

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

MEETING DATE: June 12, 2019

ITEM: 4

SUBJECT: **EXECUTIVE OFFICER'S REPORT**

EXECUTIVE OFFICER’S REPORT: *June 2019*

A Monthly Report to the Board and Public

NEXT MEETING: June 12, 2019

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

Items in this Report (Author[s])

Recognition from the Bay Planning Coalition for former EO Bruce Wolfe (Michael Montgomery)	1
2019 Nonpoint Source Clean Water Act Section 319(h) Grant Awarded to San Mateo Resource Conservation District (Leslie Ferguson).....	2
Petroleum Site Cleanup Near the Oakland Estuary (Katrina Kaiser and Jeff White)	4
Milpitas Redevelopment Projects Requiring VIMS Regulation (Nathan King and Jeff White).....	6
Update of Environmental Screening Levels (Nicole Fry).....	8
Board off-Site meeting/Site visits	9
Cleanup Orders Issued by Executive Officer (Kimberlee West)	10
Board Items Issued by Executive Officer	11
Prosperity Cleaners Update (Ralph Lambert).....	11
Website Accessibility.....	13
Improved Outreach via Social Media.....	13
Point Buckler Trial (Marnie Ajello).....	14
Staff Presentations.....	16
In-house Trainings	16
Enforcement Actions (Jessica Watkins and Brian Thompson)	16
401 Water Quality Certification Applications Received (Abigail Smith).....	18

Recognition from the Bay Planning Coalition for former EO Bruce Wolfe (Michael Montgomery)

Congratulations to our former EO Bruce Wolfe on recognition from the Bay Planning Coalition. Bruce was selected for the Frank Boerger Award. The Bay Planning Coalition presents the Frank Boerger Award annually to an individual who appreciates the rigors of advocating environmental protection and economic progress, and forges the path to achieve both.

2019 Nonpoint Source Clean Water Act Section 319(h) Grant Awarded to San Mateo Resource Conservation District (Leslie Ferguson)

In May 2019, the San Mateo Resource Conservation District's (RCD) *Pescadero Creek Watershed Old Haul Road Sediment Reduction Project* was approved by the State Water Resources Control Board (State Water Board) Executive Director for the Clean Water Act Nonpoint Source Grant Program. The NPS Program administers grant money it receives from US EPA through Section 319(h) of the CWA. These grant funds can be used to implement projects or programs that will help to reduce NPS pollution. Project proposals that address [Total Maximum Daily Load](#) (TMDL) implementation and those that address problems in impaired waters are favored in the statewide competitive selection process.

Pescadero Creek in San Mateo County is CWA Section 303(d) listed as impaired by sediment for fish habitat and a sediment TMDL has been adopted for this watershed. This Project directly supports actions called for in the TMDL implementation plan and will prevent as much as 32,310 cubic yards (39,310 tons) of sediment delivery to Pescadero Creek over a 20-year period. This represents 28 percent of the annual load reductions called for in the TMDL for road surface erosion, and 3.7 percent of the annual load reductions called for in the TMDL for erosion at road crossings. Specifically, this Project reduces chronic and episodic sediment delivery to mainstem Pescadero Creek by upgrading and stabilizing a very large, failing stream crossing on Old Haul Road at Dark Gulch Creek (tributary to Pescadero Creek), and making drainage improvements (stormproofing) along 2 miles of the road.

Old Haul Road is a legacy logging road constructed during the 1930s-40s that is now used for recreation, maintenance, emergency response, timber property, and fire protection access in Pescadero Creek County Park and the upper watershed. This road, which runs along the south side of Pescadero Creek, was built using what would today be considered primitive construction technology, without concern for water quality impacts or long-term stability.

Dark Gulch crossing is approximately 70 feet high and the many original crib logs have decayed and collapsed. Stream runoff percolates through cavities, causing erosion around the remaining crib logs and generating sinkholes and slope failures. There is a high likelihood that this progression of failure will continue. There is also a risk of catastrophic failure of the crossing, which would result in significant damage to the downstream channel, streamside fish habitat, and bridges. This Project proposes to remove the existing fill and replace it with a large culvert designed to pass the 100-year flow. This is an important project for reducing sediment loading to Pescadero Creek as required in the sediment TMDL and will prevent future degradation in an area which is designated by the National Marine Fisheries Service as critical habitat for threatened and endangered Steelhead and coho salmon.

The NPS Grant will fund \$800,000 with matching funds of \$1,576,655 provided by the RCD's project partner, San Mateo County Parks (Parks). For 2019, the CWA 319(h) NPS Grant Program had about \$4 million available and received applications for 12 projects totaling about \$7.4 million. San Francisco Bay Regional Water Board staff, Leslie Ferguson and Setenay Bozkurt-Frucht, worked closely with the RCD to ensure that the proposals succeed. Upon selection, CWA 319(h) grants are overseen by the Regional Water Board grant coordinator and grant managers.



Figure 1. 1940s photo of Dark Gulch crossing construction



Figure 2. Example Humboldt crossing in Santa Cruz Mountains



Figure 3. Cracking of Dark Gulch road prism around upstream sinkhole. The sinkhole has been covered with plastic tarp.

Photos provided in RCD 319 grant application

Petroleum Site Cleanup Near the Oakland Estuary (Katrina Kaiser and Jeff White)

411 High Street, which is located near the Oakland Estuary northeast of the High Street bridge that connects Oakland and Alameda, is the site of a former petroleum bulk storage and distribution plant. The plant was owned by Atlantic Richfield Company (ARCO) and operated from 1946 to 1975. Since then, the property was used as a lumber yard (1975–1996), a container storage and repair shop (1996–2000) and a bus terminal (2000–present). The bulk plant included several aboveground and underground tanks and a product loading rack (Figure 1). The property is zoned commercial and there are no current redevelopment or land use change plans.

Fuel contamination was first identified in the 1980s. Since then the Board has adopted five cleanup orders (1990, 1993, 1998, 2006, and 2011) and two ACLs (2011, 2014) for failure to submit a required remedial action plan and implement the plan by the compliance due dates. Those violations have since been corrected and we are currently working with ARCO under the requirements of the 2011 cleanup order.

At the same time, the current property owner, who purchased the property in the 1970s after plant operation ended, has expressed concerns that site investigation remains incomplete, cleanup is taking too long, remediation is ineffective and incapable of removing meaningful contamination in a reasonable timeframe, and the Water Board should take additional enforcement against ARCO for delaying the cleanup. We are currently working to expedite the site cleanup.

Past remediation methods included groundwater extraction (1993–2002), ozone sparging (2006), and air sparging (2009–2010) at 411 High Street, and soil vapor extraction (2015) on an adjacent commercial property at 441/445 High Street to abate vapor intrusion concerns to a small office structure located there. To continue addressing the higher concentration source areas at the 411 High Street site, the 2011 cleanup order required submittal of a full-scale remedial design RD in order to construct and implement ARCO's approved 2010 remedial action plan (RAP). The RAP consisted of three remediation components:

1. dual phase groundwater/soil vapor extraction
2. in-situ injection of sulfate to oxidize petroleum hydrocarbons
3. air sparging to enhance petroleum soil vapor recovery

After some delay due to problems with report acceptability, the full-scale RD was conditionally approved in 2014, and implementation of the RAP started in August 2016. However, the air sparging component was immediately discontinued after subsurface contaminant vapors entered an onsite office structure. In response, we requested ARCO to submit a work plan to investigate this concern and have recently approved it. Depending on the findings, we may require ARCO to augment or replace the air sparging component of the remediation system.

In February 2019, the remaining two operating components of the remediation system were shut down because the site access agreement expired between the property owner and ARCO. On June 3, we were informed that a new site access agreement would be approved within a week allowing ARCO to restart the remediation system and resume collecting the necessary performance monitoring data.

In April 2019, we issued a Water Code Section 13267 Order to ARCO to submit a comprehensive effectiveness evaluation of the current in-situ remediation system by August 31, 2019. We intend to use this report as a basis for evaluating the system's ability to achieve cleanup standards in a reasonable timeframe. The 13267 Order also conditionally approved an investigation work plan addressing data gaps from prior investigations and required a new vapor intrusion assessment to confirm if there are remaining concerns at the adjacent 441/445 High Street office structure.

If the findings from the additional investigation and effectiveness evaluation suggest that the system is ineffective or incapable of accomplishing remedial goals in an acceptable timeframe, we will require system modifications or a new remediation remedy that will lead to a more efficient and timelier cleanup. We'll also continue monitoring the pace of progress in all areas to evaluate compliance with cleanup requirements.

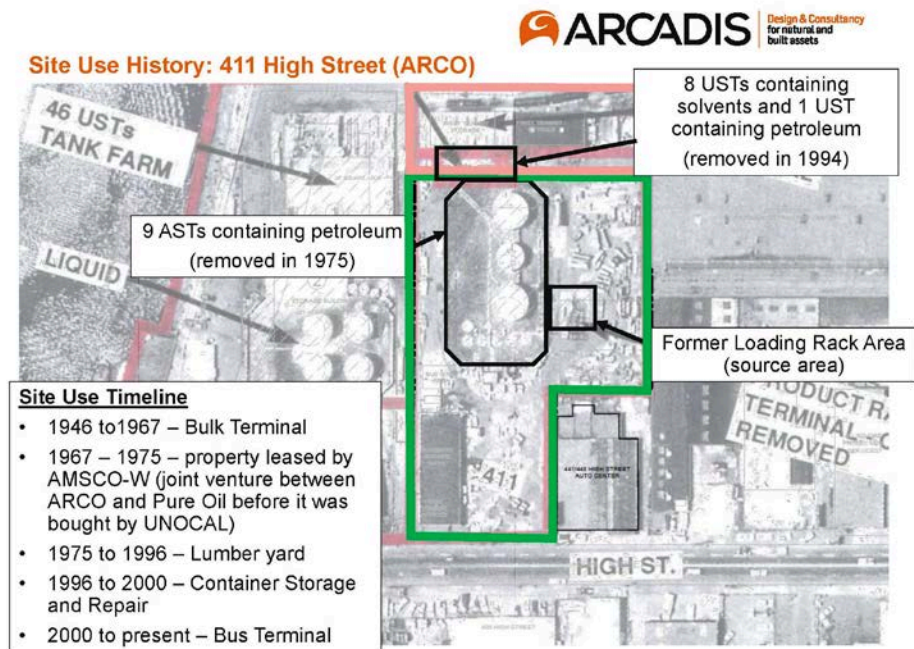


Figure 1. Historical Site Features (1959). 411 High Street is shown with a green boundary.



Figure 2. Current Site Features (2016). 411 High Street is shown with a blue boundary; the 441/445 High Street office structure is shown with a green boundary.

Milpitas Redevelopment Projects Requiring VIMS Regulation (Nathan King and Jeff White)

In September 2018 you adopted a cleanup order ([Order No. R2-2018-0043](#)) for a large trichloroethylene (TCE) spill from the former JCI Jones (Jones) manufacturing plant at 985 Montague Expressway in Milpitas. The spill, which occurred in the 1980s, created groundwater and soil vapor plumes that affected many downgradient properties within the Milpitas Transit Area (Figure 1). This area has undergone extensive redevelopment since 2008. Similarly, another spill of chlorinated solvents occurred at Peco Controls (Peco) at 450

Montague Expressway which has affected several downgradient properties (Figure 2). The affected properties from both spills consist of fourteen residential developments both under construction and occupied, six commercially used properties and one public park.

The 2018 Jones cleanup order requires Jones to better define the extent of the groundwater and soil vapor plumes, update the previous risk assessment, and accelerate cleanup based on the changed land uses and potential TCE vapor intrusion (VI) threats to occupants of the new residential and commercial buildings. At the same time, the Jones order acknowledges that Board staff are working directly with individual property owners (mainly developers and property managers) to design, operate, and monitor building-specific VI mitigation systems (VIMS) as necessary, based on the VI risks and threats. Under the order, these owners are required to grant access to Jones for its required investigation and cleanup actions. Our intention for the Peco spill is to develop a similar cleanup order for your consideration with similar requirements.

Our decision to separate cleanup and mitigation responsibilities in this manner was pragmatic considering 1) the number of properties in the affected areas, 2) the urgency for implementing building-specific VIMS for occupant protection, as opposed to the typically slower-pace of investigation/cleanup actions, and 3) existing third-party financial agreements between Jones and some of the owners/developers.

For properties where significant vapor intrusion threats exist, we are requesting VIMS using fans or blowers to actively remove contaminant vapors beneath the building foundation. Our regulatory process involves a two-step concurrence process, including reviewing VIMS design, operation, maintenance, monitoring, and financial assurance plans all of which must be prepared and certified by third-party experts. An important component of our review involves pre-occupancy indoor air monitoring to verify the VIMS effectiveness. VIMS monitoring must continue for as long as the subsurface VI threat exists. The City of Milpitas Building Department relies on our concurrence before permitting building occupancy.

If a passive VIMS (no blowers or fans) was previously installed, we are requesting soil vapor and indoor air monitoring from the property owner to evaluate if conversion to an active system and/or higher frequency soil vapor or indoor monitoring is warranted.

For other properties where the VI threat is minimal or less defined, we are requesting expedited collection of soil vapor samples to establish the risk and evaluate what type of VIMS may be warranted.

To pay our oversight costs, we have agreements through the Site Cleanup Program with several individual developers for the VIMS work associated with their properties. Jones provides cost recovery for our time related to implementing cleanup order requirements and VIMS oversight on affected properties where we don't have separate agreements with the owners. Staff will continue to require Jones and Peco to delineate and cleanup the contamination while working with the developers to implement building-specific VIMS. Staff has collectively spent about 2,700 hours on these projects since January 2017.

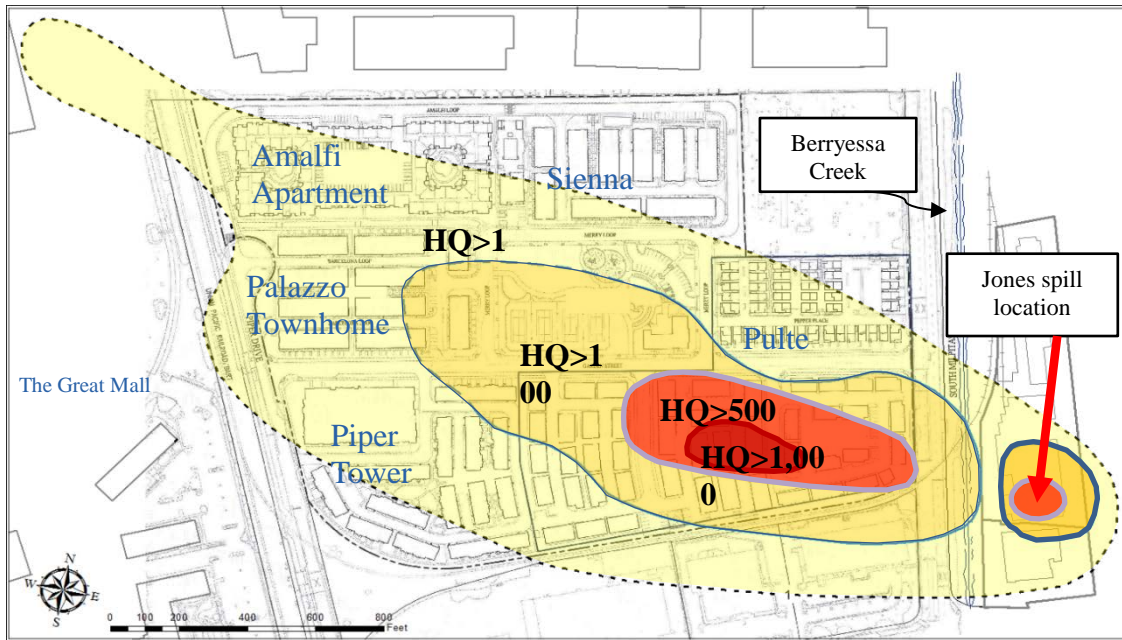


Figure 1. Jones spill location and affected downgradient properties. HQ (Hazard Quotient) > 1 indicates a potential hazard that warrants further evaluation. TCE soil vapor concentrations over much of the affected downgradient area present significant potential vapor intrusion risk requiring building-specific vapor intrusion mitigation systems and accelerated cleanup to minimize long-term reliance on such systems

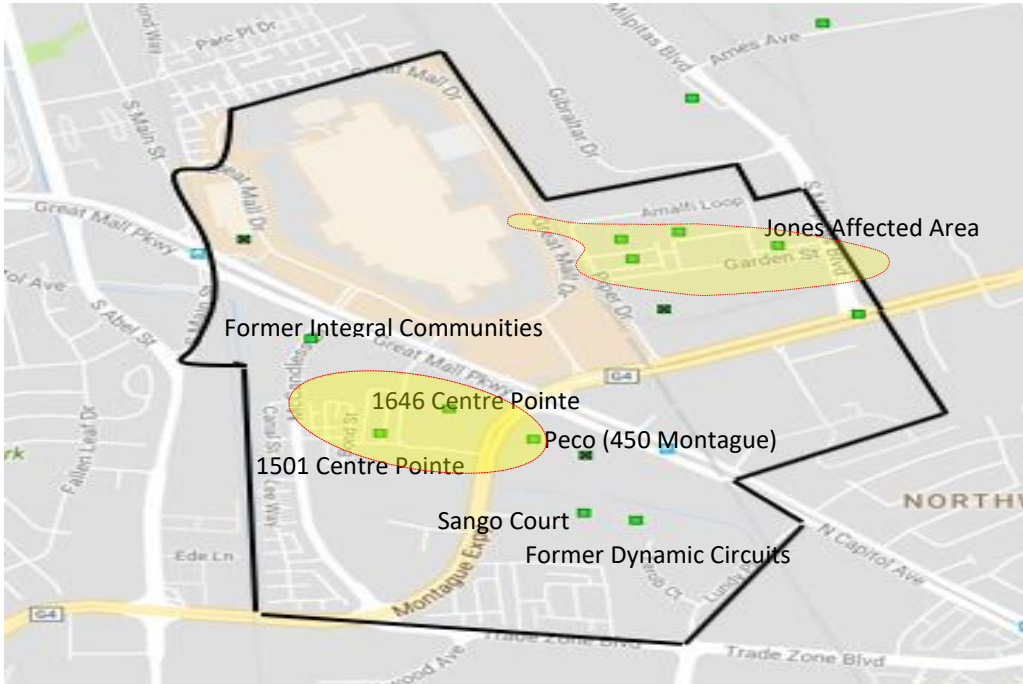


Figure 2. Milpitas Transit Area outlined in black, showing Jones and Peco affected areas. Groundwater flows from right (east) to left (west).

Update of Environmental Screening Levels (Nicole Fry)The Water Board's

Environmental Screening Levels (ESLs) are a set of generic screening levels for several common contaminants that we have developed to facilitate the risk assessment process at our cleanup sites. The ESLs are particularly helpful for quickly and cost effectively assessing risks. The ESLs are updated every few years. The latest major update to the ESLs was recently completed and all revised ESL documents were posted to the [ESL Webpage](#) as of May 13. In addition, a notice of this update was sent out to the ESL Lyris list, which currently has about 1,000 subscribers.

The key change made in this most recent ESL update is with respect to vapor intrusion. The vapor intrusion ESLs are significantly more stringent than before. They are now based on U.S. EPA's 2015 recommended attenuation factors, which in turn are based on a national empirical database, rather than a vapor intrusion model (the U.S. EPA Johnson & Ettinger model). This change reflects the best science available to us, at least until we have a representative California-specific empirical database.

Below are other significant changes we made in this latest ESL update:

- The organization and presentation of some aspects of the ESL Excel Workbook and User's Guide were updated to improve clarity.
- The interactive tool in the ESL Excel workbook was significantly updated to allow users to more easily use the ESLs to assess site data.
- The soil ESLs for protection of terrestrial habit were restored following the 2011 update of the reference document on which they are based.
- ESLs have been added for the following chemicals/mixtures:
 - 1,2,3-trichloropropane;
 - Petroleum-jet fuel; and
 - Petroleum-hydrocarbon oxidation products, which are the biodegradation metabolites and photo-oxidation products of petroleum hydrocarbons.
- The physical and chemical property values were updated using the values from the U.S. EPA Regional Screening Levels' chemical-specific parameters table.
- The human health toxicity value hierarchy, described in Chapter 3 of the User's Guide, was revised for consistency with DTSC's new Toxicity Criteria Regulation.

Our ESLs provide a useful assessment tool to both regulators and dischargers in the cleanup programs. We will continue to update you on the ESLs as circumstances warrant.

Board off-Site meeting/Site visits

The Board has expressed an interest in seeing some of the work which has been completed or is anticipated in its natural context. I have discussed some options with staff and have come up with 2 recommendations.

The first recommendation is primarily focused on our successful non-point source efforts as well as some challenges which lie ahead for us in the western portion of Marin County. We would visit locations covered under our conditional waiver program for grazing operations,

discuss monitoring and reporting provisions. This program would also include facilities covered under our Confined Animal Facility/Dairy Permit of 2016 which replaced the conditional waiver program from 2015. The requirements of the new permit program become operable in 2020. We would also visit grant funded stream/floodplain restoration projects. The sites are on park lands (NPS, State Parks, & County Parks) and Marin Municipal Water District's watershed lands.

The second recommendation would cover San Francisco watersheds, waterfront restoration and clean-up site re-use. There are a variety of locations which could be visited depending on the level of interest. These include;

- Non-point source restoration in the Historic San Francisco Presidio/Golden Gate National Recreation Area,
- Nearshore soils and in-bay sediment contamination cleanup (planned and underway) at former waterfront industrial sites and in support of commercial/residential reuse and expanded Ferry service.

I recommend we target September or October for this effort and could conduct a Board Meeting or Listening Session in conjunction with the visits.

Cleanup Orders Issued by Executive Officer (Kimberlee West)

The Board has delegated to the Executive Officer the authority to issue, amend, 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, amend, 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.

Ashland Chemical On May 21, I rescinded the 2005 site cleanup order (and the 2014 cleanup order amendment) and issued a revised site cleanup order for the former Ashland Chemical Company site located at 8610 Enterprise Drive, Newark, Alameda County. From 1973 to 2000, Ashland Inc. operated the Site as a chemical storage, blending, packing and distribution center. These activities resulted in releases of chlorinated solvents and other volatile organic compounds to soil and groundwater. Past cleanup actions include groundwater extraction from 1982 to 2005 and remedial excavation in 2005 and 2006, to meet industrial cleanup levels. The site was recently purchased and will be redeveloped into residential housing. Additional cleanup is needed to make the site safe for the more sensitive land use. The revised site cleanup order requires additional cleanup in accordance with a Board-approved cleanup plan. The cleanup plan calls for additional soil excavation, in-situ chemical oxidation, and monitored natural attenuation to achieve residential cleanup levels. The revised cleanup order names the new owner/redeveloper as the discharger. We received minor comments on the draft cleanup order and updated it prior to final issuance. Cleanup work will begin in June.

Board Items Issued by Executive Officer

Rescission of Site Cleanup Requirements Order for Pacific Rod and Gun Club (Alan Friedman)

Last month we reported the completion of cleanup activities at the former Pacific Rod & Gun Club at Lake Merced near Daly City. On June 5, the Executive Officer issued Order # R2-2019-0018, which rescinds the Site Cleanup Requirements Order that was adopted for the site in 2013 (Order # R2-2013-0023).

Prosperity Cleaners Update (Ralph Lambert)

The Prosperity Cleaners Site is located in the Marinwood Plaza shopping center in Marinwood, north of San Rafael in Marin County. Releases of tetrachloroethene (PCE) from past dry-cleaning operations impacted soil, soil vapor, and groundwater. In 2014, the Regional Water Board adopted a cleanup order for the Site. Two source areas were identified onsite and each was treated. All confirmation soil samples collected onsite meet the Site's cleanup goals to protect human health and the environment. Onsite soil vapor concentrations still exceed commercial cleanup levels. The exceedances are not adjacent to any occupied structures. Previous extensive soil vapor sampling in the nearby residential neighborhood did not detect any PCE or breakdown products. A groundwater plume, exceeding drinking water standards of 5 µg/L for PCE, extends to the east about ½ mile and goes under the Silveira cattle ranch and land owned by St. Vincent School for Boys (Catholic Charities). The cattle ranch uses groundwater but its wells do not exceed the PCE drinking water standard of 5 µg/l.

We last updated you on this case in September 2018. Since then, there have been a few activities worth mentioning:

Additional onsite cleanup: Early in April 2019, the Regional Water Board approved, after public comments, Addendum #4 to the Remedial Action Plan to conduct additional treatment of elevated soil vapor onsite. This work includes additional soil excavation to abate soil vapor contamination after the upcoming demolition of the onsite buildings.

Near site soil sampling: In February 2019, the Regional Water Board approved a report which investigated whether surface dumping from the Site extended onto the Caltrans property (Highway 101S onramp). Results of shallow soil sampling adjacent to the fence line and along the storm drain pathway were all below the Site's Cleanup Goals. Results of the soil vapor sample adjacent to the fence was also lower than the Site's Cleanup Goals. The data show no indication that significant surface releases from the Site extend onto Caltrans property.

Near site soil vapor sampling: Late in 2018, the Casa Marinwood Homeowner's Association of the residential neighborhood granted access to install additional soil vapor probes on their property, located upgradient and west of the Site. The additional vapor probes were subsequently installed. Due to saturated soil conditions, sampling was delayed until early April 2019. Preliminary results indicate that PCE in one soil vapor sample slightly exceeds the Environmental Screening Level of 15 µg/m³ in a residential area. The remaining sampling

locations were below this level. We are awaiting the completion report, and we understand the discharger plans to resample the vapor probes soon.

Offsite groundwater treatment: In February 2019, the Regional Water Board approved, after a comment period, the workplan to investigate treatment effectiveness at the offsite plume edge or fringe in agricultural areas with concentrations of PCE between 5 µg/L and 30 µg/L. New monitoring wells were installed in the fringe area in May 2019 and will be sampled in June.

In the fall 2018, offsite exploratory lithological borings were completed along each proposed treatment injection line shown in green in the figure below, forming permeable reactive barriers (PRBs). Groundwater remediation is proposed offsite by injecting finely ground zero valent iron and dechlorinating bacterial cultures to degrade PCE and its breakdown products. The discharger is evaluating the data to determine specific treatment depths along each PRB segment. Offsite groundwater treatment injections are planned for this summer.

We are continuing to keep interested parties – including offsite landowners, Marinwood community members, and the County supervisor's office – informed about site activities and reports. Over the last six months we have responded to several emails and calls from neighbors, copied interested parties on all formal correspondence, circulated two fact sheets inviting comments on proposed work, and coordinated with County Supervisor Connolly's office.

We will provide you with future updates on this case as circumstances warrant.

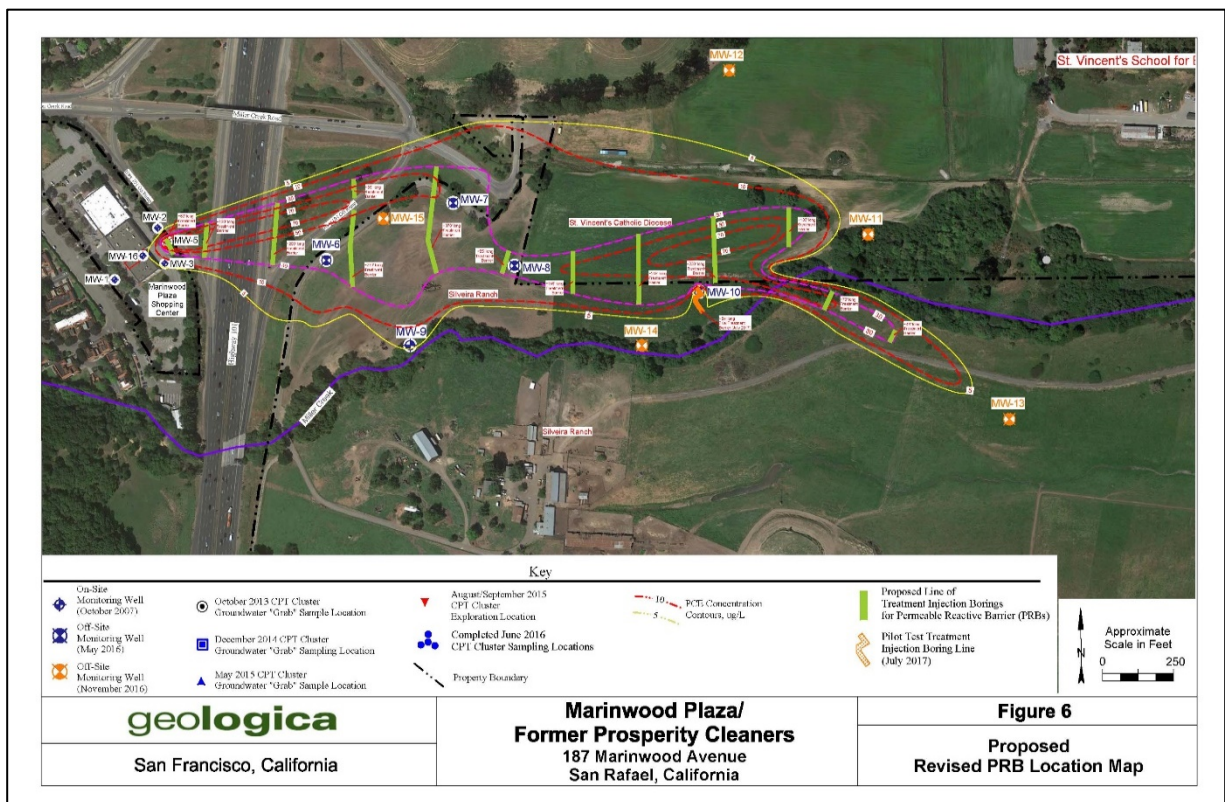


Figure 1. Offsite groundwater treatment system design

Website Accessibility

AB 434 requires state agency Directors and their Chief Information Officers certify their agency website complies with California Government Code Section 7405 and 11135, and the Web Content Accessibility Guidelines. An accessible website means that people with disabilities can perceive, understand, navigate, and interact with the web. This is usually accomplished by a combination of assistive technology (AT) used by the person with a disability, and programing, coding, and designing by content creators and website designers to ensure the AT works with the website. All content we generate and post to the web must also be compliant. These certifications must be signed by July 1, 2019.

Improved Outreach via Social Media

I appreciate the need for us to effectively and efficiently share information with stakeholders, media and the general population. I have been engaging with management and staff, reviewing the practices of other Water Boards and soliciting input from individual Board members on how to improve our information sharing efforts.

We will move forward with a project to make our website easier to navigate and reflective of current accomplishments. As part of this project we will establish a presence on Social Media.

Our first step will be to evaluate and implement mechanisms to improve and update website content. We will baseline our web-traffic for evaluation of the effectiveness of the

enhanced and our outreach via Social Media. We then will train managers on the use of Social Media and select a staff person to serve as part-time Social Media/Web coordinator as a collateral duty. The Social Media/Web coordinator will establish a presence on Facebook, Instagram and Twitter. For Management and Staff, we will have a Policy to ensure consistent use of Social Media. Our draft Policy is provided as follows:

The San Francisco Water Board's desired outcome for social media use is to: make information about our work and water quality in our region available at the public's fingertips; be more transparent with our actions and information; create an efficient method to communicate with the public, and increase public awareness about water quality issues and projects in our region.

We will use Facebook, Instagram and Twitter as our Social Media outlets. As with all social media, "sharing" our page/posts and "liking" or "following" our social media sites helps spread the water quality word to a larger audience. While we greatly appreciate staff sharing our information on social media, this is not a requirement.

This Policy serves as our guide for posting to our social media sites and will help you determine what you should and shouldn't post and how much information you need to provide.

WHAT TO POST

DO POST:

Agenda Notices, EO Reports, Board Announcements and Decisions

Workshop Notices and Public Notices

Water Quality Information or Activities (e.g. Watershed Report Cards and Beach Cleanups)

Interesting Project Information (e.g. "The sediment cleanup will start dredging this week")

Water quality related posts from other social media sites (e.g. amplification of Board sponsored/funded efforts such as the recently released "Adaptation Atlas" from SFEI)

DON'T POST:

Information that endorses a business or person

Politically charged information

Offensive Information

Third party information that has not been fact checked

We will evaluate the effectiveness of this effort after 12 months and adjust accordingly.

Point Buckler Trial (Marnie Ajello)

The trial in *United States v. John D. Sweeney and Point Buckler Club, LLC* began on May 20, 2019 before Judge Kimberly Mueller and finished on June 5. The government's case is relatively straightforward: it argues that Mr. Sweeney and Point Buckler Club, LLC (Defendants) filled waters of the United States without obtaining a permit under the Clean Water Act. They argue that this conduct caused ongoing, significant harm by blocking tidal action to the interior of the island, making the island soil highly saline and acidic, eliminating

the island's habitat value, and killing the marsh vegetation. EPA requests injunctive relief requiring Sweeney to restore the island channels and marsh, per a restoration plan developed by Stuart Siegel (with input from Agnes Farres and Xavier Fernandez), and enjoining Mr. Sweeney from "conducting any activity that could result in pollutant discharges unless and until he first consults with federal regulators and shows that the proposed activity will comply with the Clean Water Act." In closing, the government indicated that implementing the restoration proposed by Dr. Siegel could be compatible with use of the island for kiteboarding, but would not be compatible with use of the island as a duck club. EPA requested that claims for compensatory mitigation and civil penalties be put in abeyance pending completion of the restoration at the island.

The government called Dr. Siegel, Peter Baye, Bruce Herbold, Dan Martel, and James Kulpa. These witnesses provided their expert opinions about the extent of harm done at the island, their observations on site visits, their measurements of island elevations and conclusions about the high tide line, and the requirements of the proposed restoration plan.

Defendants called Terry Huffman, David Mayer, and John Sweeney. Defendants did not appear to dispute that Sweeney's actions had filled some waters of the United States, and in contrast to their state claims, conceded that fill material was a pollutant under the Clean Water Act. Mr. Sweeney acknowledged that water had overtopped the levees in 2015, 2017, and 2018, but claimed this was due to "flooding," and not to tides. Defendants attempted to challenge the credibility of the government's experts, particularly Dr. Siegel, to challenge the calculation of the high tide line, and to argue that either (a) the Clean Water Act and its regulations would cause a taking or (b) that implementation of the restoration plan would result in a taking. Their requested outcome was dismissal of EPA's case and permission to develop the Island as a duck club.

The government cross-examined both Dr. Huffman and Mr. Sweeney. The government elicited from Mr. Huffman that restoration per Dr. Siegel's plan would be quicker, more efficient, and better for the environment than slower options proposed by Defendants. The government also questioned Mr. Sweeney about his prior experience with permitting at his other clubs, and elicited admissions that he was familiar with permit applications for levee work, did not receive a permit for his work at Point Buckler, and continued to do work at the island after both being told to stop by state regulatory agencies, and after submitting an RGP 3 application (never acted on) to the Corps.

The government called Daniel Leistra-Jones as a rebuttal witness and financial expert to discuss Mr. Sweeney's ability to pay for restoration. Mr. Leistra-Jones explained that he based his conclusion that Mr. Sweeney and the club have the ability to pay for restoration at the island on, among other things, Mr. Sweeney's ownership of a multi-million dollar home, Mr. Sweeney's ability to obtain \$10,000/day by renting out his landing craft, his and his wife's ability to seek employment, and the Club's ownership of land and equipment. Judge Mueller requested both supplemental briefing and proposed findings of fact, to be submitted according to a schedule that the government and Defendants have to work out. She noted, however, that she "was not going to just sign one side or the other, as apparently some state court judges do."

Staff Presentations

There On April 25, Melissa Gunter and Maggie Monahan of the Watershed Management Division met with EPA Region 9 and Hawaii Department of Health in San Francisco to discuss water reuse in California. State Water Board managers from the Division of Water Quality, Sustainable Water Plans and Policies Section, also participated remotely. The meeting began with an open discussion on California's recycled water regulatory framework and future direction. Melissa then presented an overview of recycled water quantities, project types, and permitting approaches within the San Francisco Bay Region, highlighting the challenges of a changing landscape, both in terms of regulation and treatment technology, and how to overcome those challenges. Examples of municipal recycled water programs, industrial reuse, and onsite water reuse projects were presented, and the group discussed the potential applicability to implement in Hawaii.

On May 2, Maggie Monahan of the Watershed Management Division presented at an Alameda County Clean Water Program training workshop for the New Development Subcommittee. The workshop was on green stormwater infrastructure and construction site stormwater control. Maggie's presentation included a construction stormwater inspection case example that led to improved stormwater best management practices at the site. She also talked about common challenges observed in construction stormwater inspections, ways to achieve effective corrective actions, and opportunities for inter-agency collaboration.

In-house Trainings

There were no in-house trainings this month.

Enforcement Actions (Jessica Watkins and Brian Thompson)

The following table shows proposed enforcement actions since last month's report. In addition, enforcement actions are available on our website at:

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

Proposed Settlements			
The following are noticed for a 30-day public comment period. If no significant comment is received by the deadline, the Executive Officer will sign an order implementing the settlement.			
Discharger	Violation(s)	Proposed Penalty¹	Comment Deadline
City of Pacifica	Discharge limit violations.	\$3,000	May 28, 2019
Phillips 66 Company San Francisco Refinery	Discharge limit violations.	\$80,000	May 31, 2019
Planetary Ventures, LLC	Discharge limit violations.	\$6,000	June 7, 2019

¹ Includes \$43,000 to 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.

Settled Actions			
On behalf of the Board, the Executive Officer approved the following:			
Discharger	Violation(s)	Imposed Penalty	Supplemental Environmental Project
3000 Broadway SPE, LLC	Discharge limit violations.	\$3,000	none
Mt. View Sanitary District	Discharge limit violations.	\$3,000	\$3,000
Stanford University	Discharge limit violations.	\$6,000	none
MedPlast Fremont	Failure to submit an annual industrial stormwater discharge report for 2017/2018.	\$1,000	\$500
Refund Recycle Center LLC	Failure to submit an annual industrial stormwater discharge report for 2017/2018.	\$1,000	\$500
Kerry Inc	Failure to submit an annual industrial stormwater discharge report for 2017/2018.	\$1,000	\$500
Hanson Aggregates, Mission Valley Rock Sunol Facility	Discharge limit violations.	\$3,000	\$3,000
Hanson Aggregates, San Francisco Pier 92 Sand Yard	Discharge limit violations.	\$12,000	\$12,000
Hanson Aggregates, San Francisco Pier 94 Sand Yard	Discharge limit violations.	\$21,000	\$18,000
Hanson Aggregates, Oakland Tidewater Sand Yard	Discharge limit violations.	\$3,000	\$3,000
M10 Development, LLC	Discharge limit violation.	\$3,000	none
East Bay Municipal Utility District	Failure to comply with monitoring requirements and a total chlorine residual discharge violation.	\$120,100	\$60,050
Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc.	Discharge limit violations.	\$6,000	\$6,000

401 Water Quality Certification Applications Received (Abigail Smith)

The table below lists applications received for Clean Water Act section 401 water quality certification from April 10 through May 8, 2019. A check mark in the right-hand column indicates a project that may be in BCDC jurisdiction.

Project Name	City/Location	County	May have BCDC Jurisdiction
Point Emery Shoreline Protection	Emeryville	Alameda	✓
Lake Merritt Trash Boom Replacement	Oakland		✓
Union Pacific Railroad Bridge Replacement	Oakland		✓
RYC Marginal Wharf Piling Repair	Point Richmond	Contra Costa	✓
High Canal West Bank Stabilization	Corte Madera	Marin	✓
Muir Woods Bridge Replacements	Mill Valley		
6 Bridge Avenue Upper Bank Retaining Wall	San Anselmo		
Trinitas Mixed Use Development	Napa	Napa	✓
Port of San Francisco Pier 48 1/2 Interim Ferry Landing	San Francisco	San Francisco	✓
County of San Mateo Routine Maintenance Activities	Woodside	San Mateo	
Vina Drive Culvert Repair	Los Gatos	Santa Clara	
Vallejo Marina Dredging for 2019	Vallejo	Solano	✓