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REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

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Executive Officer's Report

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U.S. Supreme Court Decision Decreases Federal Wetlands Protection (Eileen White)

On May 25, 2023, the U.S. Supreme Court issued a decision in *Sackett v. EPA* that significantly reduces the scope of the Clean Water Act and diminishes the federal government's ability to protect wetlands throughout the U.S., particularly in the west. The Court held that for a wetland to be protected under the Clean Water Act, it must be indistinguishable from the water of the U.S. to which it is connected. The wetland must have a continuous surface connection with the water of the U.S., making it difficult to determine where the water ends and the wetland begins.

Though we are extremely disappointed in the decision and the adverse impacts it will have nationally, it only narrows the scope of federal jurisdiction and does not weaken California's more stringent wetlands protections. Under the state's Porter-Cologne Water Quality Control Act, the State and Regional Water Boards retain regulatory authority for protecting wetlands.

The ruling effectively will require California to increasingly rely on its own regulatory wetlands protection programs and deprive the state of expertise previously provided by the U.S. Army Corps of Engineers.

Cleanup Program Performance (Laurent Meillier and Katie Kulha)

Our Region dedicates 31 positions to the Site Cleanup Program (SCP) and Underground Storage Tank (UST) Program, which have a combined total of nearly 850 cases. We prioritize all cases to ensure timely investigation and cleanup based on the risk and threat posed by toxic/nuisance pollution. The magnitude (i.e., concentration) and proximity to people, water and habitat are the main drivers of risk and threat. Case priority can change over the course of a year as investigation confirms the likelihood of existing exposure or discharge; or if mitigation and cleanup actions successfully abate the risks and threats.

Since 2021, we have undertaken efforts to prioritize our cleanup programs through the lens of racial equity and environmental justice in alignment with State Water Board policy. This includes identifying all cases in communities that have suffered and continue to suffer disproportional socioeconomic and pollution burdens and racial inequities. Such communities have been exposed to multiple sources of pollution and are often especially vulnerable to the negative effects from pollution. Using the tools listed below, we have identified 104 cleanup cases within disadvantaged communities and have prioritized them with the goal of identifying and controlling health and environmental exposures as quickly as possible.

- Maps of historic “redlining” practices by the federal Home Owner’s Loan Corporation.
- CalEPA’s California Communities Environmental Health Screening tool: [CalEnviroScreen](#) where census tracts have a score of 75 percent or greater, based on socio-economic and pollution burden factors.
- Designation as a “disadvantaged community” or “severely disadvantaged community” by the California Department of Water Resources based on median household income.

Program Performance

Each year we set program performance targets for the coming fiscal year (FY) and measure progress against current targets. The programs use 4 key numeric metrics to indicate overall progress toward the elimination of threats to human health and water quality.

1. Cases closed. Case closure is granted when contamination no longer poses a threat to water quality nor a risk to public health and safety.
2. Cases moved into remediation. Cases in remediation have started interim remediation to address urgent concerns while investigation continues, or comprehensive remediation to address the full extent of the problem.
3. Cases where health exposure to contamination is stopped. Human health exposure is stopped through abatement actions to limit contact with site contaminants (i.e., mitigation) or remediation (i.e., cleanup). Most cases where human health exposure is ongoing are due to confirmed vapor intrusion of volatile contaminants into an occupied building. These cases are our highest priorities.

4. Cases where migration of contamination is controlled. Contaminant migration is controlled through actions to remove or reduce the contaminant source, such as removal of a leaky tank, excavation of the surrounding soil, and extraction of free product. Most cases where groundwater contaminant migration is ongoing are due to a groundwater plume discharging to a supply well, creek, or the Bay. These are also some of our highest priorities.

Following are summary workload and performance statistics for the programs.

- We currently have 845 active cases (625 SCP cases; 220 UST cases).
- We close about 50 cases per year (20-25 in each program) and coincidentally add about 50 new cases per year (30 in SCP; 20 in UST).
- We move about 20 cases per year into remediation (10 in SCP and 10 in UST).
- We have confirmed that human health exposure is not occurring at 95% of our sites; the remaining 5 percent are high priorities.
- We have confirmed that contaminant migration is controlled at 93% of our sites; the remaining 7 percent are high priorities.
- Performance targets and progress are summarized in the following tables.

FY 2022-23*

Program	Target	Actual
Cases Closed		
SCP	20	25
UST	25	15**
Cases into Remediation		
SCP	15	15
UST	6	5

* As of June 1, 2023

** Staff retirements and unforeseen case difficulties challenged us to meet this target.

FY 2023-24

Program	Target	Actual
Cases Closed		
SCP	20	
UST	20	
Cases into Remediation		
SCP	15	
UST	4	

Future Trends and Challenges

Redevelopment projects continue to be an ongoing driver of work in the SCP. New guidance related to vapor intrusion assessment and mitigation allows staff to better regulate vapor intrusion mitigation systems to ensure their long-term effectiveness while cleanup is ongoing. At the same time, many sites, such as historic dry cleaners that impart significant vapor intrusion risk to nearby residential and commercial buildings, have limited ability to afford the considerable investigation and cleanup costs. We continue to work with our State Water Board's Site Cleanup Subaccount Program (SCAP) to prioritize funding for high-risk sites and sites in disadvantaged communities, however, the fund is insufficient to meet the Statewide demand.

We are also working on a growing number of cases involving *per and polyfluoroalkyl substances* (PFAS). This work is driven in part by recent State Water Board orders issued to airports, metal platers, and bulk fuel terminals, and the discovery of several public supply wells in the Santa Clara and Livermore Valleys affected by PFAS contamination. This work has unique challenges due to the ubiquity and legal use of PFAS in products and processes, high mobility in the environment, high treatment costs, and lack of drinking water standards for the vast majority of PFAS. The 5 new staff positions provided to our cleanup program in 2021 help to address these and other challenges.

In the UST program, our case closure pace has slowed as the portfolio of cases shrinks. This is mainly due to the "low-hanging fruit" effect that leaves behind a higher percentage of more complex and recalcitrant cases. To help offset this, we rely on support from U.S. EPA and the State Water Board to work on stalled UST cases. At the same time, over the next few years, we expect to receive dozens of new UST cases from two sources. The first is the phase out of single-walled USTs by December 31, 2025. We expect to see 50 or more new UST cases from this source. The second is the sunset of local agency programs to oversee UST cases. This is tied to the sunset of the UST Cleanup Fund by December 31, 2025. There are currently three remaining local UST agencies in our region (Alameda, Santa Clara and San Mateo Counties) that receive funding from the UST Cleanup Fund that currently oversee a combined total of 212 UST cases.

During FY 23-24 we expect to implement additional performance metrics for cases in disadvantaged communities that State Board is developing. We are also expecting about a dozen new PFAS cases as we request investigations at fire stations and fire training practice areas where PFAS-containing materials, such as aqueous film forming foams used for firefighting, were used and are located near public supply wells that have detectable PFAS concentrations. We plan to report back on our cleanup program progress again at mid-year.

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

Cleanup of the Former Prosperity Cleaners Site at Marinwood Plaza is progressing after a delay that occurred last fall. Following the successful completion of excavation to remove lingering soil contamination in summer 2022, the property owner, Ms. Xariou Hoytt, failed to pay her consultant for the completion report documenting the work. She also failed to pay for one round of quarterly monitoring as required. Ms. Hoytt stated that the delays were due to complications liquidating assets to obtain the funds.

In December 2022, Ms. Hoytt obtained the funds and paid her consultant who then released the completion report and resumed the monitoring. We also received a schedule for the next deliverables that included a revised remediation effectiveness report. Tragically in April 2022, Ms. Hoytt was killed in an auto accident. Her son informed us and requested a two-week delay in submitting the effectiveness report.

The effectiveness report was submitted on May 12, 2023. Among other things, it proposes more in-situ injections to treat groundwater in onsite and offsite areas where tetrachloroethylene (PCE) concentrations are above cleanup goals, and workplans to further characterize PCE in soil, soil gas, and groundwater where some data gaps exist.

Following is a recap of events from 2021, including the proposed work for this summer. Additional site history is provided in prior Executive Officer reports from [May 2020](#), [April 2021](#), [March 2022](#), [August 2022](#), and [October 2022](#).

- **Summer 2021** – Groundwater treatment in the source area and the affected down-gradient areas is conducted by in-situ injections, and a pilot test is conducted to evaluate soil vapor extraction as an option for treating PCE and its degradation byproducts in soil and soil gas.
- **Summer 2022** – Building demolition and soil excavation are implemented to remove residual PCE from beneath the former building in the source area.
- **Summer 2023** – The May 2023 effectiveness report proposes three things: 1) more in-situ injections are proposed to treat groundwater in onsite and offsite areas where PCE concentrations are above cleanup goals, 2) additional work to characterize PCE in soil and soil gas along a sewer lateral, which was discovered during the summer 2022 soil excavation, and 3) additional groundwater monitoring wells in two areas needing additional effectiveness evaluation.

Site Cleanup Requirements [Order No R2-2020-0025](#) requires the completion of cleanup by February 2027. The annual effectiveness reports that are due June 30 of each year, which rely on data collected from quarterly and semi-annual monitoring events, are critical for demonstrating progress toward that date. While we are encouraged by the recent progress and the response data to the 2021 injections and 2022 excavation, we will keep the pressure on the owner to implement the proposed work for this summer and the continued monitoring and effectiveness evaluations. We will not hesitate to require additional soil or groundwater remediation if the data suggest any problems achieving the 2027 deadline.

Moffett Field Hangar One (Dana McCarthy)

Hangar One is an iconic historic landmark located at Moffett Field which borders the cities of Mountain View and Sunnyvale. It is one of the world's largest freestanding structures at about 1,100 feet long, 310 feet wide, and 200 feet high. The Navy built Hangar One in 1933 to house the USS Macon airship. Since then, the hangar has been owned by the Army, the Navy (again), and is currently owned by NASA. Planetary Ventures, LLC (a subsidiary of Google) leases the hangar and is leading its rehabilitation.



Figure 1. Hangar One at Moffett Federal Airfield, Moffett Field, California, in 2006 ([NASA/Dominic Hart](#)).

Hangar One is undergoing a non-time critical removal action to address polychlorinated biphenyls (PCBs) and lead in both porous and non-porous surfaces, as well as addressing asbestos-containing materials where encountered. The removal action is being completed in three phases: phase 1 pre-abatement activities have been completed; phase 2 abatement activities are underway; and phase 3 activities (decontamination, finish painting, and enclosure removal) are being conducted at abated zones and are expected to be completed in 2025.

On April 20, Groundwater Protection Division Engineering Geologist Dana McCarthy participated in a tour of Hangar One to observe phase 2 abatement activities. The tour was led by a Project Manager for McCarthy Building Companies, Inc.. In attendance were staff from NASA, Planetary Ventures, LLC, CBRE, EKI Environment & Water, Inc., Environment Resources Management, and U.S. EPA.

The tour began outside to discuss the soil adjacent to Hangar One that was covered to prevent potential impacts from an unexpected release during abatement of the hangar. While outside, the tour group observed temporary encasing with sheeting (premium grade poly film) at Zone 3 and Zone 4 (see Figure 2). Negative pressure is implemented at each temporary enclosure during active media-blasting to mitigate the potential for releases of PCBs- and lead-impacted particulates to ambient air. Ambient air was continuously monitored along the perimeter of the project boundary.

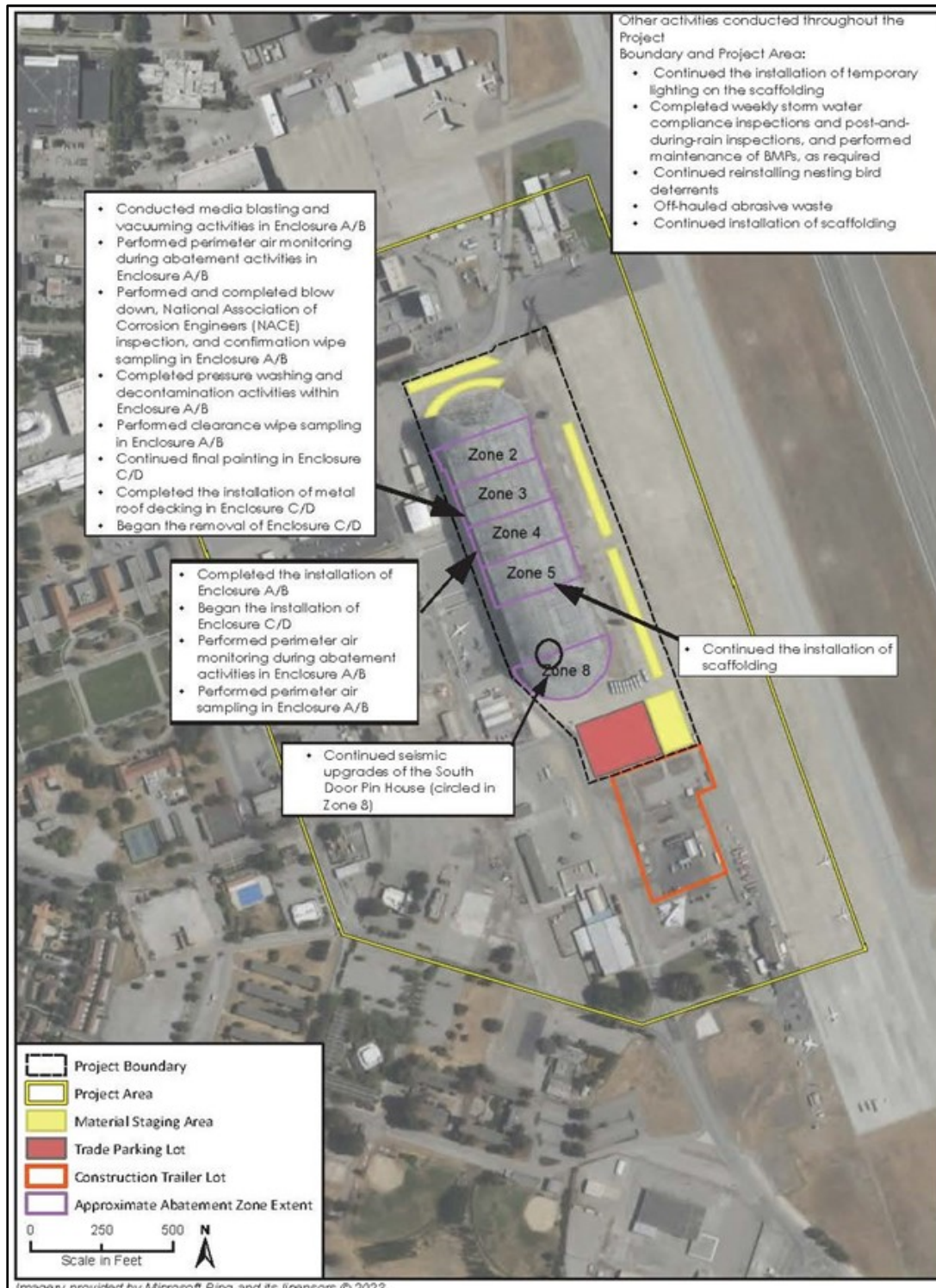


Figure 2. Non-Time Critical Removal Action Biweekly Report for April 8 – 21, 2023 (Rincon Consultants, Inc.)

Once inside Hangar One, the tour group viewed the massive scaffolding set-up, staging areas for equipment and waste containment, and the equipment set-up for work being performed. The tour group observed an example of an abated steel frame that was primed and painted following the completion of media-blasting. The tour ended with an open discussion, which included the future use of Hangar One clamshell doors.

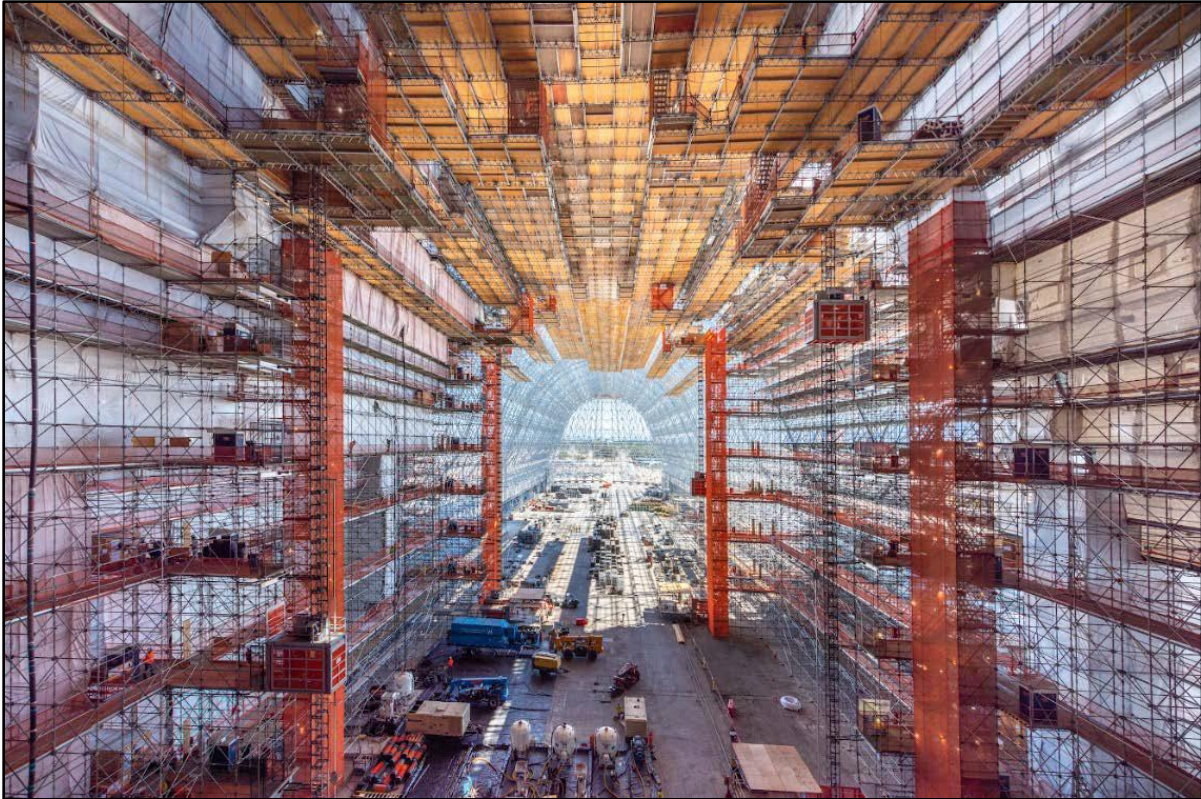


Figure 3. Hangar One in 2023 (CBRE).



Figure 4. Hangar One in 2023 (CBRE).

Butano Creek Backfield Floodplain Project (Tahsa Sturgis)

On May 10, 2023, a Notice of Applicability (NOA) for coverage under the Statewide Restoration General Order (SRGO) was signed. This is the first project in our Region to be permitted under the SRGO that was adopted in August 2022. The NOA was issued to San Mateo Resource Conservation District's (San Mateo RCD) Butano Creek Backfield Floodplain Project (Project) in the community of Pescadero, San Mateo County. The Project will create approximately 4 acres of inset Stage 0 floodplain and is anticipated to increase activation of more than 100 acres of historical floodplain along 1,800 linear feet of Butano Creek. The Project also includes expanding an existing reservoir to reduce streamflow diversions during the critical low flow period of June 1 through June 31, allowing for increased streamflow during this period which will benefit aquatic species, including salmonids, riparian vegetation, and the downstream Pescadero Lagoon. The Project is expected to commence in 2023, once all other permits have been procured.

Cayetano Creek Mitigation Bank (Liz Morrison)

On April 12, 2023, the Bank Enabling Instrument (BEI) for the Cayetano Creek Mitigation Bank (Bank), located on a 101-acre parcel East of the cities of Dublin and San Ramon at the Alameda and Contra Costa Counties border, was signed. The purpose of the Bank is to compensate for unavoidable impacts to, and conserve and protect, Waters of the U.S. and State, Covered Endangered Species, and Covered Habitat.

The BEI sets forth the agreement regarding the establishment, use, operation, and maintenance of the Bank. The BEI details how the Bank Sponsor will preserve, restore, and/or establish and then manage and maintain Waters of the U.S. and State, Covered Species, and Covered Habitat and includes a Development Plan, an Interim Management Plan, a Long-term Management Plan, and Endowments. The Bank will be conserved and managed in perpetuity via a recorded Conservation Easement. Other signatory agencies of the BEI are: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and the California Department of Fish and Wildlife.

Mitigation banks provide compensatory mitigation credits for off-site project aquatic and species impacts and are particularly useful for projects with small impacts, where on-site mitigation is not feasible. The signatory agencies have agreed to an amount of 'credits types' for the Bank, as well as a 'Service Area', a project needs to be within the Bank's Service Area to purchase credits from the Bank. A percentage of the credits are released over a period of years as performance criteria are met.

Construction of the Bank was completed in August 2022, resulting in the transition from grazed grasslands to a wetland complex and riparian restoration that will provide habitat for California tiger salamanders and red-legged frogs.



Figure 1. Cayetano Creek Mitigation Bank, March 2023 (Olberding Environmental)

Community Engagement (Staff)

San Francisco Marina East Harbor and Outside East Harbor Public Meeting

On May 11, Water Board and Pacific Gas and Electric Company (PG&E) staff hosted a public meeting to provide an overview and solicit comments regarding the draft feasibility studies for the San Francisco Marina East Harbor and Outside East Harbor sediment cleanup projects. The two adjacent cleanup cases are overseen by the Groundwater Protection Division Specialist, Ross Steenson, and the responsible parties are PG&E for both projects and San Francisco Recreation and Park Department (RPD) for the East Harbor project. The draft feasibility studies are available for public comment from April 24 to June 9. PG&E's and RPD's preferred alternative for East Harbor involves a land use change whereby the southern portion of East Harbor would be converted to a shallow water recreation area, resulting in less cleanup (i.e., sediment removal and dredging). The proposed land use change is a joint effort by RPD and PG&E called the Marina Improvement and Remediation Project. Expansion of the West Harbor Marina is a non-cleanup component of the joint project.

The meeting was held at Fort Mason, San Francisco, adjacent to East Harbor. The meeting was structured as a combination of open house with poster boards with PG&E and RPD staff available to answer questions and presentations by Ross Steenson and PG&E staff followed by public questions and comments. About 45 members of the public attended, many of which were local residents along with a few boat slip holders. Executive Officer Eileen White and Groundwater Protection Division Manager Jessica Watkins also attended. Most public comments were about the land use change or sewer infrastructure/flooding issues in the Marina District. The main concern about the land use change is that the expansion of the West Harbor Marina would eliminate the open Bay view from the Marina Green. Concerns about the flooding issues have been previously expressed by residents to the Board (e.g., February 8, 2023, Board meeting public forum). The residents wanted to know what the Water Board is doing on this topic, and they expressed frustration with lack of responsiveness from the San Francisco Public Utilities Commission. Eileen White responded to the sewer infrastructure/flooding comments.

Speaking UP for Point Molate Public Meeting

On May 22, Engineering Geologist Jacob Henry from the Groundwater Protection Division presented at the weekly discussion series "[Speaking UP for Point Molate](#)" hosted by the Point Molate Alliance. Jacob Henry talked about the history and status of cleanup at the former Point Molate Naval Fuel Depot in Richmond. He discussed the diverse range of sites, including a petroleum bulk storage area with 20 2.1-million-gallon underground storage tanks, treatment ponds, drum lots, and a landfill. Jacob Henry answered questions from the public, including clarifying the difference between screening levels for residential versus commercial redevelopment. There were about 30 virtual attendees, including members of the public, Water Board Executive Officer Eileen White, Groundwater Protection Division Manager Jessica Watkins, and Senior Engineering Geologist Celina Hernandez.

Staff Introductions (Eileen White)



This month we welcome Sonny Hutchinson to the Toxics Cleanup Division as an Engineering Geologist where he will be a case manager in the Toxic Clean Up Division. Sonny has spent three years in private environmental consulting working on pollution projects in the San Francisco Bay. Sonny received his Bachelor of Science in Geology from Sonoma State University with a minor in Paleontology in 2018. During his years at Sonoma State, Sonny participated in a National Science Foundation Research Experience for Undergraduates that was focused on characterizing Miocene tectonics and volcanism in Baja California, which included conducting field work and presenting his research at the American Geophysical Union and the Geology Society of America convention in 2017. Before college, Sonny served in the US Marine Corps from 2007 through 2011, deploying numerous times overseas to Afghanistan as well as the Southeast Pacific. Sonny is interested in continuing his service to the public by pursuing a fulfilling career with the Water Board. Outside of his professional life, Sonny enjoys reading, backpacking, cooking, and spending time with his dog Lucy.

Enforcement Action (Brian Thompson and James Parrish)

On behalf of the Board, the Executive Officer approved the following settled enforcement action since last month's report:

Discharger	Violations	Imposed Penalty	Supplemental Environmental Project
Meta, formerly known as Facebook	Insufficiently treated discharge and late and incomplete report	\$509,800	\$252,300 ¹

¹ Includes \$252,300 for a Supplemental Environmental Project for the Regional Monitoring Program to investigate harmful algal blooms in San Francisco Bay, including collection of priority data, model development and application, and data synthesis.

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 April 13 through May 17, 2023. A check mark in the right-hand column indicates a project with work that may be in Bay Conservation and Development Commission jurisdiction.

Project Name	City/Location	County	May have BCDC Jurisdiction
Emery Cove Yacht Harbor	Emeryville	Alameda	✓
Old Canyon Road Bridge (Stanley Bridge) and downstream creek embankment on Alameda Creek	Fremont	Alameda	
Estudillo Canal (Line A) Channel Wall Reconstruction, Between Crosby St. And Manor Blvd	San Leandro	Alameda	
Curry Canyon Culvert Replacement	Clayton	Contra Costa	
Creek Bank Slide Repair at 1398 & 1392 Rimer Dr	Moraga	Contra Costa	
Toyon Fire Road Upgrade Project	Fairfax	Marin	
Goodhill Road Emergency Repair Project	Kentfield	Marin	
Palma Way Culverted Roadway Embankment Repair	Mill Valley	Marin	
Caltrans Culvert Replacement 3Y090 MRN 1 PM 35.26	Tomales Bay	Marin	
Woodland Capacity and Creek Crossings Project (#956)	Unincorporated	Marin	
Ahmann River Front Parcel	Napa	Napa	✓
Sulphur Creek Fish Passage Restoration Project	St. Helena	Napa	
Vineyard Valley Bank Stabilization and Bridge Improvements Project	St. Helena	Napa	

Project Name	City/Location	County	May have BCDC Jurisdiction
Piers 39-45 Sediment Investigation	San Francisco	San Francisco	✓
San Francisco SailGP	San Francisco	San Francisco	✓
Elkus Ranch Emergency Bridge and Pump House Replacement	Half Moon Bay	San Mateo	
State Route 1 and State Route 84 Structures and Scour Mitigation Project (EA 04-2J790)	Half Moon Bay	San Mateo	
Beach Boulevard Infrastructure Resiliency Project Phase 2A	Pacifica	San Mateo	
Port of Redwood City Wharves 1-4 Maintenance Dredging	Redwood City	San Mateo	✓
San Andreas Reservoir Road Improvements Project	Unincorporated	San Mateo	
WETA – 2023 Vallejo Ferry Maintenance Dredging Project	Vallejo	Solano	✓
Lafferty Ranch Open Space Park Pedestrian Bridge Replacement	Petaluma	Sonoma	
Sid Commons Apartment Project	Petaluma	Sonoma	