California Regional Water Quality Control Board
San Francisco Bay Region
EXECUTIVE OFFICER'S REPORT
A Monthly Report to the Board and Public
January 14, 2004

State Budget Impacts on Water Board (Bruce Wolfe)
On January 9, the Governor released his proposed fiscal year 2004-05 budget. While his approach for addressing the State's budget deficit relies heavily on spending cuts, his proposed budget appears to have only minor impacts to the Water Board's operations compared to this year's budget. However, the proposed budget is well below levels of only a few years ago, such that we must continue to reduce our efforts in many of our regulatory programs. Overall, our authorized staffing for 2004-05 will probably be cut another one or two positions, and we expect to once again reduce contracts for consultant work. However, given staff attrition, we expect no layoffs.

The final budget will be determined after legislative hearings and approval and the Governor's signature later this year. We will keep you posted as we get more details.

General Water Reuse Permits (Richard Condit)
In January 1996 the Water Board adopted a General Water Reuse Order (General Order), which applies to publicly owned wastewater and water agencies that are currently recycling treated wastewater or propose to do so in the future. The General Order authorizes wastewater reuse by producers, distributors and users throughout the Region through a local agency-administered program. An agency may apply for the General Order through a Notice of Intent (NOI) process. This Order replaces individual reuse orders for those choosing to be included under the General Order. The intent of the General Order is to streamline the permitting process and delegate the responsibility of administrating water reuse programs to local agencies to the fullest extent possible.

To date eight agencies have applied for and are operating under the General Order:

Alameda County
Dublin-San Ramon Services District
East Bay Municipal Utility District
City of Livermore
Contra Costa County
Delta-Diablo Sanitation District
Central Contra Costa Sanitary District
Marin County
Sewage Agency of Southern Marin
Napa County
Napa Sanitation District
San Mateo County
South Bayside System Authority

Additional Projects under consideration include:
In Review:
We have just received a joint NOI from the North Marin Water District and the Novato Sanitary District in Marin County. The State Department of Health Services is currently reviewing their project report to ensure human health protection. The Department's approval is a prerequisite before the Executive Officer can grant the agency coverage under the General Order.

Others expected in the next several months:
City of Yountville, Napa County
North San Mateo County S.D., San Mateo County

Many other wastewater agencies are considering the move to water recycling under the General Order.

EBMUD Settles Lawsuit with Board (Lila Tang)
The East Bay Municipal Utility District (EBMUD) filed a motion last month to dismiss its lawsuit against the Regional and State Water Boards over the NPDES permit the Board adopted in 2001. EBMUD filed the lawsuit in 2002 after the State Board upheld the Board on most of the issues contested by EBMUD. We negotiated a settlement agreement with EBMUD last June. This agreement committed us to amending the permit as remanded by the State Board, clarified compliance determination for dioxins, and committed EBMUD to conduct a special study on lower detection limits for dioxins. The Board adopted the permit amendment in September, and EBMUD initiated its special dioxin study in December 2003.

State Board Dismisses Napa's Petition (Joseph Ernest)
In October 2003, the Board adopted an order requiring the Napa Sanitation District to pay Mandatory Minimum Penalties (MMP) for 51 effluent limit violations. Napa petitioned the MMP to the State Board, raising broad issues including the constitutionality of the MMP legislation.

On December 30, 2003, the State Board dismissed Napa's petition, based on its finding that Napa's petition failed to raise substantial issues appropriate for review. At the time this is written, we do not know how Napa will proceed.

PCB TMDL Project Report Released (Fred Hetzel)
On January 8 we released the Total Maximum Daily Load (TMDL) Project Report for PCBs in San Francisco Bay. The Report is a significant milestone in the development of a TMDL for PCBs in the Bay. On February 10 we will host a public workshop and environmental impact review scoping

session as part of our effort to solicit feedback from stakeholders on the Report. We will use stakeholder comments as we develop a draft Basin Plan Amendment and the supporting staff report that will formally establish the TMDL and implementation plan. We expect to present the TMDL and implementation plan for Board consideration this summer.

Resolving Litigation on San Mateo and Contra Costa Municipal Stormwater Permits
(Habte Kifle/Christine Boschen)
As was reported to the Board last month, on November 14, 2003, a Superior Court decided on the San Francisco Baykeeper's 2001 lawsuit regarding these two municipal stormwater permits adopted by the Board in 1999. The Court upheld our permits on most counts; however, it identified some aspects of the permits that need to be corrected.

Specific changes that the Court ordered include:
1. Permits must contain monitoring specifics, including type, interval, and frequency sufficient to yield data which are representative of the monitored activity;
2. Modifications to these stormwater programs' Stormwater Management Plans (SWMPs) are modifications to their permits and have to go through a public notice and comment process unless the modifications are minor; and
3. The Board, not the Executive Officer, must approve substantive modifications to the SWMPs.

The net effect of these changes is that SWMPs for these programs will need to be more specific about how stormwater will be controlled and monitored, and we must provide more opportunities for public involvement on any changes or updates of their SWMPs.

If the Court decision stands (i.e., no appeal is filed), staff will draft permit amendments to comply with the Court order for Board consideration this spring. For consistency, staff will take a similar approach with other municipal stormwater permits as they are reissued.

Discharges from Groundwater Cleanups
(Farhad Azimzadeh)
We regulate the discharge of extracted groundwater from fuel and solvent cleanup sites mostly through two NPDES general permits. As of December 31, we had 94 facilities authorized to discharge under the fuel general permit, 88 facilities authorized to discharge under the solvent general permit, and three facilities authorized to discharge under individual NPDES permits. Most of these sites are located in the South Bay. The solvent permit will expire in July 2004. During the coming months, we will review all related documents for reissuance of this general permit and prepare a tentative order for Board consideration in the Spring.

Staff accomplishments for the two general permits during 2003 include:

- issued six mandatory minimum penalty complaints
- processed 52 letters to authorize or reauthorize discharges and modify or rescind existing authorization letters, as tabulated below
- inspected 20 facilities
- reviewed about 375 self monitoring reports

Summary of Authorization Letters by Type-- 2003

General Permit	Reissue	New	Modify	Rescind	Total
Fuel Cleanup	2	15	14	2	33
Solvent Cleanup	0	3	13	3	18
Total	2	18	27	5	52

State Nonpoint Source Conference (Dale Hopkins)
U.S. EPA and the State and Regional Water Boards sponsored the second biennial Nonpoint Source (NPS) Conference in Ventura last November. The title of the conference was "Restoring Clean Water: NPS Pollution and TMDLs". Approximately 250 participants from throughout the State came together to discuss nonpoint source projects funded through federal grants and State Proposition 13 funds. Following introductions by Chairman Art Baggett of the State Board and Alexis Strauss of U.S. EPA, attendees heard a call to action by keynote speaker Mark Gold from the southern California organization, Heal the Bay. Two days of breakout sessions included presentations on building watershed stewardship, TMDL implementation in the Lake Tahoe area, reducing runoff pollution in both urban and rural settings, and sessions on successful volunteer monitoring and designing effective project monitoring. Presentations and discussions focused on both the successes and challenges of non-profit organizations, local and state government agencies, and citizen groups in working to overcome nonpoint source pollution problems.

The Conference ended with an inspiring speech by Terry Tamminen, who had just been designated the new Secretary of Cal/EPA. A number of the Region's nonpoint source and TMDL staff attended. Dale Hopkins,our Region's nonpoint source coordinator, participated on the Conference organizing committee, and Ann Riley, our Region's stream specialist, moderated a panel on stream restoration. Region staff are currently managing about 40 grants relating to NPS issues and have recently completed final reviews of proposed new grants for the latest cycle of Proposition 13 and 50 funds.

Certification of the Expansion of Kirby Canyon Recycling and Disposal Facility (Brian Wines)
At last month's public forum, a representative of the Kirby Canyon Recycling and Disposal Facility voiced his displeasure with the expedited water quality certification I issued in November for the landfill. The Kirby Canyon Facility is a landfill operated by Waste Management of

California, Inc. (WMI) in south San Jose. The Facility is located on a leasehold that includes six tributaries to Coyote Creek, identified by WMI as Watercourses A through F. Under a certification issued by the Water Board in 1993, WMI has been filling portions of Watercourse B.

Last summer, WMI applied for certification to fill the rest of Watercourse B. Due to its expressed need to initiate this fill as soon as possible, Board staff worked with WMI and other permitting agencies to accelerate review and issuance of the certification for this fill. WMI completed its certification application for fill in October, and, on November 10, I issued a certification for fill of the remaining upper reaches of Watercourse B. Because WMI had yet to propose adequate mitigation for all proposed impacts to the rest of Watercourse B, the certification authorized fill of the upper reaches of Watercourse B, accepted WMI's proposed mitigation as adequate for that limited fill, and allowed WMI to propose alternative mitigation by February 1, 2004.

Since issuance of the expedited certification, WMI has verbally objected to the mitigation requirements in the certification. In addition to its appearance at the December Board meeting, WMI has petitioned the State Board to review the terms of the certification. This petition is currently being held in abeyance. However, at this time, WMI has yet to submit to us any proposal for alternative mitigation. Staff will continue to work with WMI to resolve its concerns.

Mud Is Finally Flowing at Montezuma Wetlands Restoration Project (Beth Christian)
On December 23, 2003, after more than 13 years of planning, environmental review, and a lengthy multi-agency permitting process, the first barge-load of sediment dredged from the Oakland Harbor Navigation Improvement ("-50-Foot") Project was delivered to the Montezuma Wetlands Restoration Project at the southeastern edge of the Suisun Marsh.

The privately owned and operated Montezuma project involves the beneficial reuse of dredged sediment as an alternative to the usual in-bay or deep-ocean disposal options. It will re-create approximately 1,800 acres of tidal and seasonal wetlands in the Suisun Marsh, using dredged sediment to restore severely subsided and degraded former wetlands. Ground elevations at the site have subsided up to 10 feet since historical tidal marshes were diked and drained for agricultural purposes more than 100 years ago. Restoration of wetlands at the site will be accomplished by the engineered placement of approximately 17 million cubic yards of dredged sediment to raise the site to elevations appropriate for intertidal marsh. If successful, the project will provide rich habitats for plants and animals dependent on tidal marshes, mudflats, and associated habitats including endangered species such as the salt marsh harvest mouse and Chinook salmon.

Restoration will occur in four spatial and temporal phases. Careful phasing should help ease the transition back to tidal marsh for plant and wildlife species that have become adapted to the altered wetlands and grazing lands that currently exist. The first phase initiated in December will continue for the next three years and will fill 3.5 million cubic yards of its 4.5 million cubic yard capacity with sediment from the "-50-foot" deepening project in Oakland Harbor being conducted jointly by the U.S. Army Corps of Engineers and the Port of Oakland. Sediment for the remainder of the project's first phase will be brought to the site from a variety of dredging operations throughout the Bay Area that could include both maintenance dredging and new work in navigation channels, deepwater ports, and marinas.

All dredging in the Bay Area is regulated by the state and federal agencies (one of which is the Board) that make up the Dredged Material Management Office (DMMO). To ensure that sediment accepted at Montezuma meets state water quality standards, participating dredging projects must adhere to testing requirements set forth by the DMMO, and must meet stringent sediment acceptance criteria for contaminants adopted in the Board's 1999 order for this project. The order also contains an extensive monitoring program that includes physical, chemical, and biological performance criteria, which will be used to measure the success of the restoration in the various habitat types planned for the site.

MTBE in Gasoline (Chuck Headlee)
The California Air Resources Board announced on December 12 that MTBE, the fuel oxygenate banned because of its deleterious effect on groundwater, was removed from all gasoline refined for sale in California in November 2003. This meets a January 1, 2004, MTBE phase-out deadline established in Executive Orders by then-Governor Davis in 1999 and 2002.

All major refineries have completed their conversions from the use of MTBE in California gasoline to new blends that either replace MTBE with ethanol or, in some parts of the State, can be sold without oxygenates. More than 40 percent of the ethanol produced in the United States (mostly from corn) is expected to be used in California, Connecticut or New York, the three states that have banned MTBE. California is still in the midst of a four-year effort to obtain a waiver from U.S. EPA to allow California to produce and market fuel throughout the State that does not contain oxygenates. To date, California has not received a final determination from U.S. EPA. Some MTBE is still being sold at gas stations, but all the remaining inventory of MTBE is expected to be gone within the next several months. However, we expect soil and groundwater remediation of MTBE will continue for at least another decade.

BayBoards (Bruce Wolfe)
BayBoards is a public art project appearing until the end of February on outdoor media in three locations around the Bay. A collaboration between local artists and the scientists of the San Francisco Bay Institute (SFEI), BayBoards uses research from SFEI's Historical Ecology Program to depict the historic and ongoing evolution of the Bay's landscape.

Site 1, entitled "2 Quick Centuries in 7 Long Blocks", uses posters on five bus shelters and one billboard along San Francisco's 5th Street to show how the City's sandy hills and the marshes of Mission Bay have been drastically altered into today's landscape. Site 2, entitled "In the Land of Oaks", is a

billboard that shows how the historic oaks along the Bay's edge that gave Oakland its name have long since become the urban landscape of West Oakland's Peralta and 12th Streets. Site 3, "Albany Hill, 1861", juxtaposes the marshes of Albany nearly 150 years ago with today's development, at I-580 East near the Bayview Exit in Richmond. Further information on this outreach effort is available at www.stillhere.org or www.sfei.org.

Ashland Proposes Alternate Cleanup Standards (Cherie McCaulou)
In early December, Ashland submitted several technical reports for its Newark (Alameda County) solvent contamination site, including a proposal for alternate cleanup standards for soil and shallow groundwater. The alternate cleanup standards are intended to take the place of some of the standards already approved by the Board in its January 2003 final site cleanup order, which Ashland petitioned to the State Board. Alternate cleanup standards could resolve a key issue in the petition: how much do chemical concentrations decline between the shallow groundwater and the deeper groundwater zones. Board staff has met with Ashland to discuss the alternate cleanup standards report, and plans to have further technical discussions with Ashland in the near future. If staff is able to agree with Ashland on alternate cleanup standards, then we would recommend an amendment to the order. We will also continue to seek input from Alameda County Water District and the City of Newark during this process.

On a related matter, as authorized by the Board last summer, staff recently concluded its settlement of Ashland's lawsuit. Ashland had filed suit against the State Board, after the State Board dismissed its request to "stay" the Water Board's order. The settlement calls for the Water Board to temporarily stay certain provisions of the order and to amend the order to explicitly allow Ashland to propose alternative cleanup standards. In early December, I administratively issued the order amendment and Ashland dismissed its lawsuit. Further, Ashland requested (and the State Board agreed) that Ashland's petition to the State Board be held in abeyance pending Water Board review of the alternate cleanup standards report. These procedural developments are helpful in the short term but will not by themselves resolve the underlying technical issues.

Cleanup of Stege Marsh Continues (Cecilio Felix)
UC Berkeley is currently wrapping up the latest phase of cleanup at Stege Marsh, adjacent to Central San Francisco Bay in Richmond. Stege Marsh is part of the East Bay Regional Park system and provides habitat for a number of species including the endangered clapper rail. Marsh sediment and water are impacted with acidic pH conditions and elevated levels of PCBs, arsenic, mercury, and other contaminants. The impacts are the result of historic manufacturing operations and disposal of processed pyrite ore at the Richmond Field Station site and the adjacent Zeneca site.

Remediation, started in 2002, includes excavation, treatment, and off-site disposal of contaminated sediments (Figure 1), followed by replacement with clean sediment, removal of non-native plant species and replanting of marsh vegetation and channels (Figure 2). To-date approximately 35,000 cubic yards of marsh sediment has been replaced over areas totaling approximately 3.5 acres.

Figure 1. Contaminated marsh in June 2003. Clean marsh in background was remediated in 2002.

Figure 2. Same area in November 2003 after removal of debris and partial remediation.

Napa Flood Project Milestone (Mary Rose Cassa)
We are pleased to have reached a milestone for the Napa River Flood Management Project, as construction of the second phase of petroleum hydrocarbon remedial action and associated terracing draws to a close. This is a significant environmental restoration achievement for the Napa River, the local community, and resource agencies. The Board approved final site cleanup requirements in June 2001 for an area along the east side of the Napa River, south of downtown Napa. The area was historically contaminated with petroleum hydrocarbons from spills associated with bulk oil terminals and underground storage tanks. The project involved creation of marsh plain and flood plain terraces to accommodate normal flooding and significantly reduce impacts from flooding in the downtown area. The petroleum cleanup is a subset of a plan for 100-year flood protection, which will be completed in 2007. Even before completion, this innovative blend of ecology and engineering has provided relief from

flooding in Napa. Based on recent rain events, the additional volume provided by the recently completed terracing has proven effective in accommodating flood waters. Oversight of the cleanup and restoration activities for this complex project is being accomplished by a team of Board staff representing four divisions: Mary Rose Cassa, Alec Naugle, Leslie Ferguson, Farhad Azimzadeh, and Mark Johnson.

During the cleanup of the petroleum-impacted sites, new information became available that indicates additional former owners of the bulk petroleum operations were responsible for petroleum releases to soil and groundwater. Staff has circulated a draft amendment to the 2001 cleanup order that would add Exxon, Mobil, and Arco as dischargers and make them subject to the obligations and tasks contained in the order. Although the excavation is complete, the order requires ongoing monitoring of the expanded flood channel and specific responses to any problems attributable to residual contamination. The amendment will be presented to the Board at its February meeting. We expect the affected oil companies to oppose the amendment.

2003 State of the Estuary Conference CCMP Award

(Carol Thornton)

The Water Board was one of the organizations that received an award for "Outstanding CCMP Implementation Projects" by the San Francisco Estuary Project (SFEP) at its 6th Biennial State of the Estuary Conference this past October. The award was given in recognition of the Board's outstanding work in educating the Bay Area construction industry as well as municipalities in pollution prevention practices at new construction sites.

This construction education program was the direct outgrowth of the water quality problems at construction sites that Board staff initially noted in the mid-90s. These problems, and their associated permit violations, resulted in the Board levying Administrative Civil Liability (ACL) fines against numerous home developers. As a means to minimize both these violations and the water quality problems caused by them, Board staff collaborated with SFEP and the construction industry to develop a number of outreach materials and workshops. Both the publications and workshops continue to be revised and updated by Board staff and SFEP.

Our initial educational efforts focused on erosion and sediment control at construction sites. In addition to developing and presenting an annual series of Erosion Control Workshops to educate both the construction industry and city and county planners and inspectors on laws and regulations and Best Management Practices for controlling polluted runoff from construction sites, we produced the Erosion and Sediment Control Field Manual and the Guidelines for Construction Projects, a guidebook for preparing a Stormwater Pollution Prevention Plan.

We have expanded those efforts so that now we include discussion of techniques and methods to prevent pollution from cement, stucco, paint and other construction-related activities. In addition to the initial materials, we have produced two videos: "Hold on to Your Dirt" and "Keep it Clean", and a CD containing the workshop slides and publications. As state and federal regulations change and as new and better solutions to pollution prevention are developed, we include those updates in our presentations.

Because of the high turnover in the construction industry, our workshops continue to be in high demand by contractors and others in the private sector (average attendance is 500 people/year). In addition, we have expanded our outreach to city and county planners, managers and elected officials to strengthen the commitment of municipalities to regulate new construction activities in their own locales. Board staff has made a concerted effort to include city and county representatives in the workshop presentations.

The CCMP Award celebrates the long-term success of the construction education program. Since the beginning of the program, thousands of key individuals have been certified in these pollution prevention techniques, and over 15,000 copies of printed materials and videos have been distributed regionally, statewide and nationally. The videos are now available in Spanish as well as English.

This program has been a fantastic collaboration between the Board, SFEP, and industry. SFEP is a federal-state-local partnership working under the Association of Bay Area Governments to restore water quality and manage the natural resources of the San Francisco Bay-Delta Estuary. SFEP oversees and tracks implementation of 1993's multi-stakeholder Comprehensive Conservation and Management Plan (CCMP) as a means to preserve, restore and enhance the Bay-Delta Estuary. SFEP is housed at the Board's office and works closely with the Board in many of its activities – providing support for the TMDL, Wetland Restoration, Supplemental Environmental Projects, and Erosion Control programs. In addition, SFEP works on Boater Education, Ballast Water, and the CalFed Science Program.

In-house Training

On December 4, the Planning and TMDL Division organized and hosted staff training on "Stream and River Protection". At the training, Jill Marshall and guest speaker Maia Fleming-Singer of Stillwater Sciences presented case studies from the Central Valley illustrating "Embracing Scientific and Regulatory Uncertainty." Leslie Ferguson gave a presentation on how Water Board permitting actions affect fish habitats, and Tina Low spoke about applying the new circular, *A Primer on Stream and River Protection for the Regulator and Program Manager*, to a small-scale project.

Our January training will be on environmental risk assessments. Recent brown-bag topics included a December 3 session on the solvent stabilizer 1,4-dioxane by our own Vince Christian, a December 8 session on quality assurance plans for grant projects, a December 17 session on monitoring project design by our own Revital Katznelson, and a January 7 session on the origins of San Francisco Bay.

Staff Presentations

On December 11, Bill Johnson gave a presentation on "Keeping Creeks Clean: Pesticide-Related Toxicity in Urban Creeks" to the Pest Control Operators of California, San Francisco/San Mateo District. Held in Pacifica, the meeting was attended by commercial and residential pest control operators.

On January 21, Stephen Hill and Alec Naugle will make after-dinner presentations at the annual regulatory update of the Groundwater Resources Association's local chapter. Stephen will provide an overview of significant Board activities last year that are relevant to groundwater professionals. Alec will review the Board's recent report on South Bay groundwater beneficial uses and describe emerging issues in our cleanup programs.

On January 29, Laurent Meillier of our DOD staff will provide a presentation to the California Association of Environmental Professionals (www.califaep.org). The title of the presentation is "An Environmental Impact Foray Across Angel Island / Fort Mc Dowell". The talk will focus upon site use history and the status of various site investigations now underway, especially as they relate to water quality impacts.