

# EXECUTIVE OFFICER'S REPORT: *January 2013*

A Monthly Report to the Board and Public

**NEXT MEETING:** January 9, 2013

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

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## **Vineyard Waiver for Napa and Sonoma (Sandi Potter)**

On November 16, we published a Draft Conditional Waiver of Waste Discharge Requirements for Vineyard Properties in the Napa and Sonoma Creek Watersheds (Waiver) and a proposed Initial Study and Mitigated Negative Declaration for public comment.

The Waiver would establish a regulatory mechanism to reduce and control erosion and discharges of pollutants from new, existing, and replanted vineyards, including roads on vineyard properties. As proposed, the Waiver is consistent with and implements the Napa River and Sonoma Creek sediment Total Maximum Daily Loads (TMDLs), which call for vineyards to be regulated through waste discharge requirements (WDRs) or waivers of WDRs.



Photo 1. *Napa Valley Vineyard*

The proposed Waiver would apply to most vineyard properties in the Napa River and Sonoma Creek watersheds. Flatland vineyards with riparian areas along all adjacent creeks would be exempted from coverage under the Waiver.

The Waiver would require the preparation of a Farm Water Quality Plan (Farm Plan) and the implementation of management practices to protect water quality and achieve required sediment reduction targets. The Farm Plans would be working tools that farmers would use to select, plan, and schedule implementation of management practices.

The Waiver includes a process for approval of third-party agricultural technical assistance groups to help vineyard owners and operators prepare acceptable Farm Plans, implement effective management practices, and comply with reporting requirements. Third-party groups may also assist the State Water Board with fee collection. Several technical assistance groups are already working with farmers in Napa and Sonoma valleys, including Resource Conservation Districts, Fish Friendly Farming/Napa Green, U.C. Cooperative Extension, and the California Sustainable Winegrowers Alliance. Board staff have been collaborating with these groups to ensure adequate technical support will be available to help farmers comply with the Waiver once it is adopted.

The Waiver has been developed with input from a diverse group of stakeholders. Board staff formed two local groups, a Technical Advisory Committee and a Stakeholder Advisory Group, which met over the course of 14 months to provide input into the Waiver's proposed requirements. Vineyard owners and operators, farmers, resource agency staff, groups with expertise in agricultural land management, environmental groups, and technical experts participated in these efforts.

The Waiver recognizes that many vineyard owners or operators have undertaken proactive actions to protect water quality and are currently operating under comprehensive farm plans that have a water quality focus, very similar to the Farm Plans that would be required by the Waiver. For those vineyards already certified under Fish Friendly Farming, staff envisions that compliance with the Waiver would entail no additional actions beyond facility enrollment for coverage under the Waiver, annual reporting, and payment of fees.

Board staff has participated in numerous field trips, workshops, and conferences throughout the Waiver's development. Most recently, on December 13, Sandi Potter presented an update at a seminar in Yountville of *Sustainable Vineyard Practices, Replant Strategies and Economics*, sponsored by the Napa Valley Grapegrowers organization. The seminar focused on opportunities and challenges facing farmers planning to replant vineyards in the Napa Valley. Since the Waiver would cover vineyard replants, Sandi's presentation was extremely relevant for it provided an overview of the Board-adopted sediment TMDLs, a summary of proposed Waiver requirements, and an analysis of the Waiver's consistency with existing Napa Valley requirements including the County's vineyard replant approval process.

Board staff originally set a 45-day public comment period for the Waiver and associated Initial Study and Mitigated Negative Declaration that, while missing the busy peak grape harvest

season, unfortunately fell within the winter holiday period. Stakeholders requested an extension of the comment period, which I granted to 5:00 pm, Friday, **February 1, 2013**.

The public hearing on the proposed Waiver and Mitigated Negative Declaration is scheduled for the March 13, 2013, Board meeting. The [draft conditional waiver and associated California Environmental Quality Act \(CEQA\) document](#) and a summary fact sheet/frequently asked questions are posted on the Board's website at [www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/TMDLs/vineyard/index.shtml](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/vineyard/index.shtml).

### Castro Cove Cleanup Completed (Beth Christian)

The Standard Oil Company (later Chevron Products Company) opened a petroleum refinery adjacent to Castro Cove in 1902. Prior to the federal Clean Water Act, the refinery discharged untreated wastewater and solid wastes into Castro Cove. In the late 1990s, the State and Regional Water Boards identified Castro Cove as a toxic hot spot (Image 2a) under the Bay Protection and Toxic Cleanup Program and added it to the Clean Water Act section 303(d) list of impaired waterbodies in 2002 (303(d) list).

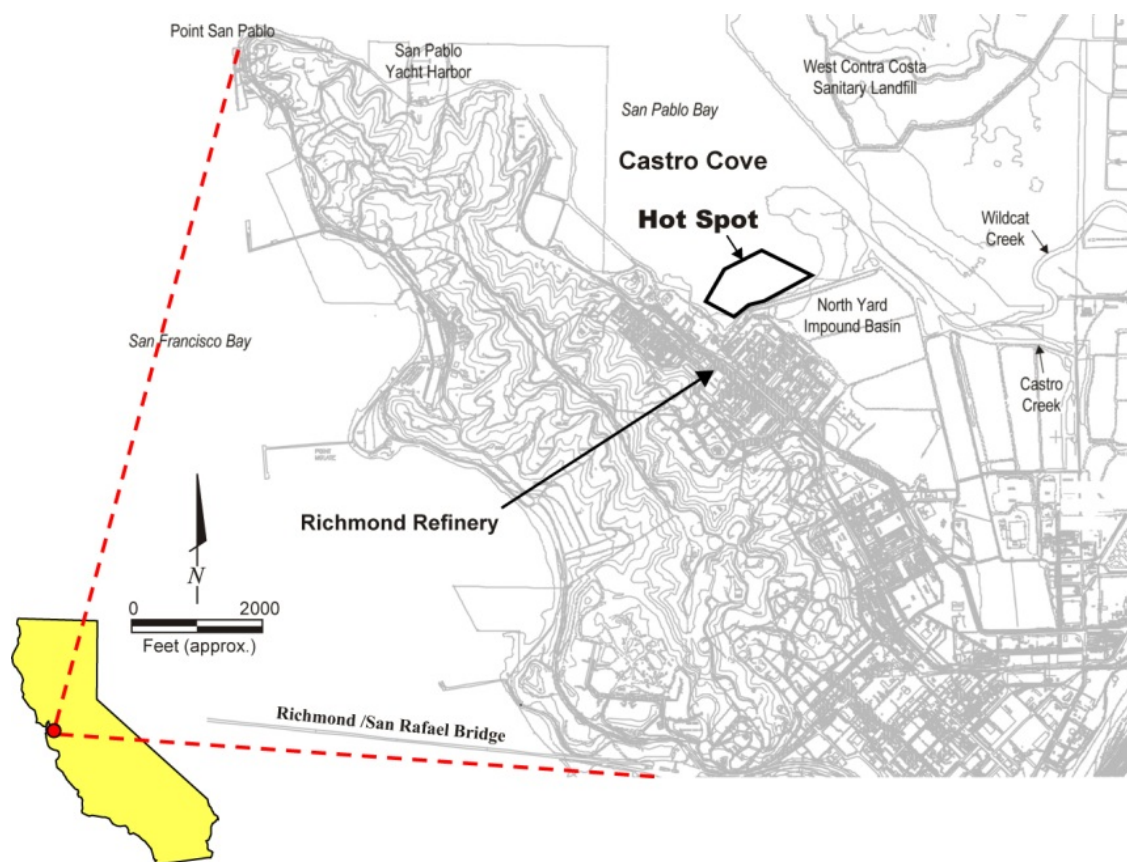


Image 2a. Castro Cove Location

Concurrent with the toxic hot spot listing, the Regional Water Board initiated enforcement and required Chevron to develop a cleanup plan for a 20-acre hot spot within Castro Cove. The Board's enforcement effort culminated in a 2006 Cleanup and Abatement Order, which required Chevron to clean up the hot spot to background levels of pollution. As part of this effort, Chevron removed 97,000 cubic yards of contaminated sediment. This was done by completely enclosing the area with a sheet pile wall to prevent any discharges during dredging.



Image 2b. Castro Cove Remediation, November 2010

This effort resulted in the removal of 180 kilograms of mercury from the Bay bottom, consistent with the implementation plan of the Board-adopted SF Bay Mercury TMDL. Chevron also capped and restored 1.5 acres of wetlands and 18.5 acres of mudflats on the former hot spot by beneficially reusing 50,000 cubic yards of clean dredged sediment from adjacent yacht harbors and placing it over 45,000 cubic yards of clean Bay sand. Monitoring of cap stability and vegetation re-establishment in the restored hot spot will continue for a minimum of 3 years. Chevron has completed the initial cleanup, addressing the impairment without requiring adoption of a TMDL. Our next step will be to evaluate removing the site from the 303(d) list.

#### **Meeting with Taiwanese Delegation and U.S. EPA (Robert Schlipf)**

On November 30, the Board's NPDES staff met with a delegation of experts from Taiwan and representatives from U.S. EPA to discuss how the Board develops and implements NPDES permits to regulate industries. More specifically, the Taiwanese were interested in how we develop effluent limits and how we regulate stormwater discharges from industrial discharges. Last year, there were several controversial cases in Taiwan concerning industrial stormwater discharges and polluted downstream rivers as Taiwanese officials are in the process of amending their stormwater regulations. During their visit, we toured the Phillips 66 refinery in Rodeo. As part of our meeting, we explained details of petroleum refinery permitting such as the development of (1) effluent limits, (2) monitoring and reporting requirements, and (3) stormwater discharge regulations. Additionally, we discussed how we enforce permits to ensure that dischargers are properly operating and maintaining their treatment systems.

### In-house Training and Presentations

Our November training on Environmental Economics was provided through the State Board's Training Academy. We have no training scheduled for December or January. Brownbag seminars included a November 28 session on using heat as a tracer to quantify surface water/groundwater interactions.

On December 18, the Sunnyvale City Council considered a staff recommendation to develop an ordinance banning expanded polystyrene from Sunnyvale's restaurants. Upon request by Sunnyvale's staff to appear at the Council meeting, I spoke in support of Sunnyvale's ongoing actions to address trash and that the recommendation before the Council to draft an ordinance for Council consideration once it had complied with CEQA could be such an action. I also clarified what the Board's permit requires about the control of trash, noted that full trash capture would be the ideal control method but that the Board purposely left it up to each municipality to develop and implement its own plans in compliance with the permit, and emphasized that all measures included in the plans would need verification on the amount of trash they were controlling. The Council voted unanimously to direct its staff to develop such an ordinance and bring it to the Council for its consideration during 2013.

### Proposed Enforcement Actions and Final Settlements (Lila Tang)

The following tables show proposed settlements and settled actions for assessment of penalties as of last month's report. These active cases are available at:

[http://www.waterboards.ca.gov/sanfranciscobay/public\\_notices/pending\\_enforcement.shtml](http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml)

<b>Proposed Settlements</b>			
The following are noticed for a 30-day public comment period. If no significant comments are received by the comment deadline, the Executive Officer will sign an order implementing the settlement.			
<b>Discharger</b>	<b>Violation</b>	<b>Penalty Proposed</b>	<b>Comment Deadline</b>
McKesson Corporation, in Union City	Discharge limit exceedances	\$15,000	January 11, 2013
North San Mateo County Sanitation District, Wastewater Treatment Plant, in Daly City	Discharge limit exceedances	\$21,000	January 11, 2013

<b>Settled Actions</b>			
On behalf of the Board, the Executive Officer approved the following settlements.			
<b>Discharger</b>	<b>Violation</b>	<b>Penalty</b>	<b>Supplemental Environmental Project or Enhanced Compliance Action</b>

Friendly Cab Co., Inc., in Oakland	Failure to submit annual report and to implement practices to reduce stormwater pollution	\$100,400	\$20,400 of the penalty will be applied towards more frequent reporting, identification, and elimination of pollution sources onsite
California Department of Transportation, Route 84 Project, in Woodside	Unauthorized discharge of potable water to Bear Gulch Creek	\$31,250 (note that last month's report showed an incorrect penalty for this case)	Not applicable

The State Board's Office of Enforcement includes a statewide summary of penalty enforcement in its Executive Director's Report, which can be found on the State Board website:

[http://www.waterboards.ca.gov/board\\_info/eo\\_rpts.shtml](http://www.waterboards.ca.gov/board_info/eo_rpts.shtml)