

EXECUTIVE OFFICER'S REPORT: *July 2016*

A Monthly Report to the Board and Public

NEXT MEETING: July 13, 2016

WEBSITE: <http://www.waterboards.ca.gov/sanfranciscobay/>

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Cleanup Orders Issued or Rescinded by Executive Officer

The Board has delegated to the Executive Officer the authority to issue or rescind site cleanup orders pursuant to Water Code section 13304. The choice between having these orders acted upon by the Board or by the Executive Officer hinges on the degree of controversy and urgency in each case. In general, I issue or rescind these orders in situations where there is little or no controversy or when there is some urgency (e.g., cleanup action is needed promptly to address a current or imminent threat to human health or the environment). Otherwise, we bring these types of cleanup orders to the Board for its consideration and action in a public hearing.

Former Lockheed Martin Site (Roger Papler) In May, I rescinded a 1997 site cleanup order for the property at 1235 Elko Drive in Sunnyvale. Lockheed historically used two sumps in its machine shop area for the disposal of liquids containing trichloroethene (TCE). The sumps leaked, causing a discharge of TCE. In 1992, the two sumps were removed and accessible contaminated soil in the source area was excavated. A groundwater extraction and treatment system operated from 1994 to 2013. A deed restriction was recorded that restricts sensitive land use and use of groundwater. A risk management plan for the site was developed that contains procedures to address potential future redevelopment including soil investigation and remediation and, if needed, vapor intrusion evaluation and mitigation. Rescission of the 1997 order was appropriate under these circumstances, based on the Water Board's low-threat closure guidance.

USA Petroleum (Ron Goloubow) In June, I rescinded a 2004 site cleanup order for the property at 200 Serra Way in Milpitas. USA Petroleum operated a gas station at the site and used underground storage tanks (USTs) to store gasoline. The USTs leaked, causing a discharge of petroleum-based products. In 1998, the USTs were removed and about 5,000 tons of soil were excavated. A dual-phase extraction system operated from 2006 to 2007. A soil vapor extraction system operated from 2007 to 2008. Rescission of the 2004 order was appropriate under these circumstances, based on the State Water Board's low-treat UST closure policy.

Royal Auto Body (Max Shahbazian) In June, I rescinded a 1989 site cleanup order for the property at 150 North Wolfe Road in Sunnyvale. Several commercial laboratories operated at the site and used a sump for the disposal of cleaning liquids that contained TCE. The sump leaked, causing a discharge of TCE. In 2003, the sump was removed and about 73 tons of soil was excavated. In 2009, enhanced bioremediation was conducted by the injection of a carbohydrate solution into soil and groundwater in onsite and offsite areas. A deed restriction was recorded that restricts sensitive land uses and use of groundwater. A risk management plan for the site was developed that contains procedures to be used during future construction and subsurface activities. Rescission of the 1989 order was appropriate under these circumstances, based on the Water Board's low-threat closure guidance.

Phillips 66 Company (Ross Steenson) In June, I issued a site cleanup order, requiring the remediation of the Phillips 66 Company's Line 200 Pipeline discharge, located in Concord, on the southern boundary of the Concord Naval Weapons Station (CNWS). The leak was discovered in 2011 by Phillips 66 personnel investigating petroleum odor complaints from nearby residents. Following the leak discovery, Phillips 66 immediately shut down the pipeline and undertook an emergency response. Subsequent investigations revealed that the leaked oil had impacted surface and subsurface soil, soil vapor, and groundwater. Some of the oil migrated underground from CNWS to an adjacent residential property. Phillips 66 subsequently purchased the property and demolished the house. The Order requires the discharger to remediate the oil-impacted soil, soil vapor, and groundwater.

Seasonal wetlands were damaged as part of the emergency response work and the planned remediation will further damage wetlands. Therefore, Phillips 66 is required to prepare and implement a wetland mitigation plan. Site remediation and mitigation also required a federal Clean Water Act section 404 permit from the Army Corps and a section 401 Water Quality Certification from the Water Board (which we issued on May 23). In addition, the U.S. Fish and Wildlife Service determined that a take of threatened and endangered species (Central California tiger salamander and the California red-legged frog) had likely occurred. Therefore, as lead CEQA agency for this project, we prepared an Initial Study, a Mitigated Negative Declaration, and a Mitigation Monitoring and Reporting Program, which evaluated and addressed the impacts of the historical and planned remedial work (adopted April 2016).

The long term plan for the former residential property is to transfer property ownership to the East Bay Regional Park District who will manage the property as open space in perpetuity. This outcome is especially fortuitous as the adjacent CNWS property will also be transferred from the Navy to the District to be managed as open space, creating contiguous protected habitat.

Mobil Bulk Terminal 04-394 (Vic Pal) In June, I rescinded a 2006 site cleanup order for the former Bay-front Mobil Bulk Terminal 04-394, located at 440 Jefferson Street in San Francisco. The site encompasses an approximately 70-by-120 foot rectangular lot between Leavenworth and Hyde Streets at Fisherman's Wharf. Remedial actions successfully addressed oil that was seeping into the Bay. A Risk Assessment concluded that the potential risks for all exposure pathways are insignificant except for possible confined space vapor risk to workers who may at some time in the future trench in an area where residual soil contamination remains under buildings. The potential risk to construction/trench workers is addressed through controls established in a Risk Management Plan. All tasks in that Order have been completed.

401 Water Quality Certification Applications Received (Keith Lichten)

The table below lists those applications received for Clean Water Act section 401 water quality certification from May 21 through June 17, 2016. A check mark in the right-hand column indicates a project with work that may be in BCDC jurisdiction.

Project Name	City/Location	County	May have BCDC Jurisdiction
Alameda Point Seaplane Lagoon ferry terminal project	Alameda	Alameda	✓
Garin Park newt pond improvement	Hayward	Alameda	
City of Pleasanton channel maintenance projects	Pleasanton	Alameda	
752 St. Mary's Rd. stormwater outfall	Lafayette	Contra Costa	
Radiant Ave. property – storage area	Richmond	Contra Costa	
WETA Richmond ferry terminal	Richmond	Contra Costa	✓
Contra Costa County flood control channel maintenance	Various	Contra Costa	✓
Pine Creek box culvert maintenance	Walnut Creek	Contra Costa	
280 Beach Road waterfront improvements	Belvedere	Marin	✓
Larkspur sanitary sewer pipe repair	Larkspur	Marin	✓
1600 Old Rancheria Rd. culvert replacement	Nicasio	Marin	
SMART Non-motorized pathway: Franklin Ave. to Grant Ave.	Novato	Marin	✓
SMART Non-motorized pathway: Rush Creek Place to Atherton Station	Novato	Marin	✓
Shalen Residence biotechnical creek bank protection	San Geronimo	Marin	
Marin Gateway stormwater line replacement	Sausalito	Marin	
4992 Ranch Rd. dock	Tiburon	Marin	✓
Boat haulout pier wave panels	San Francisco	San Francisco	✓
Candlestick Point outfall #2 project	San Francisco	San Francisco	✓
East Harbor Marina interim remedial repair measure	San Francisco	San Francisco	✓
Pier 26 fireboat berth replacement	San Francisco	San Francisco	✓
Detroit Drive wastewater treatment plant upgrade	San Mateo	San Mateo	✓
Dempsey Rd. utility improvements	Milpitas	Santa Clara	
Anderson Reservoir Phase 1A geotechnical and geologic investigations	Morgan Hill	Santa Clara	
Anderson Reservoir Phase 3 geotechnical and geologic investigations	Morgan Hill	Santa Clara	
Highway 121 widening at Leland Fly Fishing Outfitters	Sonoma	Sonoma	

Enforcement Actions Proposed and Final (Lila Tang)

The following tables show complaints, recently proposed settlements, and final actions.

Complaints and proposed settlements are available at

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

Issued Complaints			
The following complaint was issued with a comment period deadline that is under consideration by the Board's Advisory Team:			
Discharger	Violation(s)	Penalty Proposed	Date Issued
John D. Sweeney and Point Buckler Club, LLC, at Point Buckler Island in Suisun Marsh	Unauthorized discharge of fill to waters of the State and U.S.	\$4,600,000 ¹	May 17, 2016

¹ Issued with the complaint was a Tentative Cleanup and Abatement Order. The Board is currently scheduled to hold a hearing on the Tentative Cleanup and Abatement Order on August 10, 2016.

Proposed Settlements			
The following are noticed for public comment. If no significant comment is received by the deadline, the Executive Officer will sign an order implementing the settlement.			
Discharger	Violation(s)	Penalty Proposed	Comment Deadline
California Water Service Company, in San Mateo	Potable water discharge killed 276 fish in Polhemus and San Mateo creeks and wasted ~8 million gallons from poor response to low pressure alarm.	\$1,000,000 ²	July 14, 2016
MDI Forest Products, in Oakland	Discharge of polluted industrial storm runoff.	\$176,000 ³	July 15, 2016
City of Pacifica Calera Creek Water Recycling Plant, in Pacifica	Discharge limit exceedances.	\$12,000 ⁴	July 21, 2016
Univar USA Inc., in San Jose	Discharge limit exceedances.	\$3,000 ⁴	July 25, 2016

² Includes \$495,841 to replace a different section of water main adjacent to the creeks impacted by the violation as part of enhanced compliance because that section is not scheduled for replacement. Also, the proposed settlement includes an additional \$20,000 to the California Department of Fish and Wildlife to cover staff cost and damages.

³ Includes 47 percent (\$82,600) to supplement RMP⁵ studies.

⁴ 100 percent of penalty to supplement RMP⁵ studies. This action involves only mandatory minimum penalties that Water Code 13385(l) allows the full amount below \$15,000 to go to a supplemental environmental project.

Final Action			
On behalf of the Board, the Executive Officer approved the following:			
Discharger	Violation(s)	Penalty Imposed	Supplemental Environmental Project
East Bay Municipal Utility District, San Pablo Water Treatment Plant, in Kensington	Discharge limit exceedance.	\$9,000	\$4,500 to RMP ⁵

⁵ RMP is the San Francisco Bay Regional Monitoring Program managed by the San Francisco Estuary Institute to collect water quality information in support of management decisions to restore and protect beneficial uses of the region's waters.

The State Board's Office of Enforcement includes a statewide summary of penalty enforcement in its Executive Director Report at http://www.waterboards.ca.gov/board_info/eo_rpts.shtml.

Staff Presentations

On June 21, Keith Lichten joined State Water Board staff and David Williams of the Bay Area Clean Water Agencies at the California Water Environment Association's seminar, "Staying Current – the latest on regulatory updates." Keith spoke on highlights from the Board's Municipal Regional Stormwater Permit, including new and revised requirements to address PCBs and trash discharges and long-term green infrastructure planning.

State Board Policies and Permits under Development

The following is a list of statewide policies and permits under development. This table is an abbreviated version of what is routinely distributed as part of the State Board Executive Director's Report. The text in the table is largely unedited except for the deletion of extraneous information.

Policy/General Permit	Status
Bacteria Standards for Ocean and Inland Surface Waters	State Board is developing Statewide bacteria water quality objectives and a control program to protect human health in waters designated for water contact recreation (REC-1) from the effects of pathogens. The bacteria objectives are proposed to be adopted as amendments to the Statewide Inland Surface Waters, Enclosed Bays and Estuaries Plan and the California Ocean Plan. Staff plans to release draft documents for public review and comment in July of 2016. State Board web site: http://www.waterboards.ca.gov/bacterialobjectives/
Biological Integrity Plan Development	State Board staff is developing a proposed Implementation Plan for Assessing Biological Integrity of perennial freshwater streams. The goal is to set biological expectations to ensure protection and restoration of aquatic life beneficial uses and to incorporate additional bioassessment monitoring into the Water Boards' regulatory programs. Staff is revising the existing draft Biological Integrity Plan based on the feedback from stakeholders and advisory groups. Staff is combining efforts with the Biostimulatory substances project and creating a project charter that defines the roles and responsibilities of a multi-unit team. Management is reviewing the project charter.
Biostimulatory Substances Project	This project is being combined with the Biological Integrity Project. Staff is working with technical advisory groups to produce an implementation strategy document. Staff has completed Focus Group outreach efforts from February 2016 to June 2016. An outreach document is available for public review at the State Board's website on the nutrient objectives webpage. Southern California Coastal Water Research Project staff are researching and developing the biological condition gradient model that will be used in the assessment of the effects of nutrients on stream biological conditions. Scientific Peer Review (Public Release) is anticipated for Winter 2017
Blue Green Algae Action Levels	State Board staff is working with a multi-agency workgroup to update the Draft Voluntary Guidance Document for California CyanoHABs (CCHABs), related to monitoring and posting public notices. Staff is also coordinating with the Monitoring Council to continue to work issues related to CCHABs.
Caltrans Separate Storm Sewer System (MS4) Permit Storm Water Management Plan	The California Department of Transportation (Caltrans) submitted its Storm Water Management Plan as required by its Statewide Storm Water Permit. The Storm Water Management Plan identifies Caltrans' methods of compliance with permit requirements. The draft Storm Water Management Plan was released for public review and comment in March 2016. The Executive Director will consider approval of the final Storm Water Management Plan in July 2016.
Chlorine Amendment	The draft Total Residual Chlorine and Chlorine-Produced Oxidants Policy of California is being converted into an amendment to the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. This action is a priority for U.S. EPA.

Enforcement Policy Amendments	State Board staff has prepared proposed amendments to Enforcement Policy. Staff expects to release the revised Enforcement Policy for public comment in June 2016. State Board consideration is planned for October 2016.
Industrial General Storm Water Permit Amendment for TMDL Implementation	State Board staff is developing an Industrial General Permit amendment to incorporate proposed TMDL implementation language into the existing statewide permit. The proposed permit amendment is being developed in collaboration with the four Regional Water Boards that have adopted TMDLs that include industrial stormwater discharges as a pollutant source of water body impairment (San Francisco Bay, Los Angeles, Santa Ana, and San Diego Regional Water Boards). Staff anticipates release of the proposed TMDL implementation language for public review and comment early 2017. State Board consideration of the proposed permit amendment is anticipated for mid-2017.
2014 and 2016 Integrated Report Adoption	The 2014 California Clean Water Act Section 303(d) and 305(b) Integrated Report (California Integrated Report) assesses readily available data and information for the Central Coast, Central Valley, and San Diego Regional Water Boards. The 2016 California Integrated Report assesses readily available data for the San Francisco Bay, Los Angeles, and Santa Ana Regional Water Boards. The 2014 California Integrated Report was scheduled to be approved at a State Board meeting in June 2016 with the 2016 California Integrated Report scheduled for approval at a June 2017 State Board Meeting. Due to various delays in the 2014 California Integrated Report development, the June 2016 approval deadline was not met. In an effort to avoid delaying the 2016 California Integrated Report approval process, staff proposes to combine the 2014 and 2016 California Integrated Reports and schedule them for approval at a single State Board Meeting not later than August 2017. This could allow the six participating Regional Water Boards sufficient time to complete development of their reports and complete their Regional Water Board approval process. All six participating Regional Water Boards must have their Regional Integrated Reports submitted to State Board staff no later than April 2017. If a Regional Water Board cannot meet the submittal deadline of April 2017, the State Board will administer the Regional Water Board approval process pursuant to Section 6.2 of the Water Quality Control Policy for developing California's Clean Water Act Section 303(d) List.
Mercury TMDL and Water Quality Objectives (Reservoirs)	Staff from Regional Water Boards 2, 5, and State Water Board are developing a TMDL and implementation plan to address fish mercury impairments in about 150 reservoirs around the state. Staff is preparing the scientific and technical analysis (source analysis, linkage, targets, allocations, and implementation plan options), and regulatory provisions for the implementation plan. Staff met reservoir owners and other stakeholders in early June 2016.
Mercury Water Quality Objectives & Implementation	In coordination with the Reservoir Mercury TMDL team, staff is preparing mercury water quality objectives and a plan of implementation. Scientific peer review was initiated on May 1, 2016, and the scientific reviewers' comments should be received July 31. The draft staff report and the draft regulatory language are expected to be release to the public in the fall of 2016.
Nonpoint Source (NPS) Implementation and Enforcement Policy Amendments	The NPS Implementation and Enforcement Policy (NPS Policy) is being updated as directed by Resolution 2012-0004 to reflect the current funding mechanisms for State Water Board and Regional Water Board regulation of nonpoint source wastewater discharges. Staff anticipates releasing a draft of the NPS Policy amendments in August of 2016.

Phase I update of the Bay-Delta Plan: San Joaquin River flows and southern Delta salinity	A Revised Draft Substitute Environmental Document will be recirculated for public comment early summer 2016. A Draft plan amendment to be brought to the State Board for consideration by winter 2016.
Phase II Small Municipal Separate Storm Sewer System (MS4) Permit Amendment	State Board staff is developing aa amendment to the Small MS4 Statewide General Permit, specifically amendment of Attachment G (titled Region-specific Total Maximum Daily Loads (TMDL) Implementation Requirements) and the permit Fact Sheet. The Permit Amendment includes new and revised TMDL implementation requirements, TMDL final compliance dates, and references the waste load allocations contained in the Fact Sheet. A revised draft Permit Amendment was released to the Regional Water Boards and U.S. EPA for review. Issuance of the draft Permit Amendment for public review and comment is tentatively scheduled for August 2016
Phase II update of the Bay-Delta Plan: Comprehensive Review	State Board staff is in the process of a phased review and update of the 2006 Water Quality Control Plan for the Bay-Delta (2006 Bay-Delta Plan). The second phase of the review focuses on the following issues: (1) Delta outflow objectives, (2) export/inflow objectives, (3) Delta Cross Channel Gate closure objectives, (4) Suisun Marsh objectives; (5) potential new reverse flow objectives for Old and Middle Rivers; (6) potential new floodplain habitat flow objectives; (7) potential changes to the monitoring and special studies program, and (8) other potential changes to the program of implementation. The Scientific Basis Report is expected to be released for public review in early 2016. Staff is also developing a Substitute Environmental Document that will provide an evaluation of the potential environmental impacts of the proposed changes to the Bay-Delta Plan. This document is expected to be released for public review in 2017.
Procedures for Discharges of Dredged or Fill Materials to Waters of the State	State Board staff has prepared proposed Procedures for Discharges of Dredged or Fill Materials to Waters of the State, formally known as the wetland area protection and dredge fill permitting policy. In addition, staff has held informal, focused stakeholder outreach. Staff expects to release the proposed Procedures and Substitute Environmental Document for public comments in June 2016. State Board consideration is planned for October 18, 2016
Statewide General Waste Discharge Requirements Order for Wineries	State Board staff have prepared a concept paper for developing a statewide general order for wineries. Staff is collaborating with stakeholders to prepare a draft requirements matrix. Initial meetings with wine industry representatives performed.
Statewide Storm Water Construction General Permit Reissuance	State Board staff has initiated development of the reissuance of the current Statewide Storm Water Construction General Permit (CGP). The proposed CGP reissuance will include implementation of Total Maximum Daily Loads (TMDLs) and permit revisions intended to update the CGP requirements per information collected during the term of the existing permit. Further information on the development of the proposed permit reissuance, including stakeholder outreach information, will be located on the State Board's Construction Storm Water Program website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml .

Statewide Storm Water Industrial General Permit Implementation	State Board staff and the Industrial General Permit Training Team have finalized the Qualified Industrial Storm Water Practitioner (QISP) Training Program. This training program went live on May 1, 2016, and is part on-line and part in-person. State Board staff is developing Storm Water Multiple Application and Report Tracking System help guides for industrial dischargers and preparing for July 15, 2016, when the Annual Reports are due statewide. Industrial dischargers who have exceeded Numeric Action Level values for 2015/2016 storm water sampling events will go to Level 1 July 1, 2016, and be required to obtain assistance from a QISP.
Toxicity Amendments to the Inland Surface Waters, Enclosed Bays, and Estuaries Plan	Staff circulated a draft amendment and staff report in 2012 for public review and comment. Considering these comments, staff is preparing a revised draft version of the amendment and staff report. Once staff complete the revisions, staff will initiate additional stakeholder outreach and circulate the draft documents for public review. Staff expect to release the draft documents by late summer or early fall 2016.
Underground Storage Tank Electronic Reporting	State Board staff is preparing a formal rulemaking package which updates the California Code of Regulations, title 23 to require electronic reporting of data from the underground storage tank regulated community to the certified unified program agency (CUPA), and from the CUPA to the state. The proposed regulatory changes to title 23 will bring the regulations in-line with statutory requirements. No new requirements are being introduced in this update other than requiring submission of data electronically instead of on paper. The regulation package for Notice was submitted to the Office of Administrative Law (OAL) on March 10, 2016. The public comment period started March 25, 2016 and ended May 10, 2016 at noon. Public comments were received and the proposed regulations were revised based on those comments. A 15-day public comment period started June 15, 2016 and will end at noon on July 1, 2016. The Board will consider the draft regulations at its August 2, 2016 meeting.