

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

A Monthly Report to the Board and Public

May 2011

The next regular scheduled Board meeting is May 11, 2011.

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

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Napa River Steelhead and Salmon Monitoring Program (Mike Napolitano)

How many Chinook salmon and steelhead trout return to spawn in the Napa River each year? Are the populations large and stable enough to persist over the long-term? Are stream restoration efforts making a difference? The Napa County Resource Conservation District (RCD) is collecting data to help answer these important questions.

Probably the best way to develop a score card of the overall health and capacity of a watershed, with regard to its ability to produce salmon and steelhead, is to monitor the number of smolts migrating. A smolt is a juvenile salmonid that has transformed its body functions and coloring to prepare it for migration from freshwater to the ocean. Smolts migrate to the ocean where the abundant food allows them to grow very large and gain selective advantage for reproduction. They return from the ocean and spawn in freshwater. A resilient population needs to produce a large number of smolts every year, so that the population will be sustained even in years when ocean mortality is high. When smolt production is small or uneven, the population becomes much more vulnerable to becoming threatened or extinct.

A key aspect of the RCD's salmon and steelhead population monitoring effort is a long-term smolt trapping program, now in its third year. Although three years of monitoring are not nearly enough to say anything definitive about the status of the steelhead and Chinook salmon populations, the data being collected is a critical starting point. The

monitoring thus far reveals that juvenile salmonids reared in the Napa River watershed are generally fit, and confirms previous work indicating that the Napa River supports an unusually diverse assemblage of native fishes, with very high relative abundance in comparison to the percentage of introduced fish species. We applaud this effort and encourage others to undertake similar monitoring efforts in salmon and steelhead-bearing streams in our Region.



Steelhead smolt captured in the lower Napa River in the spring of 2010 (Photo Credit: Napa RCD)



Rotary Screw trap to monitor fish migrating downstream in the Napa River (Photo Credit: Napa RCD).

Steelhead and salmon monitoring program notes:

- Trap is installed in spring and remains in the Napa River until flows diminish;
- Napa RCD biologists and volunteers check the rotary screw trap daily to remove debris and process the catch;
- Salmonid smolts are measured, weighed, fin clipped for genetic analysis, then released;
- Other fish species are counted and released; and,
- Some smolts are marked and released upstream to calculate trapping efficiency. (Source: Napa RCD Program Monitoring, Biological Monitoring).

Vineyard Waiver Workshop and CEQA Scoping Meeting (Tina Low)

On April 14, Board staff convened a public workshop and CEQA scoping meeting for a Conditional Waiver of Waste Discharge Requirements for Vineyards in the Napa River and Sonoma Creek watersheds ([Vineyard Waiver](#)). The event, which was held at the Napa Main Library, was well-attended with approximately sixty people in the audience.

Jim Ponton opened the public workshop by providing an introduction and overview of the regulatory framework associated with agriculture and nonpoint source pollution. Tina Low then presented the key elements of the proposed Vineyard Waiver, including conditions, which would require vineyard owners and operators to:

1. Enroll in the Vineyard Waiver program by submitting a Notice of Intent;
2. Develop a farm water quality plan (Farm Plan) aimed at controlling sediment, pesticide, and fertilizer discharges, and attenuating peak flows;
3. Implement and maintain management practices in accordance with the Farm Plan;
4. Conduct compliance monitoring and undertake corrective actions as necessary; and
5. Report annually on the status of their current and anticipated management practices.

The audience was very interested in the Vineyard Waiver, and a productive question-and-comment session followed.

Immediately following the public workshop, Sandia Potter opened the CEQA scoping meeting by describing the Board's role as "lead agency" and the environmental review of the Vineyard Waiver's potential impacts. The audience provided informative comments on the scope of the environmental review, which we will consider in our CEQA evaluation. We are accepting written CEQA scoping comments through May 17, 2011. Comments can be sent to Tina Low at her email: TLow@waterboards.ca.gov.

Redwood Landfill: Status of WDRs and EIR Challenges (Vic Pal)

WDRs: In August 2009, No Wetlands Landfill Expansion (NWLE) and other groups appealed the Board's issuance of Waste Discharge Requirements (WDRs) for the Redwood Landfill, located north of Novato. Board staff and the Redwood Landfill filed letter briefs with the State Board explaining why the allegations in the petition lacked merit. On April 20, the State Board dismissed the appeal.

EIR: In January 2009, the adequacy of the Environmental Impact Report (EIR) for reconfiguration of the Redwood Landfill was challenged in Superior Court. In March

2011, the trial court ruled in favor of petitioners on a procedural issue involving the administrative process for certifying the EIR. Notably, the trial court did not rule on any substantive issues regarding the EIR's adequacy, including its analysis of water quality impacts. In April 2011, the trial court's decision was appealed to the First District Court of Appeal. This latest appeal stays the lower court's decision allowing the EIR and subsequent project approvals, including the WDRs, to remain intact pending resolution of the appeal.

Enforcement: Complaints and Settlements (Brian Thompson)

On April 29, the Board's prosecution team issued an administrative civil liability (ACL) complaint with a proposed fine of \$10,000 to Lehigh Southwest Cement Company for an alleged discharge of sediment-laden water to Permanente Creek. A copy of the ACL complaint can be found on our website:

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

I publicly noticed three proposed settlement agreements and stipulated ACL orders for cases in which the Board's prosecution team reached settlement with alleged dischargers, as listed below. Settlements are proposed in stipulated ACL orders, which I intend to sign if no significant comments are received within the 30-day comment periods. Copies of the proposed settlements and stipulated orders can be found on our website:

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

- East Bay Municipal Utilities District (EBMUD) - On April 7, I publicly noticed a proposed settlement agreement and stipulated ACL order for three alleged discharges of untreated, partially-treated, and primarily-treated sewage from EBMUD's Point Isabel and San Antonio Creek Wet Weather Facilities. EBMUD has agreed to pay \$209,851 to the State Board's Cleanup and Abatement Account as part of the settlement.
- Pacific Bell Telephone Company, doing business as AT&T in California (AT&T) - On April 5, I publicly noticed a proposed settlement agreement and stipulated ACL order for an alleged discharge of 1,300 gallons of diesel fuel to Guadalupe Creek. AT&T has agreed to pay \$10,000 to the Cleanup and Abatement Account as part of the settlement.
- California Department of Transportation (Caltrans) - On March 30, I publicly noticed a proposed settlement agreement and stipulated ACL order for a case of alleged financial savings (economic benefit) associated with alleged stormwater violations during construction at an Interstate 680 Sunol/Fremont Roadway Rehabilitation Project. Caltrans agreed to pay \$381,450 to the Cleanup and Abatement Account as part of the settlement.

The Novato Sanitary District, the California Water Service Company, and the Sausalito-Marin City Sanitary District agreed to conditional offers to settle mandatory minimum penalty violations through the Board's Expedited Payment Program. Payments of \$60,000, \$15,000, and \$3,000, respectively, will be made to the Cleanup and Abatement Account for alleged violations if the payment agreements circulated for a 30-day public comment period do not generate opposition to accepting the offers. Copies of the settlement offers can be found on our website:

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

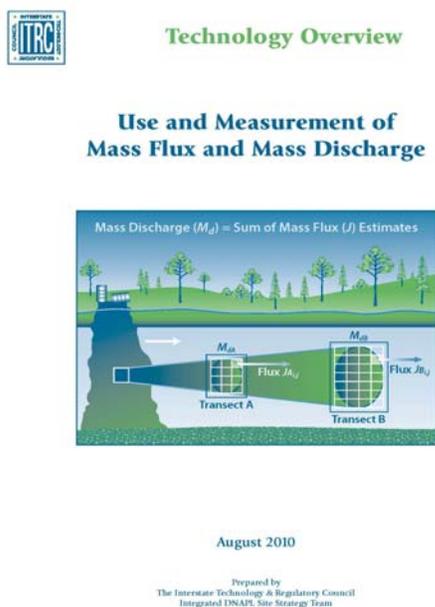
Indian Springs Resort and Spa has agreed to a conditional offer to settle a reporting violation and will make a payment of \$1,600 to the State Board's Waste Discharge Permit Fund if the payment agreement circulated on April 25 for a 30-day public comment period does not generate opposition to accepting 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

The Board's advisory team issued two ACL orders after the alleged dischargers reached settlement agreements with the Board's prosecution team and 30-day public comment periods did not generate any opposition to issuing the orders:

- Sonoma Valley County Sanitation District - An order was issued on April 27 for a \$383,000 liability requiring payment of a \$199,750 fine to the Cleanup and Abatement Account and, in lieu of a further fine of \$183,250, completion of a Supplemental Environmental Project for a Fryer Creek Habitat Enhancement Project.
- City of Pacifica - An order was issued on April 25 for a \$1,700,000 liability requiring payment of an \$880,000 fine to the Cleanup and Abatement Account and, in lieu of a further fine of \$820,000, completion of a Supplemental Environmental Project consisting of a private sewer lateral program with an option to also fund a restoration project along Rockaway Creek.

ITRC Meeting (Cleet Carlton, Alec Naugle, Max Shahbazian)



Earlier this month, Cleet Carlton, Alec Naugle, and Max Shahbazian attended the Interstate Technology Regulatory Council's (ITRC) spring meeting. Established in 1995, the ITRC is a state-led coalition of environmental regulatory personnel from over 40 states, federal agencies, tribes, and public and industry stakeholders. The ITRC's mission is to reduce technical and regulatory barriers, foster consistency among state agencies, and promote effective use of environmental cleanup technologies. The ITRC includes several teams, each developing a particular technology overview/guidance document.

ITRC August 2010 Report

Cleet is a member of the Environmental Molecular Diagnostics (EMDs) team. Diagnostic tools include the use of biological (e.g., bacterial analysis and gene sequencing) and chemical (e.g., compound-specific isotopic analysis) technologies to evaluate if multiple contaminant sources are present and if contaminants are being destroyed or simply diluted. EMDs are forensic tools that can help solve responsible party controversies and

assess cleanup effectiveness. Cleet played an integral role in the review of Fact Sheets and the initial draft of the Technical Regulatory Guidance document.

Alec is a member of the Integrated DNAPL Site Strategy (IDSS) team. DNAPLs (dense non-aqueous phase liquids) are typically associated with chlorinated solvent spills/leaks at manufacturing, dry cleaner, military, and other industrial sites. The IDSS team has already published one guidance document (available at the following link: <http://www.itrcweb.org/guidancedocument.asp?TID=82>) and is developing a second. This next document, due out in September 2011, will recommend strategies to maximize cleanup effectiveness at chlorinated solvent sites. Alec helped author key chapters of both documents and is serving as an instructor for webinar trainings.

Max is a member of the Permeable Reactive Barriers (PRB) Team, which is updating its 2005 PRB guidance document. Iron-based PRBs, which use granular iron filings to treat chlorinated solvents in groundwater, are now widely accepted. Attention is now shifting to evaluating additional reactive materials that can better treat groundwater contaminants such as nitrates, sulfates, perchlorate, hexavalent chromium, and explosives like TNT. The updated guidance will discuss how these new materials work, ways to install them, and how to measure performance and longevity once emplaced in the ground.

Max is responsible for the Regulatory Consideration section of the guidance. He is documenting a case study of a chlorinated solvent groundwater site in Sunnyvale, where an iron PRB has been successfully treating a groundwater pollutant plume since 2003.

Fairfield Dry Cleaner Spills (Kent Ave)

Board staff is in the process of preparing site cleanup orders for a cluster of dry cleaner spill sites in Fairfield. We expect to have these orders ready for Board consideration this summer. These Board items will illustrate many of the issues noted in our February 2011 status report to the Board on dry cleaner spills.

Last spring, we began preparing a site cleanup order for the Fairfield Cleaners site, located in downtown Fairfield. Previous investigations had found significant concentrations of the dry cleaning solvent PCE in soil and groundwater. Fairfield Cleaners argued that other dry cleaners in the vicinity were at least partly responsible for the pollution and said it would oppose adoption of an order that did not include other dischargers. In July, Fairfield Cleaners proposed an investigation to evaluate potential releases from several nearby addresses where dry cleaners were known or suspected to have operated. Staff agreed that if the resulting data indicated additional releases, then these additional dischargers would be named in a cleanup order or orders.

In January this year, Fairfield Cleaners submitted data that identified PCE releases from two or three other properties. We are in the process of contacting these other potential dischargers and discussing the linkage between several site cleanup orders. A key aspect will be to ensure each discharger is responsible for investigating and cleaning up its own source area. All dischargers will be responsible for jointly investigating and cleaning up any commingled groundwater pollution. We expect to have the package of site cleanup orders ready for Board consideration and adoption later this summer.

In-house Training

We had no in-house training in April.

Staff Presentations

On April 26, I spoke as part of a panel discussing the Long-Term Management Strategy for Dredged Material Placement (LTMS) at the Bay Planning Coalition's annual Decisionmakers' Conference. I emphasized the benefits LTMS has provided the Bay Area since its development in the late 90s, but noted the issues facing it due to such challenges as changes in the Bay's sediment dynamics, reductions in funding for maintenance dredging, and difficulties in making upland sites available for dredged material placement.

On April 27, Stephen Hill, Chuck Headlee, Max Shahbazian, Adriana Constantinescu, Mark Johnson, and Vic Pal attended an Alameda County Bar Association reception. This "Meet the Regulators" event was a kick-off event for the Association's Environmental, Land Use, and Sustainability Law section. Board staff provided a short overview of the agency's mission and programs to an audience of environmental attorneys and consultants.