

**California Regional Water Quality Control Board
San Francisco Bay Region
EXECUTIVE OFFICER'S REPORT**

A Monthly Report to the Board and Public

June 2005

The next regularly scheduled Board meeting is June 15, 2005.

See <http://www.waterboards.ca.gov/sanfranciscobay/> for latest details and agenda

Items in this Report (Author[s])

State Water Board to Consider Mercury TMDL (Tom Mumley)	1
Former Albany Landfill to Be Open Space (Curtis Scott)	1
San Francisco Airport Opens New Treatment Plant (Lila Tang)	2
Cargill Spills Toxic Brine In Newark (Keith Lichten)	2
Hamilton Wetland Restoration Project Moves Ahead (Naomi Feger/Elizabeth Christian)	3
Treated Auto Shredder Waste (Terry Seward)	3
Brownfield MOA Implementation (Stephen Hill)	4
U.S. EPA Awards Brownfields Grants (Gary Riley)	5
Proposed Regional Municipal Stormwater Permit (Dale Bowyer).....	6
Governor's Proclamation on Tribal Gaming Policy Affects Site Cleanup (John Kaiser)	6
Hookston Station Update (George Leyva)	7
In-house Training	7
Staff Presentations and Outreach	7
<i>UC Coop Extension/NCS "Farm Water Quality Planning Short Course"</i>	7
<i>State Water Board WQA's Class on "Conceptual Site Models and Case Closures"</i>	7
<i>San Mateo County Stormwater Agencies' New Development Requirements Workshop</i>	8
<i>Bay Planning Coalition's Decisionmakers Conference</i>	8
<i>Council of Industries of West Contra Costa County</i>	8
<i>GWA Symposium "Subsurface Vapor Intrusion to Indoor Air: An Update"</i>	8
<i>Water Board Staff Participates in the Annual AIDS/LifeCycle Bicycling Event</i>	8
<i>U.S. EPA Western Brownfields Conference</i>	8

State Water Board to Consider Mercury TMDL (Tom Mumley)

The State Board meeting item on our San Francisco Bay mercury TMDL, previously scheduled for June 1, has been renoticed for consideration at the June 16 meeting. At this meeting the State Board will discuss approval options and an associated time schedule for approving the TMDL. Chair Muller and I plan to attend.

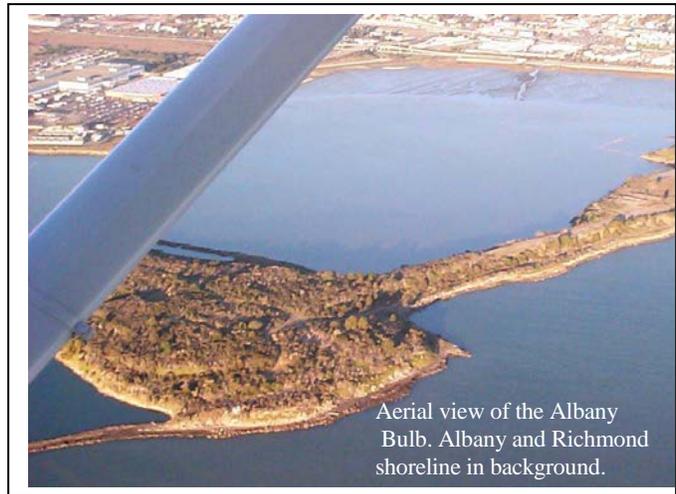
Former Albany Landfill to Be Open Space (Curtis Scott)

Since the middle 1980's, the City of Albany and the California State Department of Parks have been working to finalize incorporation of the closed Albany Landfill, known as the Albany Bulb (shown in the picture below), into the Eastshore State Park General Plan. Events over the past month should move that goal closer to realization.

In 1999, the Water Board adopted Waste Discharge Requirements that only require the City to submit a landfill closure plan if major alterations, such as grading and/or redevelopment of the site, were planned. This requirement was based on the analysis of the landfill itself, where much of the

waste was construction demolition debris. Monitoring of liquids within the landfill and the adjacent Bay waters has shown no impacts to water quality from the landfill.

The City has recently recommitted the Albany Bulb for use as a conservation area in conjunction with the Citizens for Eastshore Parks, Albany Waterfront Committee, Albany Community Development and Save San Francisco Bay. I confirmed in a May letter to the City that the Albany Bulb is not impacting waters of the state, it remains in compliance with the Board's 1999 closure order, and no further action is required. My confirmation should allow for oversight of the Bulb by State Parks pending negotiations with the City.



Aerial view of the Albany Bulb. Albany and Richmond shoreline in background.

Staff views the use of this site as a part of the Eastshore State Park as a win-win situation. The Eastshore Park Trail will be upgraded along this site, permanent Bay access for recreation will be provided along with a tremendous view of the Bay and habitat for wildlife living on and around the Bulb will be preserved.

San Francisco Airport Opens New Treatment Plant (Lila Tang)

San Francisco International Airport will dedicate its new \$40 million sewage treatment plant later this month. The Airport built this new plant to comply with the Board's 2001 Cease and Desist Order (CDO). The CDO was for violations from the previous plant when treatment units were taken down for maintenance. The Airport's new treatment plant uses "state-of-the-art" technology: Sequencing Batch Reactors. This new plant was actually completed in September 2004, and put through its courses to ensure all treatment units functioned properly. The Airport has thus far complied with all permit limits. Official dedication ceremonies are scheduled for June 21st.

Cargill Spills Toxic Brine In Newark (Keith Lichten)

On June 1, Cargill accidentally discharged approximately 17,560 gallons of bittern--concentrated toxic brine--from a rail car at its Newark bittern loading facility. The facility is located on a rail line by the marshes near Newark Slough. Approximately 6,000 gallons of bittern were captured in containment under the rail car. The remainder overflowed and discharged across a dirt access road into an adjacent marsh, and then into Newark Slough.

The marsh provides habitat for the federally endangered salt marsh harvest mouse. Additionally, the Bay outside the marsh is fished for shrimp. Bittern spills can be as dangerous as oil spills, because the material is toxic to aquatic life. It is also denser than water. As a result, it sinks and moves along the bottom of marsh channels and the Bay, with the potential to significantly impact bottom-dwelling life.

Staff inspected the spill site on June 2 and 6. On June 2, two tidal cycles had passed in the marsh since the spill. With the exception of a small marsh area adjacent to the loading facility, it appeared that most of the bittern had discharged through the marsh channels and out to Newark Slough.

Cargill continued to visually inspect and take water samples in the marsh and marsh channels where the spill occurred through June 6, but did not detect bittern, and staff concurred on June 6 that most of that monitoring could be stopped.

Based on the inspection and discussions with Cargill, it appears that the spill was a combination of human error and inadequate facility design. The spill occurred when the bottom valve was opened on a tank car to check it for salt solids and rinse it prior to reloading it with bittern. The car had been returned to Cargill full of bittern, but had been marked empty. The bittern discharged from the tank car, likely over a period of about fifteen minutes. The employee completing the cleaning and loading was apparently otherwise occupied during this time. The facility, which loads up to three tank cars at a time, did not include containment adequate to capture the discharged volume from the one car.

Cargill has revised its loading protocol to include an initial visual inspection of tank car interiors prior to cleaning. This should prevent future similar spills.

This is not Cargill's only recent bittern spill. In September 2002, Cargill accidentally spilled 36,900 gallons of bittern in the same area, following a pipe failure. At that time, several commercial fishermen in the South Bay reported reduced shrimp catches that persisted for months. Investigation of that case is still open, and will be considered as we further investigate this recent spill.

Cargill is due to submit a detailed spill report later this week. I will report back to you as staff continues its follow up on the spill, appropriate remedial and mitigation measures, and consideration of enforcement.

Hamilton Wetland Restoration Project Moves Ahead (Naomi Feger/Elizabeth Christian)

The Hamilton Wetlands Restoration Project (Project) has submitted an application for a Water Quality Certification and Waste Discharge Requirements for the proposed placement of dredged sediment to restore up to 2600 acres of wetlands at the former Hamilton Army Airfield in Novato. A Tentative Order detailing waste discharge requirements for the sediment placement is being circulated for public comment, with comments due by June 22. It is anticipated that this item will come before the Board in July

Timing of all agency approvals is tight, as the Army Corps of Engineers needs to complete its efforts to get the site ready to receive dredged sediments from the Port of Oakland's 50-foot deepening project during late summer and early Fall 2005. Sediment from the Port will be used as the foundation for seasonal wetlands and a wildlife corridor at the former airfield.

The Project is anticipated to be under construction through 2014, when it is expected the levees will be breached and return the site to tidal action. The U.S. Army Base Realignment and Closure program is also in the process of completing cleanup tasks under Water Board Order in time for placement of the dredged sediments.

Treated Auto Shredder Waste (Terry Seward)

At the May 18 Board meeting, Mr. Richard Lymp, representing "A Right to Know", addressed the Board during the public forum on the acceptance, disposal, and use of Treated Auto Shredder Waste (TASW) in Water Board-regulated landfills. He alleged that landfill disposal of TASW is illegal and in violation of state and federal law.

For background information, TASW is a bi-product of the auto dismantling and recycling business and generally consists of the residual non-recyclable fluff (car seats, dashboards, carpet, hoses, etc.) found in autos. Prior to disposal in a landfill, auto shredder waste is treated by the generator to chemically bind soluble heavy metals and prevent potential leaching into groundwater and surface water at the landfill. DTSC regulates the generators and their treatment of auto shredder waste.

When treated, auto shredder waste has been designated a non-hazardous waste by DTSC, the state's hazardous waste regulator, since the 1980s. As a non-hazardous waste, TASW is approved for placement in California's municipal waste landfills. It is also approved for use for daily cover of waste material by the Integrated Waste Management Board. DTSC's classification of TASW as non-hazardous waste still remains in effect as verified last month. Also, in the material presented by Mr. Lymp, he claimed that TASW must be placed monolithically in a separate cell within the landfills. No agency has such a requirement as confirmed with DTSC and the State Water Board. Over 15 years of monitoring at the landfills in our Region that accept TASW have identified no problems associated with the placement of TASW into a municipal waste landfill.

Staff actually had been conducting ongoing conversations over several years with Mr. Lymp on the same subject prior to his appearance before the Water Board and had consistently disagreed with his allegations citing the same findings described above. Staff met with Mr. Lymp on June 1 to again discuss his concerns. In that meeting, we also learned that "A Right to Know" has sued DTSC over the classification of TASW as non-hazardous and is currently in appellate court with a decision possible within the next several months. We also learned that despite Mr. Lymp's allegations before the Water Board, he has no intention to pursue legal actions against the Board. Unless Mr. Lymp prevails in court, we do not expect to pursue this issue further.

Brownfield MOA Implementation (Stephen Hill)

Brownfields are properties that are vacant or underutilized due to actual or suspected contamination. Successful restoration of Brownfield properties promotes urban infill development and helps reduce urban sprawl, with its attendant water quality impacts. The Water Board has for many years encouraged the cleanup and redevelopment of Brownfield sites in this Region. We can point to many successful Brownfield cleanups as a result. The Brownfield Memorandum of Agreement (MOA) was established as part of Cal/EPA's July 2004 Brownfield initiative. The MOA is intended to clarify the cleanup process and eliminate "forum shopping" by applicants (the practice of selecting an oversight agency based on the applicant's preferences).

Since the Brownfield MOA took effect on March 1, we have worked closely with our counterparts at DTSC to implement the MOA's provisions for determining the appropriate lead agency for new cleanup cases. Statewide, the Water Boards and DTSC have received about 41 applications for lead agency determination, with 22 new cases going to DTSC, 11 going to the Water Boards, and 11 still unresolved. In this Region, we and DTSC have received 18 applications, or nearly half the statewide total. For each application, we applied the lead-agency criteria from the MOA and conferred with DTSC staff. At this point, eight of the new cases have been assigned to DTSC, six have been assigned to the Water Board, and four are not yet resolved. Only one of the unresolved cases is disputed – where each agency feels it is the appropriate oversight agency based on the lead-agency criteria. We are in the process of applying the MOA's dispute resolution process in this case.

As a practical matter, we expect DTSC to become the lead agency for most MOA applicants. The majority of Brownfield redevelopment projects in California involve residential land use (owing to the soft commercial market) and the MOA lead-agency criteria favor DTSC when residential use is proposed. Cal/EPA has asked the agencies to use a broad definition of Brownfield, so most new cleanup cases are subject to the MOA's provisions. We will provide you with additional updates on the Brownfield MOA as we proceed.

U.S. EPA Awards Brownfields Grants (Gary Riley)

The U.S. Environmental Protection Agency has awarded nearly \$2.2 million to eight Bay Area groups for assessment, inventory, redevelopment and cleanup of Brownfield sites. U.S. EPA grants in our Region include:

- The East Bay Asian Local Development Corporation of San Pablo will use \$200,000 for site cleanup, community planning, outreach and redevelopment of San Pablo's under-used and abandoned former industrial sites. Redevelopment will include 74 affordable homes and 86 affordable rental units.
- The City of East Palo Alto was awarded two grants totaling \$400,000. The City will use \$200,000 to assess the San Mateo County's former landfill, Cooley's Landing. Once the site is assessed, cleaned up and restored, it will be opened to the public as a recreational park with historical displays. The remainder will be used by BRIDGE Housing Corporation to alleviate some of the City's housing shortfalls by converting industrial sites into 67 affordable housing units for low-income senior households.
- The City of Emeryville was awarded two grants totaling \$400,000. The City plans to conduct hazardous substances and petroleum assessments in the federally designated "Enterprise Zone" to redevelop the area with housing and services.
- The North Richmond Community Housing Development Corporation was awarded three grants totaling \$600,000. Cleanup of three nursery sites in the Pullman Park Plaza area will remove human and environmental hazards and allow redevelopment in the area with a mix of rental and owner-occupied affordable housing.
- The City of Petaluma will use \$200,000 to create an inventory of potentially contaminated sites and conduct community outreach. A host of industrial activities have been identified as potentially impacting the environment in this historic river town; Brownfields redevelopment will attract jobs and eliminate adverse physical and economic conditions.
- The Contra Costa County Redevelopment Agency was awarded two grants totaling \$200,000. The grant funds will be used to conduct hazardous substance assessments and petroleum assessments of Bennett's Marina waterfront site in Rodeo and to develop cleanup plans and conduct community outreach activities. The Agency hopes to revitalize the waterfront area, boost the local economy and create jobs.
- The West Contra Costa Unified School District will use \$199,420 to cleanup a former wastewater treatment plant in Hercules to use for a school facility. The cleanup and redevelopment of the site will remove potential threats to human health, address the school

system's overcrowding problem and create open space and recreational opportunities for the community.

We provided letters of support to many applicants and four of the grant recipients, and most likely will be actively involved in cleanup oversight at many of these Brownfield sites.

Proposed Regional Municipal Stormwater Permit (Dale Bowyer)

The San Mateo and Contra Costa countywide municipal stormwater permits expire this month and have been administratively extended. The Santa Clara, Alameda and Fairfield-Suisun municipal stormwater permits all expire between February 2006 and February 2008. In previous permit reissuance cycles, each countywide permit was reissued as it expired, leading to often different requirements from one permit to another as we updated each permit based on past performance and "lessons learned". This has been a source of complaints from those municipalities with earlier implementation schedules that often resulted, especially when we updated the New and Redevelopment Component of the permits in the 2001 to 2003 period.

To address both the ongoing resource challenge of constantly issuing and updating permits and the call for more consistent implementation measures and schedules regionwide, Board staff is currently working with stakeholders to develop a regionwide municipal stormwater permit for Board consideration that would cover all the region's major municipal stormwater programs in one permit. In addition, in light of the coming TMDL-mandated load reductions assigned to urban runoff and the associated implementation requirements that will place on stormwater programs, it makes sense to replace the individual permits with one regional permit, to ensure consistent implementation requirements regionwide.

To address the challenge of developing such a significant permit, Board staff are using a team approach. After initial meetings with the Bay Area Stormwater Management Agencies Association (BASMAA) and the BayKeeper about the regionwide permit approach, the team has prepared draft outlines for the major components of the permit and distributed these to BayKeeper and BASMAA in early April. We are currently updating the draft outlines based on preliminary feedback, and will redistribute them in early July to BASMAA and BayKeeper. We plan to distribute an initial draft permit to a broader range of stakeholders, likely in September, after more comments on the outlines are received. We anticipate additional rounds of draft permit distribution, to include a series of public workshops, prior to distribution of a formal Tentative Order and opening of a public comment period. At this point, Board consideration of the regionwide permit is scheduled for early 2006.

Governor's Proclamation on Tribal Gaming Policy Affects Site Cleanup (John Kaiser)

On May 18, Governor Schwarzenegger issued a proclamation that states his opposition to any proposals for the federal acquisition of lands within any urbanized areas where the intention of such acquisition is to conduct or facilitate Class III Indian gaming activities (slot machines, black jack, craps, roulette, wagering games and electronic facsimiles of any game of chance). The proclamation further indicates that the Governor will decline to engage in negotiations for tribal-state gaming compacts where the tribe does not have Indian lands eligible for gaming. This proclamation appears to have a direct impact on the proposed Indian gaming proposal for Pt. Molate, a former Department of Defense site that awaits final cleanup under the oversight of the Water Board. Actual impacts of the Proclamation are still being evaluated, including leading to a possible change in proposed land

use at Pt. Molate. We are awaiting further explanation of the resultant effects on cleanup, mainly the timeline, from the City of Richmond and the proposed developer.

Hookston Station Update (George Leyva)

Water Board staff is seeking public input prior to acting on the *Baseline Risk Assessment* report for the Hookston Station site in Pleasant Hill. In late May we circulated a fact sheet summarizing the report and on June 20 we will host a community meeting at a local school to discuss the report's findings.

On March 5, the Hookston Station responsible parties submitted a *Baseline Risk Assessment* report for the Hookston Station area. The report concludes that current or potential exposure pathways exist at the site, including vapor intrusion to indoor air, exposure to ground water via private wells, and direct exposure to contaminated on-site soils (e.g., during any on-site construction). Currently, Water Board staff, in conjunction with the Department of Health Services' Environmental Health Investigation Branch, is engaged in a review of the *Baseline Risk Assessment*. The Water Board is seeking comments from the public on this report; comments are due July 8.

The *Baseline Risk Assessment* report will help us determine what cleanup and risk management measures are needed at the site. Once the *Baseline Risk Assessment* is approved, the Hookston Station responsible parties will prepare a Feasibility Study. The Feasibility Study will evaluate remedial actions for the Hookston Station site and is due 120 days after approval of the *Baseline Risk Assessment*.

Several other sites in the vicinity of the Hookston Station site are in various stages of investigation. The Cuff property (3343-3355 Vincent Road), Walnut Creek Manor (81 Mayhew Way), and Haber Oil (220 Hookston Road) have each initiated remedial investigations. Results so far demonstrate the presence of solvents in groundwater below these properties and suggest that Hookston Station is not the only source of solvent contamination in the vicinity. The responsible parties will be required to conduct additional investigation and cleanup, as appropriate.

In-house Training

Our May training involved a field trip on San Francisco Bay to examine factors affecting estuarine productivity. Our June training will be on public participation; this is part of a series of public participation trainings being provided to the various Water Board offices by UC Davis trainers as part of the State Water Board's Water Quality Academy.

Staff Presentations and Outreach

UC Coop Extension/NCS "Farm Water Quality Planning Short Course"

May 11: Carmen Fewless made a presentation at the University of California Cooperative Extension/Natural Resources Conservation Service - Farm Water Quality Planning Short Course in Saratoga on May 11. Carmen's presentation to vintners representing the Northern and Central Coast of California was on "Agricultural Requirements in the San Francisco Bay Region".

State Water Board WQA's Class on "Conceptual Site Models and Case Closures"

May 17: Chuck Headlee taught a portion of the State Board's Water Quality Academy class on Conceptual Site Models and Case Closures. The class presents an overview of the regulatory

framework for site investigations and remediation as well as innovative ideas for investigations and data analysis. Chuck illustrated key principles using the Derby Avenue redevelopment project on the Oakland Estuary as a case study. The class was attended by approximately 45 regulators, consultants, and developers.

San Mateo County Stormwater Agencies' New Development Requirements Workshop

May 24: Jan O'Hara spoke at the San Mateo County-wide stormwater agencies' New Development Requirements Workshop about the link between treating stormwater at new/redevelopment sites and controlling pollutants of concern under TMDL implementation plans. She also highlighted the experience developers have gained to date constructing stormwater controls in the Bay Area.

Bay Planning Coalition's Decisionmakers Conference

May 24: I participated in two panels at the Coalition's annual conference in San Francisco. The conference's theme was how business and regulators can better work together. I focused my remarks on actions businesses could take to streamline the review of their permit applications and how businesses need to be more proactive in getting public involvement about their project underway even before applying for permits from the regulatory agencies.

Council of Industries of West Contra Costa County

May 25: I was lunchtime speaker at the Council's monthly meeting. I spoke about the historic role of the Water Board in West Contra Costa County, what the Board's current priorities were, and what current legislative trends, especially those mandating expanded public participation, might mean to the Board and industries in West County.

GWA Symposium "Subsurface Vapor Intrusion to Indoor Air: An Update"

May 25: Stephen Hill participated in two panels at the Groundwater Resources Association's one-day symposium "Subsurface Vapor Intrusion to Indoor Air: An Update" in San Jose. In the "regulatory update" panel he supported the recent DTSC draft guidance document on vapor intrusion, reviewed results from our targeted assessments, and identified key regulatory issues. In the "stakeholder" panel he and other panelists addressed several current questions about vapor intrusion, including how to improve the assessment/mitigation process, how to manage TCE health risks pending U.S. EPA's determination of risk, and how to communicate health risks to residents at sites with vapor intrusion potential.

Water Board Staff Participates in the Annual AIDS/LifeCycle Bicycling Event

June 5-11: Gary Riley of the Groundwater Protection and Waste Containment Division participated in the 585 mile-7 day AIDS/LifeCycle 4 event. The bicycling event raises funds for HIV/AIDS prevention and services here at home and in the developing world, and began in San Francisco and ended in Los Angeles. Through his participation, Gary has raised over \$7,600 for this worthwhile charity.

U.S. EPA Western Brownfields Conference

June 9: Chuck Headlee was a panel member on a breakout session at the U.S. EPA Western Brownfields Conference in San Francisco. The session focused on how the U.S. EPA grants for Brownfield cleanups have been used in our Region and the oversight of the projects by the Water Board.