

California Regional Water Quality Control Board  
San Francisco Bay Region  
**EXECUTIVE OFFICER'S REPORT**  
A Monthly Report to the Board and Public

**November 2006**

*The next regular scheduled Board meeting is November 13, 2006.*

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

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**CALFED Science Conference** (Richard Looker and Carrie Austin)

At the CALFED science conference held in Sacramento October 23-25, Richard Looker chaired the first of a day-long series of panels on mercury, and Carrie Austin presented findings to date on mercury in the Guadalupe River watershed. Numerous Water Board staff attended the conference, which covered the full range of topics critical to the health of the Delta, the Bay, and the Bay Region's coastal watersheds.

CALFED is a collaborative effort of more than 20 State and federal agencies with management and regulatory responsibilities for the Bay-Delta system. Its stated objectives are to improve ecosystem quality, water supply reliability, water quality, and the integrity of the levee system. CALFED's Science Program is charged with leading and overseeing the integration of science across all CALFED activities.

The 2006 conference, titled "Making Sense of Complexity: Science for a Changing Environment," was the fourth biennial conference sponsored by CALFED's Science Program with support from the San Francisco Estuary Project and the San Francisco Estuary Institute. Topics given major focus this year included anticipated effects of climate change, levee integrity and engineering, water and sediment quality, and wetland restoration. Abstracts may be viewed and downloaded at [http://science.calwater.ca.gov/conferences/sciconf\\_abstract.shtml](http://science.calwater.ca.gov/conferences/sciconf_abstract.shtml) .

A major theme that emerged in the mercury sessions was the need to negotiate the tradeoffs between the benefits of wetland restoration for habitat and ecosystem services, and the possible increased threat to some wildlife through exposure to methylmercury. Resource managers and the public are looking to public agencies to show leadership in

making sense of the research information and applying the emerging conceptual understanding of mercury science to the many wetland restoration projects around the Bay as well as development and adaptive implementation of TMDLs. There is an urgent need to turn the scientific results into recommendations to those restoring and managing wetlands. Staff expect to participate in follow-up discussions in the first quarter of 2007.

**More Grant Proposals Recommended for Funding (Susan Gladstone)**

As we reported to you at the October Board meeting, funding under the State's Consolidated Grants Program is wrapping up with recommendations for the Coastal Nonpoint Source Pollution Control Program under Proposition 50. In this Region, seven proposals, totaling \$8.81 million, topped the list of Northern California proposals recommended for funding. If adopted, these projects will address TMDLs for the Bay, as well as in Marin, Sonoma, and Santa Clara counties; wetland restoration in Marin; Critical Coastal Area watersheds in San Mateo and Sonoma counties; and a pilot project to track the success of wetland mitigation. This last round of grant award recommendations will be considered by the State Board at its November 15<sup>th</sup> meeting.

Meanwhile, State and Regional Water Board grants staff have been busily working with grantees to finalize agreements for thirteen proposals approved in September for Region 2. If all are approved and awarded, there will be twenty new grants in this Region to be carried out over the next three to four years.

This process is the result of \$146 million in grant funds originating from approved state ballot propositions and the federal Clean Water Act in various water quality programs: Nonpoint Source Pollution Control (including separate funding for coastal areas), Nonpoint Source Implementation, Agricultural Water Quality, Integrated Watershed Management Planning and Implementation, and Urban Stormwater. Proposals recommended for funding are listed on the State Board's website at:

<http://www.waterboards.ca.gov/funding/consolidgrants0506.html>

**Petroleum Refineries' Investigation of Mercury (Richard Looker)**

As part of the analysis of the San Francisco Bay Mercury TMDL, we estimated that approximately 380 kilograms of mercury is contained in the crude oil processed by Bay Area petroleum refineries every year. According to our estimates, only 5-10 kilograms of this amount can be accounted for in wastewater or in automobile fuel sold each year in the Bay Area. Because of this discrepancy, the TMDL implementation plan calls for an investigation of the annual mercury loads associated with all discharge pathways as well as the ultimate fate of those loads.

As part of TMDL implementation, we issued 13267 letters<sup>1</sup>, in February 2005, to the five Bay Area petroleum refineries, requiring them to measure and report the amount of mercury emitted directly to the atmosphere from their refineries and to provide information

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<sup>1</sup> Section 13267 of the California Water Code allows the Executive Officer to issue letters requiring the submittal of technical information. Failure to submit is enforceable by the Board with fines of up to \$1000 a day for every day the reports are late.

voluntarily about the amount of mercury that could reach the Bay from other (non-air) pathways. The letters called for a final sampling and analysis plan for the air emissions component to be submitted by November 30, 2005, a draft final report by February 28, 2007, and a final report by May 31, 2007. The petroleum refineries, working cooperatively, submitted an acceptable plan for the air deposition study by the required November 2005 deadline.

In September of this year, we met with petroleum refinery representatives to discuss the status of the project. We were advised that the air emissions project had been delayed due to difficulties in designing and deploying sampling equipment that meets the stringent fire safety standards at petroleum refineries. Sampling was initiated in October at the Valero facility in Benicia as a pilot test of the equipment and procedures, and following the pilot test, sampling will be conducted at the other refineries. The petroleum refineries have made some progress acquiring information on mercury in their solid wastes reported in the federal Toxics Release Inventory.

We have asked the refineries to submit a written status report describing all work conducted to date, providing an explanation as to why they cannot submit the draft final report by February 28, 2007, and proposing a revised schedule for deliverables. After reviewing this status report for acceptability, we will issue a revised 13267 letter to the petroleum refineries in order to: update the due dates for draft and final reports; require submission of information about mercury from pathways other than air emissions (i.e., solid wastes); and ensure the thoroughness of the air emission sampling relative to crude oil sources and refining processes to adequately assess potential mercury loads from this pathway. We are also exploring options for improving the estimate of the amount of mercury entering the refineries in crude oil. We will report to the Board again after we review the status report and prepare the revised 13267 letter.

### **South Bay Salt Pond Restoration Project Update (Bruce Wolfe, Naomi Feger)**

The South Bay Salt Pond Restoration Project continues to make significant progress. On October 26, I represented the Board at the Department of Fish and Game's opening of a former salt pond levee at its Eden Landing Ecological Reserve in Hayward. This pond opening completes the connection of North Creek, tributary to Old Alameda Creek, to 300 acres of former salt ponds in the Hayward area that have been disconnected from the Bay's tidal action since the late 1800s. Fish and Game oversees approximately 6600 acres of former salt ponds in the Eden Landing area, which represents the northern most section of the Restoration Project. The US Fish and Wildlife Service manages the Alviso and Ravenswood areas to the south, which represent the balance of the Restoration Project.

Planning for the long-term management and implementation of the Restoration Project is also moving forward on an aggressive schedule. The Project's Draft Programmatic Environmental Impact Statement/Environmental Impact Report (EIR) is anticipated to be released for public comment this coming January. In the meantime, Board staff is working with Restoration Project staff to review an internal working draft of the EIR. The EIR describes the conceptual plan for long-term restoration of the salt ponds to tidal marsh

ecosystems and associated habitats and is anticipated to be finalized by late summer – early fall 2007. That will set the stage for the Board to update its initial waste discharge requirements for the Project, adopted in 2004, to address the long-term restoration.

**Public Records Act Lawsuit (Yuri Won)**

On February 28, 2005, the State Board and the nine Regional Water Boards (collectively, Water Boards) were sued by Riverlaw, As You Sow, and San Bruno Mountain Watch (collectively, Plaintiffs) over alleged non-compliance with some of the procedural requirements of the California Public Records Act. Many of the allegations were completely without merit. More importantly, there were no substantiated allegations that any of the Water Boards had ever withheld public records that had been requested by the public. As part of an ongoing update process, the Water Boards adopted new Public Records Act Guidelines on May 12, 2005 (see [http://www.waterboards.ca.gov/public\\_records/public\\_recordsact\\_guidelines.pdf](http://www.waterboards.ca.gov/public_records/public_recordsact_guidelines.pdf)). In May of this year, the Water Boards and Plaintiffs entered into a Stipulated Consent Judgment to settle the lawsuit. Under the Judgment, now final, the Water Board, among other things, admitted no wrong doing, and the Plaintiffs agreed not to challenge the new Guidelines.

Board staff receive about 15 to 20 requests a day to review information we have. The vast majority of these requests are effectively handled by our administrative staff to the satisfaction of the requestors.

**Bolinas Community Land Trust Petition to the State Board (Chuck Headlee)**

A West Marin non-profit organization, the Bolinas Community Land Trust, and the State Board's Underground Storage Tank (UST) Cleanup Fund are engaged in a dispute. At issue is whether the UST Cleanup Fund should reimburse the Land Trust for its cleanup costs at a residential-redevelopment property in Bolinas.

In 2004, the Land Trust purchased the Bolinas Garage with the goal of developing low income housing at the site. The site previously had underground gasoline and waste oil tanks. The past owner removed the tanks and performed some cleanup work (which was reimbursed by the UST Cleanup Fund), but the Land Trust discovered additional petroleum contamination. The Land Trust has investigated and cleaned up this contamination under the direction of the Water Board, and the site is now suitable for low-income housing. The Land Trust applied to the UST Cleanup Fund so it could gain reimbursement for the additional work done. Staff at the UST Cleanup Fund denied the Land Trust's application, concluding that the additional contamination was not from the underground tanks but from surface spills, which are not reimbursable under the Cleanup Fund's regulations.

In response to that denial, the Land Trust filed a petition with the State Board, asking it to re-open the initial UST Cleanup Fund claim. Numerous state and local elected officials have written letters to the State Board supporting this petition. Because the matter is pending before the State Board, it is not appropriate for staff to offer our technical opinion

on the merits of the petition at this time. When and if the State Board decides to hear the case, staff is prepared to provide input to the State Board on the merits of the Land Trust's petition to re-open the UST Cleanup Fund claim.

**Western Pond Turtles Saved at Moffett Field (Devender Narala)**

While removing contaminated sediments in a stream channel, the Navy and its cleanup crew saved and relocated a population of 52 Western Pond Turtles, many the size of a cell phone. As reported in the April 2006 EO Report, we required removal of 65,000 cubic yards of sediment contaminated with PCBs, pesticides and heavy metals from the Northern Channel located on the former Naval Air Station Moffett Field in Mountain View. Historically, the Northern Channel has received contaminated stormwater runoff from Navy and NASA Ames Research Center activities.

In preparation for the sediment removal, the Navy dewatered the stream channel, thereby exposing three time's the number of turtles expected. The Navy trapped the turtles and relocated them to the 4<sup>th</sup> hole pond of the Moffett Field Golf Course. The 4<sup>th</sup> hole pond was chosen because it already had turtles. Now the population of turtles at Moffett is more than anyone thought. To keep the turtles from escaping while the cleanup continues, NASA has installed a two-foot high, 1,000 foot long fence around the pond, dug down 6 inches to prevent tunneling.

In the Bay Area, the Western Pond Turtle is considered a "species of special concern", not an endangered species. NASA, as the current land owner, recognizes the importance of protecting this species in decline, and has developed a plan to address impacts to the turtles. The plan includes providing an adequate food supply, possibility of installing radio tracking devices in female turtles to locate their nesting areas, and continuous oversight by a team of local biologists.

After the successful remediation of the Northern Channel and its replanting with long grass, the turtles will be relocated and placed back into their original habitat.



Western Pond Turtle sunbathing in the Northern Channel. As infants, the turtle is the size of a quarter and grows in length to about 3 inches.

### **Eden Housing - Hayward (Roger Papler)**

In October, the Water Board issued a "no further action" letter to Eden Housing following its cleanup of a Brownfield site located in Hayward. The site was impacted by perchloroethylene (PCE), a solvent commonly used by dry cleaners. Eden Housing prepared a cleanup plan to address the soil and groundwater contamination and to allow the site to be redeveloped for residences. Board staff approved the cleanup plan earlier this year. To implement the plan, Eden Housing excavated PCE-impacted soil, disposed of it at an off-site disposal facility, and monitored post-cleanup soil vapor to verify the plan's effectiveness. As an additional protective measure, Eden Housing also installed a vapor barrier (Liquid Boot™ sealant) below the foundation of one new building. A conservative risk assessment concluded that the PCE contamination poses no significant vapor intrusion potential at the nearby off-site apartment building. The Board's oversight in this case allowed rapid cleanup and redevelopment of this Brownfield site. Brownfields are urban properties that remain vacant or under-utilized due to actual or perceived contamination. The cleanup of Brownfield sites encourages urban infill development, thereby reducing pressure for development on the urban fringe.

### **In-house Training**

Our October training was on sexual harassment prevention, a topic we are required to cover every two years. Our November training will be on environmental issues facing the Delta, including water quality, water rights, and levee integrity ("Delta 101").

### **Staff Presentations and Outreach**

On October 6, Jan O'Hara addressed the South Bay Engineers in Pleasanton, and on October 17 she was the guest lecturer for a UC Berkeley City and Regional Planning class. Jan discussed how our built environment impacts water quality (pollutants and hydromodification impacts) and outlined steps for building "greener" to protect our local water bodies. The South Bay Engineers are very interested in the topic of stormwater and have asked for a second presentation.

On November 9, Stephen Hill participated in a panel discussion on cleanup issues at residential-conversion sites. A significant percentage of the new Brownfield sites we oversee involve the conversion of commercial/industrial properties for residential use, so the topic is timely. The session was sponsored by the Pacific Industrial Business Association and was held in Oakland.