

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF MAY 8, 2009

Prepared on April 9, 2009

ITEM NUMBER: 24

SUBJECT: Executive Officer's Report to the Board

This item presents a brief discussion of issues that may interest the Board. Upon request, staff can provide more detailed information about any particular item.

WATER QUALITY CERTIFICATIONS

[Dominic Roques 805/542-4780]

In general, staff recommends "Standard Certification" when the applicant proposes adequate mitigation. Measures included in the application must ensure that beneficial uses will be protected, and water quality standards will be met.

Conditional Certification is appropriate when a project may adversely impact surface water quality. Conditions allow the project to proceed under an Army Corps permit, while upholding water quality standards.

Staff will recommend "No Action" when no discharge or adverse impacts are expected. Generally, a project must provide beneficial use and habitat enhancement for no action to be taken by the Regional Board. A chart on the following pages lists applications received from February 1, 2009 to March 31, 2009.

WATER QUALITY CERTIFICATION APPLICATIONS RECEIVED FROM FEBRUARY 1, 2009 THROUGH MARCH 31, 2009

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage ¹	Mitigation ²	Status of Application
Anthony Brown, Atlantic Richfield Company	Dos Pueblos Pipeline Removal Project	Removal of de-commissioned oil pipeline segments crossing Tecolote Creek and Eagle Canyon Creek.	Goleta	Santa Barbara	Tecolote Creek and Eagle Canyon Creek	0.008		Withdrawn, CEQA not complete
County of Santa Cruz	Graham Hill Road Improvement Project	Road improvements and installation of a new roadway drainage system to provide safe driving conditions.	Scotts Valley	Santa Cruz	Zayante Creek	0.02	0.215	Certified April 7, 2009
Steven Jones, Lennar Communities	Polo Ranch Project	Develop 40 residential units including roadways, infrastructure, parking, and other facilities.	Scotts Valley	Santa Cruz	Carbonera Creek	0.032	1.43	Certification pending
Karen Bewley, Caltrans	Airport Boulevard Interchange	Improve the safety, operation, and movement of vehicle traffic at the Airport Boulevard/State Route 101 interchange.	Salinas	Monterey	Salinas Reclamation Ditch	0.58		Complete Application, Under staff review
Robert Walker-- RMC Pacific Materials dba CEMEX	Liddell Creek Culvert Fish Passage Improvement Project	Retrofit existing culvert under Highway 1 to improve fish passage.	Davenport	Santa Cruz	Liddell Creek	0.1		Withdrawn, CEQA not complete

¹ Total Acreage includes both temporary and permanent impacts to riparian, streambed, and/or wetland environments within federal jurisdiction.

² Mitigation acres are reported only for Certified projects. Water Board compensatory mitigation requirements are determined based on area impacted. They are generally 2:1 for streambed impacts and degraded wetland impacts, 1:1 for riparian impacts, and 3:1 for wetland impacts. Mitigation acreage is final upon issuance of certification and not shown unless the Water Board has issued certification.

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage ¹	Mitigation ²	Status of Application
Heidi Luckenbach-- City of Santa Cruz Water Department	Seawater Desalination Program Offshore Geophysical Survey	Study the geophysical characteristics and the current conditions of an abandoned wastewater outfall and a potential buried ancient alluvial basin of the San Lorenzo River.	Santa Cruz	Santa Cruz	Monterey Bay National Marine Sanctuary			Under staff review
Gary Ruggerone, Caltrans	Stabilize Culvert Outlet	To repair an existing culvert, prevent loss of the culvert and adjacent roadway.	Buellton	Santa Barbara	Zaca Creek	0.001		Under staff review
Tony Chavez	Nipomo Creek Water Intake Gallery	Construction of a collection basin, requiring a 0.0008 acre channel habitat impact, permanent fill in 0.017 acres of wetlands for intake galleries, and 0.012 acres of fill in wetlands for a transmission pipe.	Nipomo	San Luis Obispo	Nipomo Creek	0.0318		Incomplete application, CEQA not complete
County of Santa Cruz	East Zayante Road PM 4.66 Storm Damage Repair Project	Repair a roadway embankment adjacent to East Zayante Road at PM 4.66. The project includes excavation and construction of a timber lagging retaining wall with steel piles.	Felton	Santa Cruz	Zayante Creek, San Lorenzo Rover	0.045		Incomplete application

STATUS REPORT

Composting Near Chualar, Monterey County – Update [Tom Kukol 805/549-3689]

At the March 2009 Board meeting's public forum, Steve Shimek (Monterey Coastkeeper and Ag Advisory panel) expressed concern about Salinas River riparian protection. He showed a number of slides to demonstrate his point. His slides depicted earthmoving projects that affect riparian zones, improper rodent baiting practices in the riparian zone, and one improper industrial facility (a composting operation) in the riparian zone.

Earthmoving Projects That Affect Salinas River Riparian Zones

Many landowners along the Salinas River endeavor to perform river channel clearing, which typically requires a "404 Permit" from the U.S. Army Corps of Engineers (ACOE). As part of the ACOE 404 Permit, Monterey County developed the *Salinas River Channel Maintenance Program*. That program serves as a master permit that allows individual channel clearers to perform work, as long as the work meets the permit conditions. 404 Permits usually last five years. The *Salinas River Channel Maintenance Program* is now expired. Monterey County Water Resources Agency is developing application materials for a new *Salinas River Channel Maintenance Program*. In the interim, there is no permitted channel clearing unless an "emergency" permit is in effect. Monterey County Water Resources Agency has submitted a 404 application for an emergency channel maintenance project. This application is still under review. Mr. Shimek encouraged the Water Board to stay involved in the renewal of the five-year permit and the emergency permit.

Composting

Water Board staff looked into Mr. Shimek's complaint about composting in the Salinas River Channel, near Chualar and conducted a site visit on February 27, 2009. Staff confirmed that Mr. Keith Day operates the *Keith Day Trucking & Landscaping Supply* composting operation on that property. Mr. Day composts agricultural wastes (such as cow and chicken manure, mushroom compost, and grape pomace) in a depression carved out of the Salinas River channel. The soil under the composting operation consists of porous alluvium. Flood inundation and leachate percolation appear to be significant water quality threats. Nonetheless, Mr. Day's composting operation received a "Notification" level Solid Waste Facility permit from the California Integrated Waste Management Board's (CIWMB) Local Enforcement Authority (LEA), Monterey County.

The CIWMB/LEA focuses on waste diversion and ensuring the correct operation and closure of solid waste facilities in the state. In general, CIWMB permits don't cover our water quality concerns; therefore, we issue our own permits (for example at landfills). Since composting facilities are typically exempt by California Code of Regulations, Title 27, we have not issued permits for these facilities. As stated in California Code of Regulations, Title 27, Subchapter 2, Article 2, Section 20200: *Wastes which can be discharged directly or indirectly (e.g., by percolation) to waters of the state under effluent or concentration limits that implement applicable water quality control plans (e.g., municipal or industrial effluent or process wastewater) are not subject to the SWRCB-promulgated provisions of this division [Title 27].* What this means, in a nutshell, is that if a waste placed on the ground does not result in a water quality objective exceedance in first encountered groundwater, then we don't regulate them. However, some regions report that compost facility discharges result in TDS and ammonium pollution. Therefore, if the discharge from a compost facility results in concentrations of constituents above water quality objectives, then this facility needs to be water quality regulated. The State Water Board is currently working on a statewide conditional waiver for compost facilities. Staff is not sure when the conditional waiver will be completed, but, more than likely, compost facilities will be required to have an impermeable foundation and lined ponds for their

discharge. We have been waiting for a general waiver for compost facilities for a while now and have not issued any individual permits yet for compost facilities.

In the case of the *Keith Day Trucking & Landscaping Supply* composting operation, we will not wait for a general waiver for compost facilities. The facility, at its current location, appears to warrant special attention. Surface water impacts would result if river stage rose to inundate the compost operation. Subsurface water impacts could result from leachate percolating through underlying soils, which as mentioned earlier, consists of porous alluvium. Depth to subsurface water is estimated to be around ten feet.

On April 1, 2009, staff spoke with Mr. Day via telephone and said that we would likely regulate his facility. Staff intends on asking Mr. Day for a report of waste discharge for his composting operation. The report of waste discharge will require Mr. Day to describe his facility's water quality protection measures. If Mr. Day can demonstrate that his facility is protective of water quality, then staff will propose an individual waiver or waste discharge requirements. Otherwise, staff will pursue enforcement to attain water quality objectives.

ADMINISTRATIVE REPORTS

Presentations and Training [Roger Briggs 805/549-3140]

On March 2 through 5, 2009, Water Resource Control Engineer Ryan Lodge attended the Advanced Wastewater Engineering training in Sacramento. The course was presented by the State Water Board. The course provided instruction and guidance in a variety of advanced wastewater engineering topics including disinfection processes, reclamation, salinity issues, and the nitrogen cycle as it relates to wastewater treatment and disposal.

John Goni, P.E., Water Resource Control Engineer, recently attended the 21st Annual National Tanks Conference and Expo in Sacramento. The Conference was sponsored by the United States Environmental Protection Agency Office of Underground Tanks, Cal EPA, the Association of State and Territorial Solid Waste Management, and the New England Interstate Water Pollution Control Commission. More than 500 underground tank owners and regulatory personnel from various local, state, federal, and tribal agencies attended the conference. Major points of discussion were funding shortfalls for cleanups across the Nation, maximizing cleanup efforts for money spent, and cleanups using green and sustainable technologies.

Environmental Scientist David LaCaro, was invited by the Santa Margarita Advisory Committee to be a guest speaker at their April 2, 2009 meeting. David presented an update to the committee and community members on the status of Assembly Bill 885 as well as recent Central Coast Water Board Basin Plan amendments regarding the onsite (septic) system regulations and implementation. Members of the public showed a lot of interest and Mr. LaCaro fielded many questions. San Luis Obispo County Board of Supervisor Patterson attended the meeting and provided the County's perspective regarding the new regulations.

Staff members Cyndee Jones, Chris Adair, Carol Hewitt, and Gary Nichols attended an Advanced Dreamweaver class on March 24, 2009, at Software Solutions in San Luis Obispo. The class provided instruction on web page development and maintenance, including Cascading Style Sheets design, site assets, rollovers and behaviors, interactive forms, layers, multimedia, and other subjects.

On March 25th, the Executive Officer and about twenty staff attended, "Organizational Climate and Leadership Styles," a class taught by Gene Crumley in the Regional Board conference room. Mr. Crumley also provided individual leadership and job performance counseling during his visit from U.C. Davis.

Budget Status [Roger Briggs 805/549-3140]

The last Executive Officer's report included an update on the budget. We continue operating, and adjusting priorities, with general fund and furlough cuts, and we are evaluating options for anticipated additional cuts. Although 17 of our staff received surplus notices (warnings of potential layoff), we continue to have sufficient vacancies throughout the Water Board organization to weather existing and foreseeable cuts without layoffs. The most recent monthly vacancy report showed a slight increase in vacancies, up to 7.7%, or 127.5 positions. Our office currently has no vacancies. Senior Engineer Matt Thompson left April 17, and we are investigating our ability to backfill.

As stated in agenda item 16, the State was successful in selling bonds recently, and actually exceeded expectations. This sale will allow bond money to start flowing again, although to a very limited degree initially, which will help some grantees who have had their projects shut down or have not been able to be reimbursed for work they have completed. Attached are three documents that describe the current situation with grants (see pages 7, 8, and 9).

The administration will issue a revision to the state budget this month (the May Revise). Although the FY 09/10 budget is approved, both the Senate and Assembly will hold hearings on the budget. The Water Boards' budget is scheduled for a Senate hearing on April 23rd, and an Assembly hearing on May 6th. We will provide an update at the Board meeting.

ATTACHMENTS

(See pages 7, 8, and 9)

Regional Board Project Managers and Projects Requested to Apply for Federal Funds

Jill Wilson

06-274-553-0

Central Coast Agricultural Water Quality Coalition Demonstrating Compatibility of Water Quality and Food Safety through Research and Implementation

\$566,890.65

06-275-553-0 Central Coast Vineyard Team Research and Implementation of BMP's To Protect Water

Quality

\$216,983.33

Corinne Huckaby

05-185-553-0 Cachuma Resource Conservation District Irrigated Agriculture Best Management Practices (BMPs) Implementation

\$149,274.30

Alison Jones

05-105-553-0 Central Coast Water Quality Preservation, Inc. Management Practices to Improve Water Quality in the Pajaro, Salinas and Elkhorn Watersheds

\$99,913.30

Julia Dyer

06-226-553-0 County of Santa Cruz, Dept of Public Works Reducing Nonpoint Source (NPS) Sediment and Pesticide Pollution in County Road Maintenance Operations \$428,374.33

Elaine Sahl

06-273-553-0 Resource Conservation District of Santa Cruz County Permit Coordination & Agricultural Water Quality Implementation Program in the Pajaro Watershed \$428,251.74

Dominic Roques

06-353-553-0 San Jose State University Research Foundation Assessment of State-funded Wetland Restoration Projects in Region 3

\$271,943.10

Steve Saiz

06-350-553-0 The Bay Foundation of Morro Bay Implementation Effectiveness Assessment for the Morro Bay Watershed

\$284,589.21

Howard Kolb

06-161-553-1 Resource Conservation District of Santa Cruz County Integrated Watershed Restoration Program Phase II

\$2,534,072.93

Summary of Issues related to Frozen Grant Funds

- 1) Grant funds frozen include Proposition 13, 40, 50, 84, and 204
Grant funds not frozen include 319h, 604b
List of exempt projects e.g., IRWM (proposition 50 – Integrated Regional Water Management), can work; it is not clear where the funds are coming from to support this work.
- 2) State Board Personnel and their Roles

Kyle Wooldridge	DFA (State Board Division of Financial Assistance) – Support for getting projects on the priority list (FAAST) and assistance with application for funding (SRF Application)
Daniel Newton	DFA - Support for SRF (State Revolving Fund) Application evaluation for projects on priority list
Julie Rizzardo	DFA - SRF Application review, expanded use
Christine Gordon	DFA - SRF Application review, outreach
Wendy Westerman	DFA - SRF Application review, drafting SRF agreements
- 3) Any "Frozen Grant" is automatically on the priority list (there are a few exceptions; property acquisitions are not fundable with the "stimulus" dollars) and does not need to apply to be considered for federal "stimulus" dollars.
- 4) Any new grant needs to input information into FAAST (State Board on line application site) to get on the priority list and does need to apply to be considered for federal "stimulus" dollars. Application for new projects is required to be considered for SRF.
- 5) Under consideration is 281 million federal "stimulus" dollars.
Of the 281 million federal "stimulus" dollars:
 - 25% for frozen grants not on exempt list
 - 25% for disadvantaged communities for wastewater grants and a portion of funds are for frozen projects if they can meet the ARRA requirements - The American Recovery and Reinvestment Act of 2009 (all USA products/goods)
 - Up to 15% can go to frozen grants or disadvantaged communities at the discretion of the State Board Executive Director Dorothy Rice
 - 20% for 0% interest loans is for green infrastructure projects
 - 25% for 1% loans
- 6) State Board is preparing a flow chart and check list for the process
- 7) Loans can not be repaid with grant funding (no bridge loans allowed).
- 8) The 25% (approximately 70 million dollars) will be used for existing frozen grant agreement obligations. The existing frozen grant agreement obligations are approximately 160 million dollars. It appears that the 70 million dollars will not be sufficient to fund all outstanding grant agreement obligations. It is not yet clear how funds will be prioritized to address these grants agreement obligations.
- 9) There are some funds, one percent of allocated federal "stimulus" dollars (2.83 million), known as 604b3 that are a subset within SRF. These funds are set aside for watershed planning and require a 40% pass through to regional planning agencies. These funds may be appropriate for the proposed LID efforts (combine state and local effort?).
- 10) There may be other dollars available through TMDL, Areas of Special Biological Significance, etc.

Update of Issues Related to Frozen Grant Funds

1. The current position is the State will pay frozen grant invoices for work completed up to December 17, 2008; source of funding and date of payment yet to be determined.

Recommendation: Ensure that our grantees have submitted all invoices for any charges up to December 17, 2008. Process those invoices and forward to Sacramento

2. For all frozen grants, any work performed after December 17, 2008 is considered at the grantees "own risk." There is no guarantee that the grantees will be paid for this work, no date of when or if they will be paid, and no identified funding source to pay them.

Recommendation: Remind our grantees that they are working at their own risk and there is no guarantee they will be paid for work after December 17, 2008.

3. For frozen grants that may qualify for the SRF dollars:
 - To qualify a project must be ready to move forward, must involve implementation and /or construction.
 - New SRF agreements should be active by May 17, 2009.
 - Grantees can request time extensions, start-up costs, and other alterations to the grant.

Recommendation: Staff work with State board staff and grantees to transfer remaining tasks from current grant to the new SRF "forgivable" loan document. Remind grantee to maintain the bond funded grant "in-place" until they are paid for work completed prior to December 17, 2008.

4. For frozen grants that do not qualify for the SRF dollars:
 - Types of grants that did not qualify for SRF include monitoring, assessment, non-implementation efforts (e.g., outreach, voluntary implementation of management measures, etc.), and any grant in the last 10% of it's implementation.
 - There is no guarantee that these grants will be restarted.
 - No date has been set to make a determination regarding restarting these grants.
 - At this time there is no identified funding source to restart these grants.

Recommendation: Keep these grants in the hope that funding is restored. Remind our grantees that they are working at their own risk and there is no guarantee they will be paid for work after December 17, 2008.