consistent with its 2010 General Plan. We also recommended that the City evaluate alternatives with reduced impacts and reconfigured designs, such as less housing units, some amenities located offsite, and larger buffers to restored areas. We further noted that an alternative that enables residents to be less car-dependent could allow for a significant reduction in the currently proposed 223 acres of roads. We will keep the Board informed of the local planning process as the City evaluates this project.



Aerial view of the Cargill-owned Redwood City Saltworks site. (www.archpaper.com)

Hayward Shoreline Marsh Beneficial Use Evaluation (Jan O'Hara)

The Hayward Shoreline Marsh was constructed in the 1980s for the purpose of creating a diversified marsh system using treated wastewater effluent (recycled water) from Union Sanitary District. The District's current NPDES permit expires this year. The permit reissuance process has raised questions regarding the applicability of the Marsh's water contact recreation (REC-1) beneficial use identified in the Basin Plan. The District submitted a use attainability analysis demonstrating that REC-1 uses do not exist in the Marsh, as the Marsh is fenced and posted for no trespassing. Furthermore, the amount of disinfection needed to treat its discharge to attain REC-1 standards could adversely affect the Marsh's aquatic life beneficial uses. To evaluate the appropriateness of amending the Basin Plan to remove the REC-1 use designation, the Board's Planning staff initiated the Basin Plan amendment process on March 17 with a CEQA scoping meeting and public workshop. About a dozen stakeholders attended the meeting. We had an interesting discussion on the history, operation, and successes of the Marsh, which provides a unique brackish habitat supporting a wide variety of wildlife. As such, later this year, we plan to bring a Basin Plan amendment to the Board for consideration of removing the REC-1 designation for the Marsh.

Enforcement: Complaints and Settlements (Brian Thompson)

On March 15, I publicly noticed a stipulated Administrative Civil Liability (ACL) order and a revised tentative Cease and Desist Order for the City of Pacifica.

- Stipulated ACL order - The Board's Prosecution Team and the City of Pacifica have proposed a \$1,700,000 settlement for a case involving allegations of more than 6.9 million gallons of discharges from sanitary sewer overflows, bypass violations, and permit limit violations. The City has agreed to pay \$880,000 to the State's Cleanup and Abatement Account and, in lieu of additional fines of \$820,000, complete a Supplemental Environmental Project (SEP) consisting of a private sewer lateral grant program, with an option to also fund a restoration project along Rockaway

Creek.

- Revised tentative Cease and Desist Order – This proposed order would require the City of Pacifica to take actions to reduce and eliminate sanitary sewer overflows through a combination of capital investments and improved operation and maintenance of its collection system.

I intend to sign the ACL order if no significant comments are received within the 30-day comment period. The prosecution team will bring the Cease and Desist Order to the Board for its consideration in May. Copies of the proposed settlement agreement and stipulated ACL order, and the revised tentative Cease and Desist Order can be found on our website:

http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml

On March 17, I publicly noticed a proposed settlement agreement and stipulated ACL order for a case in which the Board's Prosecution Team and the Sonoma Valley County Sanitation District reached a \$383,000 settlement for alleged permit violations associated with 41 sanitary sewer overflows. The District has agreed to pay \$199,750 to the State's Cleanup and Abatement Account and, in lieu of additional fines of \$183,250, complete an SEP for habitat enhancement along Fryer Creek. This settlement is proposed in a stipulated ACL order, which I intend to sign if no significant comments are received within the 30-day comment period. A copy of the proposed settlement and stipulated order can be found on our website:

http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml

On February 14, Assistant Executive Officer Tom Mumley issued an ACL complaint to the City of Redwood City for an alleged discharge of untreated sewage to Redwood Shores Lagoon. The City signed the ACL waiver and agreed to pay the proposed liability of \$95,600. The comment period expired without any public comments, and the City has now paid the \$95,600 liability.

On March 28, the Board's Advisory Team issued an ACL order to the City of Oakland after it reached a settlement agreement with the Board's Prosecution Team, and a 30-day public comment period did not generate any opposition to issuing the order. Assistant Executive Officer Dyan Whyte, representing the Advisory Team on this case, signed the order. The ACL order requires the City to pay a fine of \$155,000 to the State's Cleanup and Abatement Account and, in lieu of additional fines of \$125,000, complete an SEP for stormwater treatment (biotreatment projects) at firehouse facilities.

On April 6, I issued an ACL order to Julio Cesar Palmaz and Amalia B. Palmaz, Trustee of the Amalia B. Palmaz Living Trust, and Cedar Knolls Vineyards, Inc., after an agreement was reached with the Board's Prosecution Team, and a 30-day public comment period did not generate any opposition to issuing the order. A late commenter raised procedural and CEQA issues, which the Prosecution Team adequately responded to, and I did not find any basis to amend the order. The order requires payment of \$85,000 to the State's Cleanup and Abatement Account to cover staff costs and suspension of other fines totaling \$1,842,000 pending completion of work to restore impacted wetlands and mitigate for the temporal loss of wetland functions that resulted from the illegal fill of wetlands for vineyards on the parties' property near Napa.

Lehigh Hanson West Region (San Francisco) agreed to a conditional offer to settle

mandatory minimum penalty violations, which occurred at its San Francisco Pier 92 Sand Yard facility, through the Board's Expedited Payment Program. A payment of \$42,000 will be made to the State's Cleanup and Abatement Account if the payment agreement, circulated on March 10 for a 30-day public comment period, does not generate opposition to accepting the offer. A copy of the settlement offer can be found on our website:

http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml

Cordova Printed Circuits (Milpitas) and Hammon Plating (Palo Alto) agreed to conditional offers to settle late report violations for annual reports of industrial stormwater discharges that were due July 1, 2010. Cordova Printed Circuits and Hammon Plating will each make a payment of \$1,000 to the State's Cleanup and Abatement Account if the payment agreements, circulated on March 1 for a 30-day public comment period, do not generate opposition to accepting the offers. A copy of the settlement offers can be found on our website:

http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml

The State Board Executive Director's Report includes a statewide summary of ACLs and Mandatory Minimum Penalties issued during January and February 2011. A list of the penalty assessments is provided on our enforcement web page.

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/enforcement.shtml

Aramburu Island Update (Sandi Potter)

The Aramburu Island Shoreline Protection and Ecological Enhancement Project in Marin County is largely being funded by the State Board's Cleanup and Abatement Account and an SEP from a sewage spill settlement. The project goal is to reduce shoreline erosion and improve wetlands and wildlife habitat on Aramburu Island, a 17-acre island located in Richardson Bay. Aramburu Island is known to provide bird habitat, especially in times of stress such as during sewage and oil spills, when many beaches are inaccessible.

The project is being implemented by the Richardson Bay Audubon Center, in partnership with the Marin County Department of Parks and Open Space. Shoreline protection and enhancement activities will involve the following: 1) creating sand, gravel, and shell beach forms to provide foraging habitat for shorebirds and waterbirds; 2) constructing gravel micro-groins to restrict beach erosion and provide backshore habitat for oyster mounds; 3) installing large woody debris to increase shoreline complexity; 4) placing rock to promote oyster colonization; and 5) excavating a channel to improve seal access to the island. Additional restoration work on the island terrace will include creating a matrix of typical Bay habitats, including high tide marsh, seasonal wetlands, and terrestrial grasslands. Construction of these habitats will involve grading, seeding native vegetation, salt and fresh water irrigation, and substrate enhancement.

The Project has required a water quality certification and California Environmental Quality Act (CEQA) compliance. The Board is the Lead Agency for CEQA. Board staff, together with the County, and with assistance from Audubon and a team of consultants, prepared a Draft Initial Study/Mitigated Negative Declaration (IS/MND) that was published in summer 2010. The project team engaged the community in an extensive public participation process that included several neighborhood meetings, two meetings with the Marin County Board of Supervisors, and a CEQA scoping meeting.

We received many letters of support for the project. Concerns were raised by the Strawberry Recreation District Zone 4 regarding the potential for increased construction-related noise and air emissions, the potential for visual impacts, the success of wetland restoration, and possible impacts from increased flooding and sea level rise. In addition, neighbors were concerned that the project could impact marine navigation and the District's ability to dredge the navigational channel.

In December, we published responses to comments and a revised Final IS/MND and Mitigation Monitoring and Reporting Program. In January, I issued the water quality certification. The U.S. Army Corps of Engineers has issued its permit for the project and the San Francisco Bay Conservation and Development Commission anticipates approving the project by June. The real work is nearly ready to begin. Stay tuned for an invitation to a groundbreaking ceremony, tentatively scheduled for July.

Vapor Intrusion Dispute Resolution, Moffett Field (Elizabeth Wells)

Moffett Field, in Mountain View, overlies a portion of an extensive chlorinated solvents groundwater plume to which the U.S. Navy has contributed. Since 1993, the Navy has been operating a groundwater extraction and treatment system to comply with U.S. EPA and Board cleanup requirements.

In 2010, U.S. EPA amended the existing Record of Decision for the groundwater cleanup remedy at Moffett Field. The amendment extended the remedy to address potential human health risks associated with chlorinated solvent "vapor intrusion" from groundwater into overlying buildings. The amendment essentially requires the Navy to implement specific risk reduction measures from a buffet of choices, such as vapor barriers or enhanced ventilation systems, to preempt potential indoor vapor buildup.

The Navy objected to this requirement on the grounds that it did not own or lease the buildings—in fact, the Navy transferred the property and buildings to NASA in the mid 1990s—and therefore could not adequately implement nor maintain the risk reduction measures. In December 2010, in response to the Navy's refusal to implement the vapor intrusion remedy, U.S. EPA initiated a dispute under the Moffett Field Federal Facilities Agreement (FFA). The dispute rose to the level of the Senior Executive Committee (SEC), which included the U.S. EPA Region 9 Administrator, the Deputy Assistant Secretary of the Navy, and me as Board Executive Officer.

In February, the SEC unanimously resolved the dispute, agreeing that the Navy was not prohibited from reaching agreement with NASA to overcome any real or perceived barriers to remedy implementation. The Navy is currently working with U.S. EPA to develop a schedule for indoor air sampling, the first step to implementing a remedy. I will keep the Board informed of cleanup progress at Moffett Field.

Environmental Leadership Award

Board staff member Marla Lafer will receive the Marin Conservation League's *Marin Green Award for Environmental Leadership* for her role in establishing the Marin Project Coordination (MPC) meetings for the Marin County Stormwater Pollution Prevention Program (MCSTOPPP). Marla will receive the award on April 15 at the League's annual dinner.

Since 2004, MCSTOPPP and Board staff have teamed to facilitate an ongoing forum for regulatory staff from federal and State agencies to meet with permit applicants, consultants, and municipal staff to provide early comments and recommendations on projects that may result in adverse water quality impacts to creeks and wetlands. Our experience is that early intervention and coordination between the regulatory agencies and project applicants results in better projects and ultimately saves time and frustration. The monthly MPC meetings have also provided an exceptional platform to facilitate Marin County's watershed protection efforts through ongoing coordination, education, and outreach.

For the past 25 years, Marla has worked for the State on water quality issues at the policy, program, and project level. Marla joined the Board's Watershed Division in 2001.

Another Tiny (Ticket) Way the Water Board Helps the Environment

Board staff has contributed over \$1,000 to environmental causes since 2007. The money has come from collections of "tiny tickets", which are BART tickets with small remaining balances from five cents to two dollars. The contributions have gone to the Asian Pacific Environmental Network, Clean Water Fund, Earth Team, Engineers Without Borders, Greenbelt Alliance, and Lindsay Wildlife Museum. The next contribution will go to the Rails to Trails Conservancy.

This program was the brain-child of Anna Torres, head of the Board's Management Services Division. Seeing little use of the Board's suggestion box, she turned it into a collection box where staff members could deposit their tiny tickets. The tickets are periodically gathered and sent to environmental causes through a program administered by the East Bay Community Foundation. More information about the Foundation's program and a list of the environmental organizations supported are available at <http://www.eastbaycf.org/grantmaking/special-programs/tiny-tickets/132-environment>

In-house Training

Our March training was on sediment issues, policies, and guidelines, featuring a presentation by Board Member Jim McGrath. We will not have an in-house training in April. Brownbag seminars included a March 15 session on preparing for sea level rise on the Hayward shoreline, and a March 29 session on soil and soil gas screening levels at leaking underground fuel tank sites.

Staff Presentations

On March 3, Karen Taberski gave a presentation on the SF Estuary Regional Monitoring Program (RMP) to the Alameda Naval Air Station's Restoration Advisory Board. Besides the Advisory Board, about 25 members of the public attended. Karen's presentation was very well received and included a Q & A discussion on Bay pollutants in proximity to Alameda. She also handed out copies of the RMP's 2010 Pulse of the Estuary.

On March 9, Alec Naugle gave a presentation at the 2011 Air Force annual Restoration and Technology Transfer Workshop. Alec's talk titled "A Regulatory Perspective on Site Closure: How Clean is Clean?" highlighted the Board's 2009 Low-Threat Assessment Tool for Chlorinated Solvent Sites, and how we've used it to decide if a site should be

closed or when further cleanup is necessary. The tool has garnered attention because it provides a one-stop shop for regulatory closure criteria.

On March 28, Dyan Whyte gave her annual lecture on water quality to UC Berkeley's undergraduate Water Planet class. Her lecture summarized water quality concerns and focused on the challenges to achieving fishable waters. After the lecture, six students expressed interest in interning at the Board this summer. Over the years, we've recruited some of our best staff by lecturing in classes such as this one.