

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

MEETING DATE: October 12, 2022

**Item: 5**

**Executive Officer's Report**

## Executive Officer's Report October 7, 2022

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### **Dairies and Ranches at Point Reyes National Seashore (Laurie Taul)**

Many members of the public and organizations continue to voice their concerns about potential water quality impacts of dairy and beef ranches in Point Reyes National Seashore (PRNS). Most of the opposition groups publicly state their opposition to PRNS ranching activities altogether and favor free-roaming resident Tule Elk herds. This report reflects on key issues and considerations related to water quality and outlines staff's near-term priorities.

Water quality impacts from dairies and grazing operations continue to be a Water Board staff priority. Each NPS dairy must comply with General Waste Discharge Requirements for Confined Animal Facilities (CAF Order), and grazing operations that drain to Tomales Bay must comply with the Grazing Waiver for the Tomales Bay Watershed. Both orders contain specific terms and conditions for minimizing impacts to water quality from confined animal areas, land application areas, and grazing lands and requires detailed management plans, monitoring, and reporting. In recent years, our work has been focused in watersheds designated as impaired by pathogens, where Water Quality Improvement Plans are in place. These designated watersheds currently include the areas draining to Tomales Bay, Napa River, Sonoma Creek, San Vicente Creek, and the Petaluma River.

### ***Background***

In 2017, a multi-party Settlement Agreement between the National Park Service (NPS) and three plaintiff groups (Resource Renewal Institute, Center for Biological Diversity, and Western Watersheds Project) required the NPS to update the General Management Plan. As a result, the NPS began preparing an Environmental Impact Statement (EIS) for a General Management Plan Amendment (GMPA) in 2018, and issued the Record of Decision for the EIS and GMPA in September 2021. While the NPS manages over 86,000 acres, of which 33,000 acres are designated as wilderness, this amendment applies to roughly 28,000 acres of Point Reyes National Seashore and north district Golden Gate National Recreation Area leased for dairy and beef ranching. The selected action includes adopting a zoning framework, ranch operations (including ranch leasing and operating agreements, range management, management practices, and ranch complex activities), and management of tule elk in the ranchland zone.

One key public process milestone was the California Coastal Commission's April 2021 conditional concurrence that the GMPA is consistent with the California Coastal Management Program. As a condition of this concurrence, the NPS was required to provide a ranching water quality strategy and climate action plan, including implementation of short- and long-term management practices as well as a surface water sampling program. NPS staff worked closely with Water Board staff on revising the Water Quality Strategy before submitting it to the Coastal Commission for re-consideration during their September 2022 public hearing. The revised Water Quality Strategy includes an adaptive management approach with monitoring that includes reference stations in areas unaffected by ranching activities and triggers for implementing additional measures to further reduce the potential for water quality impacts from ranching activities. On September 8, the Coastal Commission concurred with the revised Water Quality Strategy submitted by the the NPS. During the meeting,

Laurie Taul expressed support for the strategy and responded to questions from commissioners regarding the Water Board's authority and actions.

Ahead of the September Coastal Commission hearing, a water quality sampling report was submitted to us by the Turtle Island Resortation Network, on behalf of the aforementioned plaintiff organizations. The report documents citizen volunteer surface water monitoring conducted October 2021 through January 2022 at select locations downstream of dairy and beef cattle operations, including tabulated data and a general discussion of sampling methods and site locations.

### ***Mitigating Factors for Park Ranching Activities***

Currently, the NPS is the primary entity overseeing implementation of ranch best management practices (BMPs) within PRNS, and all ranches enter into ranch operating agreements with the NPS. The GMPA calls for water quality specifications to be included in ranch operating agreements, including specifications requiring additional water quality BMPs. These specifications mirror the requirements of the Water Board orders and also include specific action plans in response to this year's compliance inspection findings. The amendment also identifies zones within PRNS where grazing and other operations are prohibited to protect sensitive species.

In addition to implementing additional BMPs, the factors below may also help to mitigate water quality impacts at PRNS:

- *Density of animals:* Dairies at PRNS generally have a lower density of animals per acre than ranches in other parts of California. For example, the average PRNS dairy has 390 head of cattle, compared to 2,120 head in Tulare County. Cows also pasture graze for a larger portion of their food intake and spend less time in concentrated feeding areas in PRNS. This year, NPS enforced mandatory reductions in the number of animals on grazing parcels due to the ongoing drought and vegetation monitoring results.
- *Organic Certification:* All five PRNS dairies are certified organic. To meet the requirements under the National Organic Program, dairies must prevent runoff of water and wastes to surface water; practice erosion control and protect natural wetlands and riparian areas; put animals to pasture at least 120 days per year with a minimum 30 percent dry matter intake from grazing; and maintain a pasture management plan that ensures pasture of a sufficient quality and quantity is available to graze throughout the grazing season. While not a guarantee, we would expect organic certification would help in protecting water quality from polluted dairy runoff.
- *Lease Terms:* Initially, the proposed GMPA proposed to extend lease agreements to 20 years. However, considering a recent lawsuit by the same plaintiff groups, NPS has issued two-year interim leases with updated terms and conditions to better address water quality and resource protection. Ranching supporters advocate that longer-term leases provide security to invest in large-scale improvement projects. For example, fencing to keep cattle out of streams is particularly expensive; a rancher concerned about losing the lease is less likely to consider this investment.

- *NPS Water Quality Strategy*: This year NPS will begin implementing a water quality monitoring and inspection program including long-term coastal monthly monitoring, beach recreational monitoring, and compliance inspections for ranching septic systems and dairy operations. When monitoring results indicate adverse impacts, immediate attention can be given to identify potential problems and to implement solutions, reflecting an improved commitment by NPS staff to take responsibility for timely corrective actions and to continue to coordinate with Water Board staff.

### ***Water Board Staff Recent Actions and Next Steps***

This year, Water Board staff have been actively engaged with NPS and Coastal Commission staff in developing the NPS Water Quality Strategy. In parallel to this effort, Water Board staff continue to implement dairy and grazing regulatory programs by conducting inspections, evaluating reports, promoting outreach and education, coordinating with NPS, local agencies, and other agricultural partners, and facilitating grants to help expedite the larger and expensive ranch improvements. Recent actions and upcoming priorities are as follows:

- The Water Board conducted inspections of each dairy in February and issued inspection reports in July. Those reports detail specific action items for each facility and timelines for compliance. Three dairies were determined to be complying with our Order, with a few vulnerable areas that could be addressed quickly and mitigated before the rainy season. The other two dairies require facility improvements and updated management plans to meet the Order requirements. We required specific action items and the submission of an improvement plan by November 1, 2022. The Water Board will review these plans closely and intends to work with ranchers and NPS staff to implement improvements in a timely manner.
- This Fall, the Water Board will be re-visiting each dairy to confirm that needed short-term management measures and winterization practices are in place.
- Over the next year, the Water Board will be revising how we regulate grazing activities by reissuing expired Grazing Conditional Waivers of WDRs and applying it to additional watersheds in compliance with new TMDLs or in areas of particularly high-risk to water quality.
- The Water Board will be doing a very close review of the Turtle Island Restoration Network monitoring report. It is important to understand the sampling methods, sample site locations and environmental conditions. The Water Board also expects to examine all the currently available data sets for the area studied and will consider how the data can inform our programs and possibly future investigations.

**The Hunters Point Naval Shipyard in a Time of Climate Change (David Tanouye and Nathan King)**

The Water Board, USEPA, and DTSC are the primary regulatory agencies overseeing the Navy's environmental cleanup of the Hunters Point Naval Shipyard Superfund site under a Federal Facilities Agreement. Water Board staff have recently assisted the Navy with its draft Community Involvement Plan, focusing on the environmental injustice concerns of the disadvantaged Bay View and Hunters Point communities. Water Board staff have also recently directed the Navy to consider the effects of sea level and groundwater level rise in the Navy's Petroleum Cleanup Workplan, consistent with our efforts at bayfront landfills.

In June 2022, the [Civil Grand Jury Report](#) (CGJ Report) concluded that the City of San Francisco should form a special committee to evaluate future impacts of rising sea and groundwater levels on the cleanup at Hunters Point Naval Shipyard, and that the regulatory agencies did not consider the effects of sea level and groundwater level rise that could remobilize the contamination that will be left in place.

In August 2022, the Mayor's response disagreed with some of the findings and recommendations of the CGJ Report, including the need to form a special committee, and stated that the existing governance of the cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), with input from the City and state and federal environmental regulators, is an adequate and appropriate oversight framework. The Mayor's response also said the CERCLA process is designed to identify emerging issues and incorporate them into future planning in a way that is proactive, actionable, and protective of human health and the environment.

In early September, Water Board staff were invited by the SF Board of Supervisors' Government Audit and Oversight Committee (Committee) to attend a hearing to be held on September 15, 2022, on the CGJ Report and Mayor's Office Response. None of the lead representatives from any of the regulatory agencies (USEPA, DTSC, and Water Board) were available to attend, but collaborated to provide a joint statement (see Attachment 1) to the Committee explaining the process for planning and implementing future protectiveness of cleanup activities at Hunters Point through the iterative CERCLA process using Five-Year Reviews. The Five-Year Reviews are required per CERCLA to reevaluate protectiveness of remedies regularly. The next draft Five-Year Review protectiveness evaluation is due from the Navy in April 2023 and will be finalized in 2024.

The Committee held a second hearing on September 29, 2022. USEPA and DTSC represented the regulatory agencies as Water Board lead staff were unavailable (due to pre-scheduled racial equity and environmental justice training). In lieu of attending, Water Board staff submitted a letter about the status of the science, our activities, and the high priority of addressing contamination at Hunters Point Naval Shipyard also considering the history of environmental injustices (see Attachment 2). DTSC staff read the Water Board letter into the record. The Committee had questions about the regulatory agencies' resources, expertise, sea level and groundwater rise science, and status of actions. Water Board staff will coordinate with SF City staff and/or the Committee to respond and share information.

The Water Board, as per the Federal Facilities Agreement with USEPA, DTSC, and the Navy pursuant to CERCLA, continues to work collaboratively with our agency partners to ensure that the Navy is held responsible for evaluating long-term impacts of climate change and sea level rise at the site.

**Status Update for the Former Prosperity Cleaners Site in Marinwood (Brian Thompson)**

Cleanup is progressing at the Former Prosperity Cleaners site at Marinwood Plaza. The cleanup has two components – soil and soil vapor remediation, and groundwater plume remediation. This is a status update for both.

***Soil and Soil Vapor Remediation***

Over the summer, a 19,500 square-foot building was demolished and approximately 1,300 cubic yards of soil contaminated by tetrachloroethylene (PCE) used at the former dry cleaner was excavated and removed from the site. The excavation footprint was adjusted slightly to remove sewer laterals, which could have been conduits for PCE migration, and expanded in areas to remove additional soil impacted by PCE. Over 2,000 tons of material was removed from the site and the excavation backfilled at a cost of approximately \$700,000.

The work was completed on time in accordance with the July 29, 2022, deadline in the Amended Cleanup Order (Task 1c) that was adopted by the Board on June 8, 2022 (Order R2-2022-0022). However, the report documenting work completion has been delayed as the dischargers arrange financing to pay their consultant/contractor. The Water Board has notified the dischargers that the report, titled *Onsite Soil Vapor Remediation Implementation Report*, was due September 9, 2022, and is now past due. The Water Board is preparing a notice of violation for failure to submit the report.

***Groundwater Plume Remediation***

The Amended Order requires groundwater plume remediation to be completed by February 2027. In 2021, the dischargers conducted additional work to inject reactive materials into the ground to stimulate biological breakdown of the drycleaner chemical plume. The effectiveness of this remediation was evaluated in an annual *Remediation Effectiveness Evaluation Report*.

The Board received the *Remediation Effectiveness Evaluation Report* on June 30, 2022, as required by the Amended Order. The report included evaluations of the effectiveness of remedial actions and of trends in groundwater monitoring toward demonstrating contamination reduction to cleanup goals. The report proposes evaluating additional data from the third quarter 2022 monitoring event in a report to be submitted by November 30, 2022, and using the updated data to develop a workplan for further remedial actions that may be needed.

The Water Board will continue to evaluate the progress and compliance with the Amended Order, including what will be proposed for next steps in the report due by November 30, 2022. While important cleanup progress has been made since 2021, including building demolition and soil excavation, the goals of protecting the community from PCE vapors and staying on track to remediate offsite groundwater by February 2027 will be at the forefront of our evaluation.



**Updated Approach to Vapor Intrusion Mitigation, SF Bay Region (Nicole Fry and Ross Steenson)**

Groundwater cleanup program staff has compiled technical information related to the selection and installation of vapor intrusion (VI) mitigation systems at contaminated sites with vapor-forming chemicals (VFCs). The information can be found on our webpage [here](#) and is intended to help staff evaluate:

- Different types of VI mitigation measures and systems, including their designs and how they work
- How VI mitigation effectiveness can be monitored and evaluated
- What VI mitigation workplans and reports are helpful
- When VI mitigation is no longer needed

The information incorporates the following concepts:

- VI mitigation is an interim measure and is not considered a substitute for remediation of VFCs in the subsurface.
- VI mitigation decisions, including the selection of specific measures, methods, and means should be site-specific and based on a thorough conceptual site model supported by multiple lines of evidence.
- Monitoring is needed to verify that VI mitigation measures are operating properly and successfully to control VI and limit exposure.

This information updates and replaces our 2014 "*Interim Framework for Assessment of Vapor Intrusion at TCE-Contaminated Sites in the San Francisco Bay Region*." In addition, staff has updated the [Fact Sheet for Development on Properties with a Vapor Intrusion Threat](#) for consistency. The information is a work in progress and additional updates will be developed as needed.

### **Celebrating 50 Years of the Clean Water Act (Eileen White and Keith Lichten)**

On September 16, I, Keith Lichten, State Water Board member Nichole Morgan, and others joined CalEPA Secretary Yana Garcia, U.S. EPA Assistant Administrator for Water Radhika Fox, and U.S. EPA Regional Administrator Martha Guzman in celebrating the 50<sup>th</sup> anniversary of the Clean Water Act.

Secretary Garcia noted that “California is proud that our own 1969 Porter-Cologne Water Quality Control Act helped pave the way for the federal Clean Water Act,” and I spoke on the dramatic improvement in San Francisco Bay water quality in the 1970s that resulted from Clean Water Act-required improvements to wastewater treatment, including secondary treatment. This shifted the Bay from being an estimated 80 percent non-compliant with bacteria standards in the 1960s to achieving those standards 80 percent of the time in the 1980s, and achieving them an estimated 95 percent of the time today.

In light of this summer's harmful algal bloom in the estuary, we also discussed potential needed future changes being evaluated, including the potential need to reduce nutrient discharges to the Bay. We are fortunate to have established the collaborative [Regional Monitoring Program](#), housed at the [San Francisco Estuary Institute](#), to help evaluate Bay water quality, including long-term trends, which contributes to a strong technical foundation for decisions around Bay water quality. On a broader policy level the [San Francisco Estuary Partnership](#) leads Bay work for the Clean Water Act-established [National Estuary Program](#), most recently including an [update of the Estuary Blueprint](#) to inform priority actions. The group reflected on collaborative efforts to facilitate needed projects, like the [Bay Restoration Regulatory Integration Team \(BRRIT\)](#), the multi-agency team that facilitates authorization of Bay shoreline wetland restoration projects.

The group visited progressive actors including the [West County Wastewater District](#), whose wastewater treatment plant treats nutrients and sends treated wastewater to be reused at the nearby Chevron Richmond refinery, [Urban Tilth](#), a community farm that supports local job training and environmental engagement while providing fresh food for the community, and the East Bay Regional Park District's Dotson Marsh, to reflect on the Act's effects on the Bay and actions to adapt to rising tides.

The Clean Water Act will continue to frame our work going forward, not only in cleaning up wastewater, but in addressing the impacts of urban runoff and in considering proposals to fill creeks, wetlands, and the Bay—which include tidal marsh restoration and related projects to adapt to rising tides. The event showcased the Bay's remarkable coalition of stakeholders dedicated to maintaining the progress we have made and addressing new needs to protect the Bay and its tributary creeks and wetlands.

### **Enforcement Actions (Brian Thompson and Bill Johnson)**

The following tables show the proposed and settled enforcement actions since September's report. As the proposed settlements are pending and could come before the Board, ex parte communications are not allowed. Please refer to the [Pending Enforcement Liabilities and Penalties](#) webpage for more information on the details of the alleged violations and proposed settlements.

### ***Proposed Settlements***

The following are noticed for 30-day public comment periods. If no significant comments are received by the deadlines, the Executive Officer will sign orders implementing these settlements.

<b>Discharger</b>	<b>Violation(s)</b>	<b>Proposed Penalty</b>	<b>Comment Deadline</b>
City of American Canyon	Discharge limit violations	\$3,000 <sup>1</sup>	October 19, 2022
City of San Mateo – San Mateo County Event Center	Discharge limit violations	\$24,000	October 19, 2022
Vishay Intertechnology, Gould Electronics, Inc., Monsanto Company, and GlaxoSmithKline PLC	Discharge limit violations	\$9,000	October 19, 2022
City of San Mateo – WWTP Nutrient Removal and Weather Flow Management Upgrade and Expansion Project	Discharge limit violations	\$3,000	October 19, 2022
Crockett Cogeneration LLP	Discharge limit violations	\$18,000	October 19, 2022
Las Gallinas Valley Sanitary District	Discharge limit violations	\$66,000 <sup>2</sup>	October 20, 2022
Sewer Authority Mid-Coastside	Discharge limit violations	\$78,000 <sup>3</sup>	October 20, 2022

1 The \$3,000 penalty would supplement Regional Monitoring Program studies. The Regional Monitoring Program is 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.

2 A portion of the penalty, \$33,000, would supplement Regional Monitoring Program studies.

3 A portion of the penalty, \$46,500, would supplement Regional Monitoring Program studies.

***Settled Actions***

On behalf of the Board, the Executive Officer approved the following:

<b>Discharger</b>	<b>Violation(s)</b>	<b>Imposed Penalty</b>	<b>Supplemental Environmental Project</b>
Mission Rock Horizontal Sub (Phase 1) LLC	Discharge limit violations.	\$24,000	
North Marin Water District	Discharge limit violations.	\$12,000	\$12,000 <sup>1</sup>
Sewerage Agency of Southern Marin	Discharge limit violations.	\$9,000	

- 1 The \$12,000 penalty supplements Regional Monitoring Program studies. The Regional Monitoring Program is 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.

**401 Water Quality Certification Applications Received (Abigail Smith)**

The table below lists those applications received for Clean Water Act section 401 water quality certification from August 31 through September 16, 2022. A check mark in the right-hand column indicates a project with work that may be in BCDC jurisdiction.

<b>Project Name</b>	<b>City/Location</b>	<b>County</b>	<b>May have BCDC Jurisdiction</b>
Mission Clay Products Off-Site Free Product Cleanup Action Plan	Fremont	Alameda	
Flap Gate and Outfall Structure Rehab, Eden Landing Pump Zone No. 3a, Line A	Hayward	Alameda	✓
Flap Gate and Outfall Structure Rehab, Eden Landing Pump Zone No. 3a, Line K	Hayward	Alameda	✓
Creek Restoration at New Bridge Construction, 3080 Foothill Blvd	Calistoga	Napa	
Chiles Pope Valley Road Bridge Replacement Project	Unincorporated	Napa	
Baker Bridge Emergency Removal Project	La Honda	San Mateo	
Julian Street Bridge near 998 E. Julian Street	San Jose	Santa Clara	
Benicia Marina Breakwater – Geotechnical Investigation	Benicia	Solano	✓
South Ely Road Culvert Replacement project	Petaluma	Sonoma	

## Attachment 1

## Attachment 2