

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

MEETING DATE: February 12, 2020

ITEM: 5  
SUBJECT: **EXECUTIVE OFFICER'S REPORT**

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## **Executive Officer’s Report February 12, 2020**

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### **Staff Presentations and Publications**

On January 15, Alec Naugle from the Toxics Cleanup Division and Ross Steenson and Erica Kalve from the Groundwater Protection Division presented a regulatory update to the Bay Area branch of the Groundwater Resources Association (GRA). GRA is a non-profit organization that promotes the protection and improvement of groundwater supply and quality. At the meeting, Alec discussed several “news” items: recent staff and Board member changes; direction from Board members regarding site cleanup; news and trends for the UST cleanup program, and news about the land disposal program. Ross provided an overview of efforts on updating and developing cleanup guidance. He focused on the update to our 2014 Vapor Intrusion Framework with revisions focused on remediation and mitigation. Ross also described plans for guidance regarding import fill and soil reuse at cleanup sites. Erica provided an overview regarding State Board and our region’s efforts to regulate per- and polyfluoroalkyl substances (PFAS). She summarized the overall status for sites that were issued investigation orders, discussed results of drinking water well testing, and presented our multi-pronged approach to source control, use of best management practices, and treatment.

The audience of about 180 included environmental cleanup consultants, environmental attorneys, vendors, and dischargers. Our staff has been making this annual presentation for over 20 years. This meeting continues to be the best attended meeting for this GRA branch and provides a useful forum for staff to interact with the regulated community.

**City of Berkeley acts to improve water quality in Aquatic Park (Zach Rokeach)**

In August 2019, we received reports of elevated turbidity and bacteria levels in the City of Berkeley's Aquatic Park lagoons. In addition, changed water levels were observed suggesting that there was an issue with the lagoons' hydraulics. In response to these reports, the City investigated potential sources of bacteria to the lagoons and has completed or has in process longer-term actions to improve and maintain lagoon water quality.

In response to reports of poor water quality, the City completed investigation of upstream sanitary sewers and storm drains, and did not find evidence that those were the sources of impact.

The City evaluated other potential contributors to the lagoon's observed and measured water quality impacts, including: direct discharges reaching the lagoons from RVs and homeless encampments adjacent to and upstream of them; annual cutting of widgeon grass in the main lagoon that may resuspend sediment and bacteria from the lagoon floor; and hydraulic issues such as full or partial sediment blockage in five tide tubes (culverts) under I-80 connecting the west side of the lagoon to the Bay, which limits the ability of the lagoon to flush out accumulated sediment and pollutants.

The City is currently evaluating and implementing actions to address the possible sources of water quality impacts. To minimize direct discharges of sanitary waste to the lagoons, the City has been diligent about removing unauthorized campers in the park, is evaluating restricting park access at night by installing gates, and is educating park users about the water quality impacts associated with illegal dumping. The City is also working with its maintenance contractor to ensure that future cutting of widgeon grass does not result in the contractor's equipment scraping the lagoon floor and resuspending sediment and bacteria.

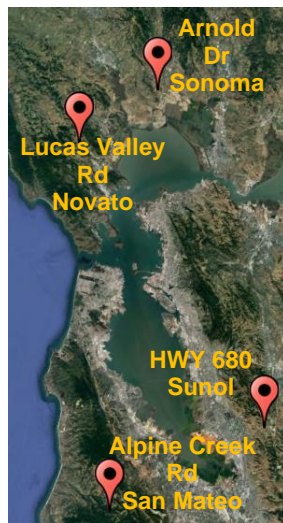
In a first step to address hydraulic issues, the City fixed a broken storm sewer weir at the north end of the main lagoon. The broken weir had resulted in additional discharges into the lagoon from the storm sewer, significantly contributing to higher water levels in the lagoon. Fixing this weir appears to have returned the water depth in the lagoon to normal historical levels. The City's next planned step is to maintain the tide tubes under I-80 by removing sediment to restore the hydraulic connection between the main lagoon and the Bay. It is expected that this maintenance will improve lagoon water quality by enhancing the ability for Bay water to circulate through the lagoon. We recently facilitated communication between the City and Caltrans on the tide tubes' design and history. The City is working to acquire authorizations, including a Clean Water Act Section 401 water quality certification from the Water Board, with the goal of completing maintenance of the tide tubes by November 2020.

We will continue to coordinate with City staff on Aquatic Park water quality issues. In addition, the larger question of addressing discharges of sanitary waste associated with homelessness will be considered as part of the Water Board's work group on that issue, starting with the work group's February kickoff meeting.

## Oils in Soils (Brian Thompson and Jerry Xu)

We implemented our spill response procedures for four tanker-truck accidents that discharged petroleum to creeks across the Region during the latter half of 2019. We follow a nationwide standard for emergency response called the Incident Command System. The system is scalable to the size of an incident, and the Water Boards participate as secondary responders, meaning staff does not actively participate in cleanup activities but advise on water quality issues during cleanup and recovery. Upon arriving at an incident, staff report to an Incident Commander or On-Scene Coordinator, which is typically a representative of U.S. EPA, the Department of Fish and Wildlife, or a certified unified program agency (CUPA) for federal, State, and local oversight. The [2017 State Emergency Management Plan<sup>1</sup>](#) and a Memorandum of Understanding between the State Water Boards and Department of Fish and Wildlife explain the roles of the Water Boards and other State agencies.

Most spills are reported to the Water Boards through the State's emergency management system (overseen by the California Office of Emergency Services), which Board staff check four times per day (including weekends and holidays) to ensure an appropriate response. Enforcement section staff receives training on the Incident Command System, health and safety, investigations, and spills, and is generally the first to respond to any spill reported to us. Regulatory program staff takes over as the emergency response winds down. Our responses to spills focus on cleaning up as much spilled material as practical as quickly as possible. If a spill reaches a creek, the emergency response and cleanup are more complicated and can require the coordination of various agencies. Here's a summary of each of the four late-2019 incidents.



- **Lucas Valley Road, Novato** – An overturned truck spilled 2,100 gallons of gasoline to an unnamed tributary to Miller Creek on July 28. Most of the gasoline penetrated below a dry, rocky channel. The spill was inaccessible to heavy equipment and not suitable for hand excavation. The cleanup focused on flushing the creek channel with water and a surfactant containing a solution that promotes biological degradation of petroleum. Flushed fluids were recovered downstream using cutoff trenches and extraction wells. Miller Creek and groundwater are unaffected based on creek monitoring and groundwater sampling.
- **Highway 680, Sunol** – A vehicular accident with a tanker truck spilled 4,000 gallons of gasoline to an unnamed tributary to Sheridan Creek on September 16. Some of the gasoline was captured in a storm drain and the rest flowed into the dry creek.

The storm drain could only be flushed after commute hours and a lane of HWY 680 was closed. The California Department of Fish and Wildlife designated the creek as sensitive habitat for the California tiger salamander and required excavated by hand

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<sup>1</sup> [https://www.caloes.ca.gov/PlanningPreparednessSite/Documents/California\\_State\\_Emergency\\_Plan\\_2017.pdf](https://www.caloes.ca.gov/PlanningPreparednessSite/Documents/California_State_Emergency_Plan_2017.pdf)

in some areas. Cleanup was completed, and channel restoration is in the planning stages under Alameda County Environmental Health oversight.

- **Alpine Creek Road, San Mateo** – An overturned tanker truck spilled 1,000 gallons of asphalt emulsion to Alpine Creek on September 30. Most of the semi-solid, sticky material was relatively immobile and did not extend far from the truck. Water flowing in the creek carried some more fluid fractions and bits of emulsion downstream toward a pool with a drinking water inlet. The Division of Drinking Water temporarily shut down the drinking water system until sampling confirmed that the drinking water was unaffected. Cleanup was completed, and Board staff are monitoring the site over the wet season and checking for signs of accelerated erosion where the cleanup occurred.
- **Arnold Drive, Sonoma** – An overturned tanker truck spilled 4,500 gallons of gasoline to an unnamed tributary to Sonoma Creek on November 16. The spill occurred at a road crossing and most of the gasoline flowed into the dry creek and penetrated into soil. Cleanup was completed where the soil could safely be excavated, but an engineered shoring plan approved by the Department of Transportation is needed to excavate soil near the overcrossing. The site was winterized by covering affected soil and diverting creek flow around the spill site until the shoring plan is approved.

### **Lehigh Compliance for 2019 (Bill Johnson)**

During 2019, Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc. (Lehigh) performance continued to reflect improved compliance across our regulatory programs. These companies own and operate the Permanente Plant, a limestone quarry and cement production facility in Cupertino that also produces construction aggregate. Compliance improved in 2018 and 2019, however, some violations did occur as discussed below.

As we reported to the Board in November 2019, we issued a notice of violation for erosion from an overburden stockpile in the Yeager Yard area that reached Permanente Creek in May 2019. Lehigh attributed the slide to an especially wet year, which caused seeps that led to slope instability and erosion. We required Lehigh to submit a corrective action plan to address the seeps, erosion, and land-sliding adjacent to the creek. Specifically, we required Lehigh to improve stormwater and erosion controls and update its operations, maintenance, contingency, and stormwater pollution prevention plans as necessary. Lehigh upgraded its stormwater controls and re-graded the slope to improve drainage.

Lehigh violated its NPDES permit effluent limits for selenium in treated wastewater just four times in 2019 (in one instance it violated its monthly average and maximum daily limits based on a single sample). Board staff proposed a \$6,000 mandatory minimum penalty for three of the violations and public comments regarding the proposal were due February 3, 2020. The fourth violation is also subject to at least a \$3,000 mandatory minimum penalty. Lehigh also violated its effluent limit for settleable matter in stormwater once, and that violation is subject to at least a \$3,000 mandatory minimum penalty. Enforcement for these violations is pending.

Recently, U.S. EPA and the Board fined Lehigh \$264,750 in penalties as stipulated in a 2015 consent decree. The fine related to six selenium, chromium, and suspended solids effluent limit violations that took place from 2017 through 2019, and to Lehigh's failure to submit semi-annual reports in 2017 and 2018. Lehigh has taken corrective action for these violations.

**February 2020 Enforcement Actions (Brian Thompson and Jessica Watkins)**

The following tables show the proposed and settled enforcement actions since January's report. In addition, enforcement actions are available on our website at [http://www.waterboards.ca.gov/sanfranciscobay/public\\_notices/pending\\_enforcement.shtml](http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml).

<b>Complaints</b>			
The following is noticed for a 30-day public comment period and scheduled for a Board hearing within 90 days unless the hearing is waived to pay the proposed penalty, engage in settlement, or request more time for the hearing.			
<b>Discharger</b>	<b>Violation(s)</b>	<b>Proposed Penalty</b>	<b>Comment Deadline</b>
Stay Cal HMB, Inc.	Failure to submit an annual construction stormwater discharge report for 2017/2018 by September 1, 2018.	\$6,100	February 20, 2020

<b>Proposed Settlements</b>			
The following are noticed for a 30-day public comment period. If no significant comment is received by the deadline, the Executive Officer will sign an order implementing the settlement.			
<b>Discharger</b>	<b>Violation(s)</b>	<b>Proposed Penalty<sup>1</sup></b>	<b>Comment Deadline</b>
DAmbrosio 8 Acres, Napa	Failure to submit an annual construction stormwater discharge report for 2017/2018 by September 1, 2018.	\$1,000	January 21, 2020
Sewerage Agency of Southern Marin	Discharge limit violations.	\$24,000	January 29, 2020
Sausalito-Marín City Sanitary District	Discharge limit violations.	\$6,000	January 29, 2020
Sonoma Valley County Sanitation District	Discharge limit violations.	\$9,000	January 29, 2020
Vulcan Materials Company, Pilarcitos Quarry	Discharge limit violation.	\$3,000	January 29, 2020
West County Agency	Discharge limit violations.	\$84,000	January 29, 2020
Vishay Intertechnology, Gould Electronics, Inc., Monsanto Company, and GlaxoSmithKline PLC	Discharge limit violations.	\$9,000	February 3, 2020
Las Gallinas Valley Sanitary District	Discharge limit violations.	\$9,000	February 3, 2020
Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc.	Discharge limit violations.	\$6,000	February 3, 2020



<b>Proposed Settlements</b>			
The following are noticed for a 30-day public comment period. If no significant comment is received by the deadline, the Executive Officer will sign an order implementing the settlement.			
<b>Discharger</b>	<b>Violation(s)</b>	<b>Proposed Penalty<sup>1</sup></b>	<b>Comment Deadline</b>
Burlingame Point, LLC	Discharge limit violation.	\$3,000	February 6, 2020
City of St. Helena	Discharge limit violations.	\$57,000	February 6, 2020
Alameda Housing Associates, LP, Marea Alta	Discharge limit violations.	\$12,000	February 7, 2020
Spring Hill Jersey Cheese, Inc.	Failure to obtain industrial stormwater permit coverage.	\$6,200	February 20, 2020
Lennar Homes of California, Inc., Newark Gateway	Discharge limit violations.	\$12,000	February 24, 2020

<sup>1</sup> Includes \$30,100 to supplement Regional Monitoring Program studies. The Regional Monitoring Program is managed by the San Francisco Estuary Institute to collect water quality information in support of management decisions to restore and protect beneficial uses of the Region's waters.

<b>Settled Actions</b>			
On behalf of the Board, the Executive Officer approved the following:			
<b>Discharger</b>	<b>Violation(s)</b>	<b>Imposed Penalty</b>	<b>Supplemental Environmental Project</b>
Zeneca, Inc., Campus Bay Habitat Area 2	Discharge limit violations.	\$6,000	\$3,000
Valero Refining Company, Valero Benicia Refinery	Discharge limit violations.	\$6,000	\$6,000
City of Calistoga	Discharge limit violations.	\$6,000	\$6,000
Hanson Aggregates, San Francisco Pier 94 Sand Yard	Discharge limit violations.	\$9,000	none
City of Burlingame and North Bayside System Unit	Discharge limit violations.	\$3,000	\$3,000
C&H Sugar Company, Inc. and Crockett Community Services District	Discharge limit violations.	\$12,000	\$12,000
Crockett Community Services District	Discharge limit violations.	\$15,000	\$15,000

**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 December 13 through January 14, 2020. A check mark in the right-hand column indicates a project with work that may be in BCDC jurisdiction.

<b>Project Name</b>	<b>City/Location</b>	<b>County</b>	<b>May have BCDC Jurisdiction</b>
Aquatic Park Central Tide Tubes Maintenance & Sediment Removal & Inspection	Berkeley	Alameda	✓
Lavenida Drive Culvert Repair	Orinda	Contra Costa	
Stege Drain Bridge Rehabilitation AKA Bridge Number 28-0091	Richmond	Contra Costa	✓
Outfall Improvements Phase 7	Vine Hill	Contra Costa	✓
Improvements of Pier Walkway and Platform at 121 Belvedere Avenue	Belvedere	Marin	✓
Ross Reservoir landslide Repair	Greenbrae	Marin	
Novato Creek Maintenance Sediment Removal & Wetland Enhancement	Novato	Marin	
Pacheco Creek Road at Novato Creek Road Bridge Replacement	Novato	Marin	
Lucas Valley Road Mile Point 5.08 Realignment	San Rafael	Marin	
Retaining Wall Installation at Lucas Valley Road	San Rafael	Marin	
Redwood Creek Trail Realignment	Sausalito	Marin	

<b>Project Name</b>	<b>City/Location</b>	<b>County</b>	<b>May have BCDC Jurisdiction</b>
66 Inch Trunk Sewer Rehab Kaiser Rd to Soscol Water Recycling Facility	Napa	Napa	✓
Pier 39 through 43.5 Sediment Sampling	San Francisco	San Francisco	✓
Hillbrook School Art Building Addition	Los Gatos	Santa Clara	
Anderson Dam Seismic Retrofit - Phase 6 Geotech Investigation	Morgan Hill	Santa Clara	
SJ-SC Regl Wastewater Facility Legacy Biosolids Lagoons Cleanup	San Jose	Santa Clara	
Google Caribbean Campus West Channel Enhancement	Sunnyvale	Santa Clara	✓
Levelogger Installation 2019 to 2021	Fairfield	Solano	
Culvert Replacement at Tributary to Petaluma River at Liberty Road PM 11.40	Petaluma	Sonoma	