

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

A Monthly Report to the Board and Public

October 2009

The next regular scheduled Board meeting is October 14, 2009.

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

Items in this Report (Author[s])

Identifying Priority Watersheds and Preferred Projects for Grants

(Susan Gladstone & Dale Hopkins).....	Page 1
San Francisco Estuary Partnership MOU (Judy Kelly).....	Page 3
\$5 million for Trash Removal (Janet Cox).....	Page 3
Enforcement – Complaints and Settlements (Brian Thompson)	Page 3
Progress of Industrial Stormwater Permit Late Annual Report Followup (Danny Pham and Christine Boschen)	Page 4
City of Vallejo Brownfield Services Award (Kent Aue)	Page 5
Brownfield MOA Update (Stephen Hill).....	Page 6
Point Molate Naval Fuel Depot (George Leyva)	Page 7
Completion of Oakland Harbor Deepening (Elizabeth Christian).....	Page 7
Alameda Point (Former Alameda Naval Air Station) (John West).....	Page 9
GeoTracker's Role in Responding to Public Inquiries (Mary Rose Cassa)	Page 10
In-house Training	Page 11
Staff Presentations	Page 11

Identifying Priority Watersheds and Preferred Projects for Grants

(Susan Gladstone & Dale Hopkins)

Board staff have been working with US EPA Nonpoint Source (NPS) Program staff and staff from other Water Boards and the State Board to evaluate key aspects of the application process for federal NPS grants. NPS grant funds (typically about \$4-5 million per year statewide) are provided for projects that implement management measures to reduce pollution from nonpoint sources in watersheds with adopted or nearly-adopted TMDLs. As more TMDLs are completed, stakeholder communities are developing watershed plans to control the sources of pollution addressed by TMDLs, and the need for funding has increased. The main reason for the agencies' evaluation was to clarify the types of projects that are appropriate for NPS grants and of highest priority for NPS grant funding. Agency staff have determined that proposals for NPS grants could be more focused; that funded projects could be better aligned with our priorities; and, that grant staff resources could be more efficiently utilized.

One of the outcomes of this interagency coordination is that staff at each Water Board have developed or updated a regional list of priority watersheds for the next round of grant funding. In this office, staff have also identified preferred projects or actions that are described in each of our adopted TMDL implementation plans. This year, US EPA is also

allowing some NPS grant funds to be used to support planning-related projects that will lead to on-the-ground implementation projects in TMDL watersheds (such as developing criteria to prioritize control measures and actions).

The five priority watersheds (in no particular order) and associated project preferences that Board staff have identified for potential funding under the 2009-2010 NPS grant program are listed below. The rules for this grant program do not allow funding for control actions that are required in NPDES permits (i.e., actions to reduce pesticides in San Francisco Bay are required in municipal storm water permits, and thus not eligible for funding).

Tomales Bay (pathogens) and Walker Creek (mercury):

- Implement management practices according to ranch water quality plans as required under the Board's Grazing Waiver and Dairy Waiver.
- Planning projects in Walker Creek are needed to evaluate the effectiveness of mercury-reduction projects completed in the early 1990s.

Sonoma Creek (pathogens and sediment):

- Develop and implement reach-scale salmonid habitat and sediment reduction projects to improve habitat and to address incision and erosion control.
- Develop and implement ranch water quality and habitat enhancement plans for vineyards and grazing lands.
- Planning projects are needed to develop criteria for prioritizing projects within the watershed.

Napa River (pathogens and sediment):

- Implement sediment control and habitat enhancement actions.
- Develop and implement ranch water quality and habitat enhancement plans for vineyards and grazing lands.
- Implement rural road erosion control actions.
- Restore fish passage at the Zinfandel Lane Crossing.
- Planning projects are needed to perform baseflow monitoring and related education and outreach to protect tributaries for steelhead and for salmonid population monitoring and modeling.

Guadalupe River (mercury):

- Stabilize stream banks and restore stream banks in Alamitos Creek.
- Implement erosion control for mercury mining waste.

The solicitation for applications for this year's NPS grants is expected to be released this fall, with a project concept proposal step followed by full proposals due early next year. The State Board will consider a recommended list of projects in spring 2010, and grant awards are expected to be announced in May 2010.

San Francisco Estuary Partnership MOU (Judy Kelly)

The San Francisco Estuary Partnership (SFEP) announced a new Memorandum of Understanding between its two primary program implementation partners, the Association of Bay Area Governments (ABAG) and the Water Board. On behalf of the Board, I signed the MOU on September 15. This extends Board support for SFEP and ABAG/SFEP support for the Board through September 2012.

SFEP was formally established in 1988 as part of the National Estuary Program by US EPA and the State. SFEP promotes cooperative efforts of local, State and federal agencies, NGOs, and others to preserve and restore the San Francisco Estuary's water quality and natural resources through implementation of its management plan for the Estuary, the Comprehensive Conservation and Management Plan for the San Francisco Estuary (CCMP).

Under the MOU, the Board houses SFEP staff, while ABAG pays SFEP staff salaries. SFEP staff works closely with Board staff on a number of projects and efforts to carry out both organizations' missions for water quality protection and habitat improvements for the Estuary. The Board and ABAG have had an MOU in place for SFEP since the CCMP was adopted in 1993, and it is updated every three years to renew the mutually beneficial relationship. Both the ABAG Executive Board and the Board initially approved the partnership arrangement in 1993.

\$5 million for Trash Removal (Janet Cox)

The San Francisco Estuary Partnership (SFEP) has received word that the State Board's Clean Water State Revolving Fund will provide \$5 million in American Restoration and Recovery Act stimulus funds for a Bay Area-Wide Trash Capture Demonstration Project. The project will be managed by SFEP, with assistance from a Technical Advisory Group of city/county engineers and stormwater program staff. Based on requests from cities, SFEP will purchase and install a range of types of trash capture devices throughout the Bay Area. Cities will be responsible for long-term maintenance and monitoring/reporting, and will share information about maintenance costs and the effectiveness of devices in different locations. The project will facilitate early compliance with the Board's Municipal Regional Stormwater Permit (pending) affecting Phase I communities, and anticipated requirements for operators of small municipal separate storm sewer systems (Phase II).

Enforcement – Complaints and Settlements (Brian Thompson)

I have publicly noticed one tentative order setting Administrative Civil Liability (ACL) for a case in which the Board's Prosecution Team reached a settlement with Coast Crane Company in San Leandro. Coast Crane Company has agreed to pay \$88,700 to the State's Cleanup and Abatement Account. I intend to sign the agreement and issue the ACL order if no significant comments are received within the 30-day comment period. A copy of the tentative order can be found on our web site at:

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

I issued two ACL orders in the past month: one directs ConGlobal Industries, Inc. in Alameda to pay a fine of \$7,250 to the State's Cleanup and Abatement Account, and one directs the Mountain View Sanitation District in Martinez to pay a fine of \$145,000 to the State's Cleanup and Abatement Account and, in lieu of a further fine of \$125,000, to complete a Supplemental Environmental Project for levee improvements and restoration along Peyton Slough and at McNabney Marsh. I issued the orders after settlement agreements were reached with the Board's Prosecution Team and after circulation of draft ACL orders to the public did not generate any opposition to issuing the orders.

Garda in Oakland did not contest an ACL Complaint and agreed to pay the proposed liability of \$37,300 to the State's Cleanup and Abatement Account, so no ACL order is needed.

Thirteen dischargers have agreed to conditional offers to settle mandatory minimum penalty violations through the Board's Expedited Payment Program. Circulation of the payment agreements for a 30-day public comment period did not generate opposition to accepting the offers. The following payments will be made to the State's Cleanup and Abatement Account:

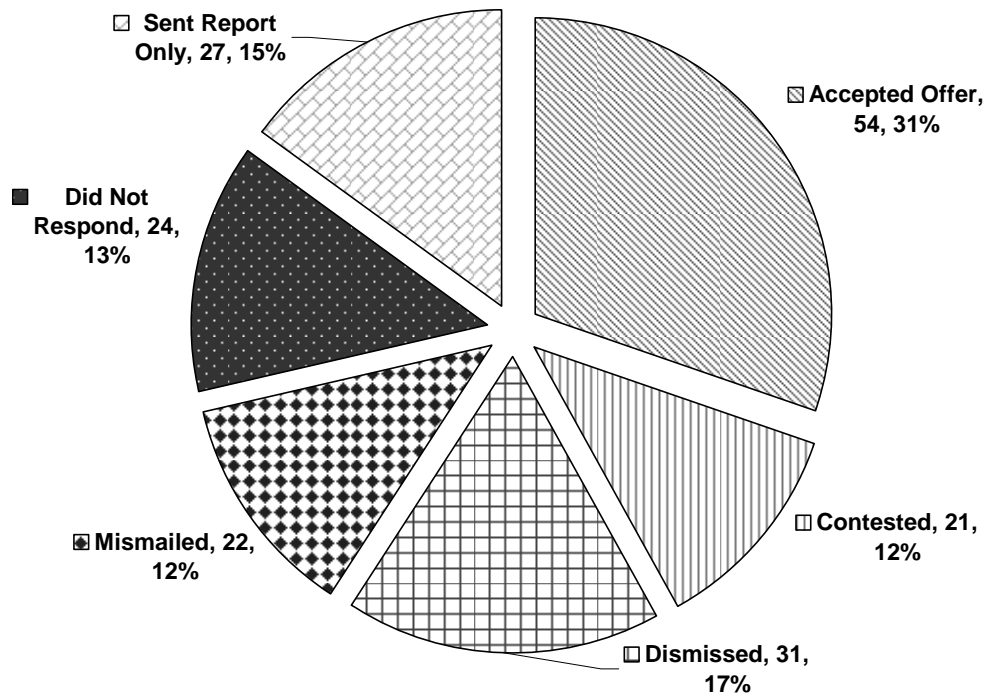
- Valero Refining Company, Benicia (\$3,000)
- Univar USA, Inc., San Jose(\$15,000)
- City of Millbrae, Millbrae (\$9,000)
- East Bay Municipal Utility District, Oakland (\$3,000)
- Contra Costa Water District, Concord (\$15,000)
- Redevelopment Agency of San Jose, San Jose (\$3,000)
- City of Benicia, Benicia (\$39,000)
- California Water Service Company, San Jose (\$9,000)
- East Bay Municipal Utility District, El Sobrante (\$3,000)
- DuPont Corp Remediation Group, San Jose (\$3,000)
- City of Benicia, Department of Public Works, Benicia (\$3,000)
- East Bay Municipal Utility District, Lafayette (\$3,000)
- San Francisco Public Utilities Commission, San Francisco (\$24,000)

Progress of Industrial Stormwater Permit Late Annual Report Followup (Danny Pham and Christine Boschen)

As reported in the September Executive Officer's Report, in August, we sent 179¹ Notice of Noncompliance letters to late reporters accompanied by an offer to participate in an expedited payment program. The deadline to accept the early settlement offer (i.e., turn in the late report and agree to pay a \$1,000 penalty) was September 4. The following pie chart outlines the breakdown of the status of the late reporters as of September 4:

¹ This number corrects what was mistakenly listed in the September EO Report as 280.

Breakdown of Late 08-09 Annual Report Responses



As required, we public noticed the 54 settlement agreement letters on September 30. We will be able to settle on these cases provided we do not receive significant public comments by October 30. Staff is following up with the remaining facilities. This currently includes considering the merit of contesting arguments and investigating the status of those facilities that did not respond or did not receive the August letter because of a change in address or other reasons. We plan to pursue further enforcement actions against those facilities that did not accept the settlement offer nor present a legitimate reason for the late reports. We will continue to update you as this project progresses.

City of Vallejo Brownfield Services Award (Kent Ave)

In mid-September, the City of Vallejo Redevelopment Agency received a commitment for \$75,000 worth of site investigation work through the State's Targeted Site Investigation (TSI) program. The TSI program is run by our sister agency, the Department of Toxics Substances Control (DTSC), and is intended to jump-start Brownfield restoration. The Vallejo site is one of nine sites statewide to receive a TSI commitment for the current fiscal year.

This TSI commitment will be directed toward a contaminated Brownfield site along the Mare Island Strait that is designated for redevelopment. The Board oversees investigation and cleanup at this site. Board staff worked cooperatively with the City and its consultant to develop a phased approach for investigation. DTSC made the commitment to the City based in part on its agreement with the technical approach described in the grant application. The City will receive services from a DTSC contractor in the amount of the award, which will be used to implement the site investigation workplan

approved by the Board. Board staff will coordinate with DTSC and continue as the lead agency for the project.

Since 2002 DTSC has dispersed approximately \$1.5 million in grants annually from funds provided by the US EPA. These monies are intended to fund activities designed to encourage Brownfield development in California. The TSI program has been allocated approximately \$550,000 to allow governments, school districts, redevelopment agencies, and non-profit organizations to gain more information about a site targeted for redevelopment and facilitate decisions on property acquisition or development strategy.

Brownfield MOA Update (Stephen Hill)

The Board is successfully implementing the March 2005 Brownfield memorandum of agreement (MOA). The Brownfield MOA between the Water Boards and DTSC is intended to improve coordination between the agencies in their oversight of Brownfield sites in California.

A key feature of the MOA is its requirement that the Water Boards and DTSC apply a standard process and criteria to determine the appropriate lead agency for new sites. Since the Brownfield MOA took effect in March 2005, the agencies have processed 391 MOA applications for agency oversight, including 179 in our region. With 45% of the applications coming from our region, the Bay Area plays a pivotal role in Brownfield restoration in California. The table below shows that more applications were submitted to Water Boards and slightly more sites were assigned to DTSC based on the lead-agency determination criteria. In virtually all cases, the agencies were able to rapidly agree on the appropriate lead agency; average MOA application processing took only two weeks. Randy Lee, our office's Brownfield coordinator, deserves much of the credit for this result. Another positive result of the MOA has been better coordination between Water Board and DTSC offices at the regional level, both on new Brownfield sites as well as other aspects of cleanup oversight.

Lead agency determinations		State-wide	This region
Applications*	To DTSC	165	42
	To Boards	226	137
	Total	391	179
Determinations	To DTSC	206	68
	To Boards	185	111
	Total	391	179
Net gain/loss	DTSC	+41	+26
	Boards	- 41	- 26

* excluding applications that are pending or ineligible

Point Molate Naval Fuel Depot (George Leyva)

Point Molate Naval Fuel Depot Property Set to Transfer

By letter dated September 1, the Governor has approved the Navy's Covenant Deferral Request for Early Transfer of the remaining 41-acre portion of the Point Molate Naval Fuel Depot (PMNFD) to the City of Richmond (City). The Navy previously transferred 373 acres of the PMNFD property to the City in 2003. In obtaining approval of the property transfer from the Governor for the 41 acres, the Navy may now complete the transfer to the City. Following the transfer, the City will have control of the entire PMNFD property.

Tribal Destination Resort and Casino

Separate and independent from the property transfer from the Navy to the City as discussed above, we have reviewed a Draft EIS/EIR regarding the transfer of the property from the City to a private developer known as Winehaven Partners, LLP., and the Guidiville Band of Pomo Indians. Comments on the City's Draft EIS/EIR are due on October 23. Staff intends to comment on the draft to assure that the EIS/EIR adequately describes the impacts and mitigation needed regarding the required cleanup.

Under the California Environmental Quality Act (CEQA), the Board, as a responsible agency, must find that an adequate CEQA analysis has been performed and that the resulting EIS/EIR is satisfactory. It is therefore important that the City's environmental document adequately addresses the full scope and extent of the potential environmental impacts of the remaining cleanup at PMNFD and that adequate mitigation measures are proposed.

State Board Remand of Board Site Cleanup Requirements Order R2-2008-0095

Lastly, on September 15, the State Board vacated and remanded to this Board our Board's 2008 Site Cleanup Order for PMNFD. This was in response to a petition of by Ken Berry and California Citizens for Environmental Justice. The State Board's remand instructs this Board to make a CEQA determination consistent with its Order. The remand states that while the Site's placement on the State's Cortese List of hazardous waste sites precludes the use of categorical exemptions, it does not preclude the use of statutory exemptions or the preparation of environmental documents in order to comply with CEQA. Upon remand, our Board may determine that the cleanup order is eligible for a statutory exemption, may prepare an environmental document, or may determine that the cleanup order qualifies for CEQA's common sense exception. A revised cleanup order will be prepared and provided for public comment after the EIS/EIR discussed above is certified by the City of Richmond, which is expected to occur in January 2010 or slightly later.

Completion of Oakland Harbor Deepening (Elizabeth Christian)

On September 18, I attended a celebration of the completion of the -50 Foot Oakland Harbor Deepening Project at the Port of Oakland's Middle Harbor Shoreline Park.

US Congresswoman Barbara Lee, US Army Corps of Engineers (USACE) South Pacific Division Commander Colonel "Rock" Donahue, Assistant Secretary to the Army (Civil Works) Jo-Ellen Darcy, President of the Oakland Board of Port Commissioners Victor K.

Uno, Port of Oakland Executive Director Omar R. Benjamin, California State Coastal Conservancy Deputy Executive Officer Nadine Hitchcock, and Dan Bernal, Chief of Staff to House Speaker Nancy Pelosi, addressed the audience of approximately 150 guests representing USACE, Port and Coastal Conservancy officials and staff; numerous stakeholders; and many organizations that helped bring this multi-year project to completion.



*From left to right: Victor K. Uno, US Congresswoman Barbara Lee, Jo-Ellen Darcy, Omar R. Benjamin, Colonel *Rock* Donahue, Nadine Hitchcock, and Dan Bernal, Chief of Staff to House Speaker Nancy Pelosi, Water Board member and former Port Environmental Manager Jim McGrath (not pictured), receiving Certificates of Appreciation for their support of the -50 Foot Deepening Project*

The newly deepened harbor now allows larger container ships to access the Port around the clock. Recent trends in the shipping industry have shown a continuous shift toward larger and wider container ships, making it essential for the Port of Oakland to be able to accommodate these new classes of ships or risk losing its competitive viability. To this end, the Port has partnered with the USACE on the harbor/channel deepening venture.

Deepening of the Oakland Harbor began in 2001 and involved dredging some 12.8 million cubic yards of material. Nearly 100% of the dredged material has been used for wetland restoration (approximately 3 million cubic yards each to the Montezuma and Hamilton restoration projects), habitat enhancement, and upland construction projects in and around San Francisco Bay.

One of the first areas to realize the benefits of this project is the shallow water habitat being created at Middle Harbor Shoreline Park. Approximately 6 million cubic yards of dredged material is being used to restore about 188 acres of shallow water habitat in the

Middle Harbor Enhancement Area, which has already started providing habitat for the endangered California least tern, the California Brown pelican, Pacific herring, and various fish production.



Recently placed dredged sediments exposed at low tide in Middle Harbor Enhancement Area

Due to the lean economic times and recent layoffs of Port engineers and environmental staff, a key challenge for Board staff will be to assure that all phases of the planned shallow water habitat restoration are completed within the next 10 years as required by the Board's Waste Discharge Requirements for the 50-Foot Project. Next steps include evaluating the current habitat values and determining what work is needed to create the optimal mix of habitat types (eel grass beds, tidal marsh, shorebird islands, etc.) in Middle Harbor.

Alameda Point (Former Alameda Naval Air Station) (John West)

I signed the Record of Decision (ROD) for Alameda Point IR (investigations and removal) Site 30 on October 5. This ROD is focused upon ecological and human health impacts associated with soil and presents a selected remedy, no action. The ROD utilizes a new electronic format resulting in less paper products, more streamlined summaries, and hyperlinks to relevant supporting reference documents.

IR Site 30 is a 6.6-acre site located on the eastern end of Alameda Point (see figure). The site is bounded by IR Site 25 (former Navy Village Housing) to the north and east, and IR

Site 31 (Marina Village Housing, owned by the US Coast Guard) to the south and west. The land at IR Site 30 was created by filling tidal marshland with primarily dredge material from Oakland Harbor and San Francisco Bay. IR Site 30 was originally designated as an IR site because groundwater beneath the site was impacted by a groundwater plume, which is being addressed separately.

A series of environmental investigations and removal actions were conducted at IR Site 30 between 1989 and 2005 that included assessment of any potential sources of contamination and removal of contamination to unrestricted use levels. In addition, to add an additional measure of safety, a 2 ft soil cover was placed. Based on this information, no further action was recommended. Staff concurs with this assessment.

FIGURE 2
IR Site 30 Location Map



GeoTracker's Role in Responding to Public Inquiries (Mary Rose Cassa)

Board staff provided a GeoTracker demonstration at the September Board meeting, illustrating the type of site-cleanup information that is accessible through this interactive, web-based database. Shortly after the meeting, staff received a press call regarding the status of the New United Motor Manufacturing, Inc. (NUMMI) property in Fremont. One question was about the degree of site contamination and the effect that would have on property redevelopment, if the NUMMI operation ends. Using GeoTracker, we were able to quickly determine that only one contamination source has been identified at the property, provide details on that cleanup case, and identify the agency case manager. The case is overseen by the Alameda County Water District, a local oversight agency, and involves a diesel release from an underground storage tank. The reporter got a quick response, and we minimized the staff time needed to respond. We expect to make increasing use of GeoTracker in responding to public and press inquiries, and we will encourage those parties to use this tool themselves when possible.

In-house Training

We had no training in September. Our October training will be on stream protection, including the pending Board policy on this topic that staff is drafting. Brownbag seminars included a September 23 session on the Surface Water Ambient Monitoring Program (SWAMP).

Staff Presentations

On September 10, Dorothy Dickey and Stephen Hill attended the Bar Association of San Francisco's annual "meet your regulators" event in San Francisco. This is an informal gathering at which environmental attorneys host regulators from various State and federal agencies to hear about current events and new regulatory directions. We mentioned our recently-released assessment tool for closure of low-threat solvent sites.

On September 22, I testified at the San Jose City Council meeting in support of a proposal to initiate a single-use bag ban. The Council voted 9 to 1 to support the proposal, which directs City staff to initiate the CEQA process for such a ban and return to the Council with a draft ordinance that would ban single-use bags by January 1, 2011.

On September 24, I spoke at a press conference to introduce the installation of a permanent pharmaceutical collection bin in the lobby of the Elihu Harris State Building. Installation of the bin was a collaborative effort with our agency, East Bay Municipal Utilities District, the San Francisco Estuary Partnership, Senator Loni Hancock, Assembly Member Nancy Skinner, Assembly Member Sandre Swanson, the State Department of General Services, and the California Highway Patrol. I emphasized that the bin will provide a safe and convenient location for all residents to properly dispose of unwanted pharmaceuticals until a long-term solution can be developed through legislation.

On September 25, I spoke on behalf of the State Board at the celebration of the cleanup of the former Holland bulk oil terminal in San Lorenzo and the kickoff of the site's redevelopment into a park and youth center. Cleanup of the site languished until federal stimulus funding through the State Board's Orphan Site Cleanup Fund was granted to the Alameda County Redevelopment Agency. I focused on how efficient the County was in getting the cleanup done once the funding was secured and emphasized that this was the first of many cleanups the State Board was funding using federal stimulus funding.