

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

A Monthly Report to the Board and Public

September 2005

The next regular scheduled Board meeting is September 21, 2005.

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

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State Water Board Remands San Francisco Bay Mercury TMDL (Tom Mumley)

Since my verbal report to you at the July meeting on the status of the State Board's consideration of the mercury TMDL you adopted last September, the State Board has held two lengthy hearings on that TMDL. At its July 21 hearing, agendized for adoption of the TMDL, State Board staff presented the State Board with an additional draft resolution that would have remanded the TMDL back to us. Based on testimony at that hearing, the State Board directed its staff to circulate for public comment three alternate draft resolutions for consideration at its September 7 hearing: one to adopt the TMDL, one to remand it, and one to adopt it, but request that we address over the coming year a

number of issues raised during the hearings. Comments on these draft resolutions were due by August 15, and the State Board received nearly 40 comment letters.

At the September 7 hearing, most testimony supported either adoption of the TMDL or its remand. At the end of the testimony, the State Board directed its staff to revise the resolution that would remand the TMDL and adopted that revised [resolution](#) on a 4 to 1 vote. The remand calls for a progress report in six months and a Basin Plan Amendment responsive of issues raised in nine months. Issues of concern raised in the remand include allocations for wastewater and dredging, identification and cleanup of mines, risk management, and review of applicable water quality standards. The remand also pledged funds to assist us in compliance with the remand. I anticipate holding an initial workshop in November on the issues raised in the remand to clarify our next steps. Nonetheless, we will continue to move forward with implementation of those mercury controls and cleanup measures not restricted by the remand.

Tesoro Golden Eagle Refinery – Court of Appeal Ruling (Robert Schlipf and Yuri Won)

On August 29th, the Court of Appeal issued a [ruling](#) that upholds the State and Regional Water Boards on their dioxin requirements in a 2000 NPDES permit for the Golden Eagle Refinery. Coincidentally, the reissuance of this permit is on the September agenda ([item 5.C.](#)). Because of the ongoing litigation, we had expected a high level of interest on the dioxin requirements (see [August Executive Officer Report](#)).

The Regional and State Water Boards have been in litigation with [Communities for a Better Environment](#) (CBE) and the [San Francisco BayKeeper](#) for the past four years over dioxin requirements in Tesoro's 2000 NPDES permit. In 2003, the Court of Appeal upheld the 2000 permit's final water quality based effluent limitation for dioxin. In its recent August decision, the Court of Appeal, after hearing the case for a second time, upheld the lower court ruling that (1) the 2000 interim permit limit for dioxin did not violate the anti-backsliding provisions of the federal Clean Water Act, and (2) the permit's schedule of compliance was valid. It is unknown at this time if CBE and/or BayKeeper will appeal this recent decision to the California Supreme Court.

The proposed permit's dioxin requirements follow those in the 2000 permit. We did not receive written comments from CBE, BayKeeper, or other interested parties concerning dioxin. As such, the permit reissuance is on the uncontested calendar.

Citizen's Suit Against Richmond and West County Wastewater District (Mike Chee)

On July 14, 2005, the [San Francisco BayKeeper](#) and the West County Toxics Coalition provided us notice of its intent to file suit against the City of Richmond, West County Wastewater District, and the West County Agency for violations of their NPDES permits. The alleged violations date back to 2000 and concern sanitary sewer overflows, treatment plant bypasses, effluent limitation violations, and failure to report sanitary sewer overflows. We looked into many of the allegations, and while we determined some to be incorrect, there are a handful of effluent limit violations, along with a larger number of sewage overflows that we have not yet enforced. Despite this, we do not view this notice as a reason to shift our enforcement priorities and will not pursue immediate formal enforcement against these violations. This is because there are effluent limit violations and sewer overflows by other dischargers that are more severe or significant, and thus warrant action sooner by the enforcement resources we have available. However, we plan to request additional information from

Richmond, the District, and the West County Agency to determine an appropriate level of Water Board enforcement action.

Tracking and Reporting Impervious Surface Changes for Stormwater Control (Shin-Roei Lee)

After the Board adopted the permit amendment for [Santa Clara Valley Urban Runoff Pollution Prevention Program](#) ("the Program") in July, I issued the Program a Water Code Section 13267 letter request on August 10, 2005. The letter required the Program to begin collecting and reporting data on the changes in the amount of impervious surface from all new and redevelopment projects in Santa Clara County, irrespective of whether the change is subject to the Program's permit requirements.

The intent of this data collection is to use this data to quantify the total impervious surface created or replaced by new and redevelopment projects, to provide a quantification of the total impervious surface created or replaced that is exempted from current stormwater treatment or flow controls, and to provide a potential measurement of all stormwater programs' effectiveness in creek protection and compliance with wasteload allocations established by TMDLs. Finally, the data can support technically-sound decisions regarding stormwater control priorities and the requirements to be incorporated into the future Municipal Regional Permit (MRP).

Since the issuance of my August 10 letter, both the Program and the Bay Area Stormwater Management Agencies Association (BASMAA) have objected to the use of a Section 13267 letter to require this data collection and the specifics of the data collection request. Based on these objections, I agree that further clarification is necessary on which projects (size and types) that lead to changes in impervious surface should be reported and at what stage of the planning application/approval process impervious surface data should be collected. Therefore, I issued another letter on September 7 to retract the August letter. My September letter outlined my plan to continue the dialogue with all interested stakeholders to clarify what impervious surface data we need, how all stakeholders best use that data, and how the data should be reported to the Board.

As stated in my September letter, my goal is to work collaboratively with all interested stakeholders to develop the specific reporting parameters for the impervious surface data in the next three months with the goal to start collecting impervious surface data by January 1, 2006. If we can reach consensus, I intend to memorialize the consensus in a 13267 letter to all stormwater programs. If we cannot reach consensus by the beginning of December, I intend to bring a permit amendment to our Board to require the tracking and reporting of impervious surface data.

I continue to see data on impervious surface change as a major tool for all stormwater stakeholders to prioritize control efforts and to measure progress in controlling stormwater runoff pollution. I will keep the Board informed of progress on this issue.

New Orleans and California (Lawrence Kolb)

The recent disaster in New Orleans and the Gulf Coast regions makes comparisons to California inevitable. Our water situations are similar in that:

- California's Delta islands have subsided due to the draining and oxidation of organic soils, to the point that elevations are 5 to 20 feet below sea level. This is the same situation as New Orleans. The subsidence process is continuing unabated, at around 3 to 5 feet per century in both places.

- In both places the levees that protect the land from flooding also eliminate the natural process of sediment deposition, so there is nothing to offset the subsidence.
- The natural delivery of sediments from the upper watershed has been interrupted by the construction of dams, so there is less sediment available for nourishing and maintaining wetlands, even if the levees were not there.
- In both areas elected officials usually see the solution as more of the same, especially the construction of ever-higher levees, with no changes in land use practices that caused the problems in the first place.

There are also some major differences in the two regions:

- Levee failure in the California Delta floods mostly farmland and not cities, and is a relatively routine event. Breaching of levees and temporary flooding has occurred around 35 times since the 1930's. (But more and more *residential* development is taking place on low flood-prone lands, including the south Delta and the Natomas area north of Sacramento).
- Earthquakes are a fact of life in California, and the worst-case scenario is multiple breaches of Delta levees due to an earthquake. Earthquake-caused tsunamis do present a threat to some coastal and Bay areas. This is not an issue on the Gulf Coast.
- We don't get hurricanes, so California does not face the same threat of storm surges as the Gulf Coast.
- The subsidence problem in the California Delta is subject to some remedy. A study released last month concludes that shifting Delta island agriculture to rice would dramatically slow the rate of soil oxidation and resulting subsidence. This is because the land would be under water much of the year, similar to natural conditions. On the other hand, rice farming is not profitable except for federal crop subsidies, in contrast to the tomatoes and other row crops now grown in the Delta.

Enforcement Program (Lawrence Kolb)

As you know, Cal EPA has made [enforcement](#) a very high priority. Secretary Lloyd has made it clear that he expects better performance in this area. The ideal is enforcement actions that are timely, fair, and supported by good staff work.

At the same time there are some very real obstacles; outside of mandatory minimum penalty cases, enforcement actions are very time consuming compared to other staff activities. Arranging for and monitoring of Supplemental Environmental Projects (SEP) is also a consumer of staff resources. Contested cases also often elicit attacks on the Board, Board programs and staff, and they make for heated Board meetings. Enforcement is never going to be tidy.

I have appointed Alan Friedman as the Board's enforcement coordinator. He will be our point of contact for enforcement with the State Water Board, and monitor the efforts made in our various programs to identify and follow up on violations. I anticipate bringing more enforcement items before the Board in the months ahead.

State of the Estuary Conference (Lawrence Kolb)

The biennial [State of the Estuary Conference](#) will be held October 3-5 in Oakland at the Kaiser Convention Center near Lake Merritt (and walking distance from the Lake Merritt BART station).

This year's conference will undoubtedly include many observations about the Hurricane Katrina disaster and lessons for California. One very timely session will be on the south Delta, a flood-prone area with growing pressure for residential development.

Central San Wins National Pretreatment Award (Michael Chee)

The Central Contra Costa Sanitary District has won the first place 2005 National Clean Water Act Recognition Award in the Pretreatment Category. This U.S. EPA award recognizes the District's operation of its exemplary pretreatment program. Water Board staff endorsed the District's bid for the award. The District will be honored at the annual Clean Water Act Recognition Awards ceremony during the Water Environment Federation's Technical Exposition and Conference in Washington, D.C. on October 31, 2005. This is the District's third first place award. As we previously reported, East Bay MUD won first place for a fourth time last year. In total, Bay Area agencies have been awarded first place nine times, and placed in the top three on 14 occasions since the award's inception in 16 years ago in 1989.

Trash in our Streams (Steve Moore, Christine Boschen)

As part of the [Surface Water Ambient Monitoring Program](#) (SWAMP), we have created an assessment methodology to evaluate trash levels and the threat of trash to water quality, and conducted 93 site surveys for trash from 2003-2005 in streams throughout the region. This was preceded by the Board's recommendation that urban water bodies be placed on a "watch" list for trash in 2002 due to concerns expressed by members of the public during the process to update the Section 303(d) List of Impaired Water Bodies. We recently completed a first draft of a report on these trash assessment efforts and submitted it as a white paper to the first "[Plastics Debris Rivers to Sea Conference](#)," held in Southern California September 7-9, sponsored by the Water Boards, Coastal Commission, Algalita Foundation and the Heinz Center. Steve Moore gave a presentation on the methods and results of the assessment efforts at the conference. This work was also accepted as a poster in this year's State of the Estuary Conference in October. A final report will be submitted through the SWAMP program, which includes a peer review process, expected to be early next year.

In the assessment methodology, trash is counted, tallied according to type, and removed along a 100-foot section of a stream in a public area such as a park. The same site is surveyed months later to determine a trash deposition rate during wet or dry weather. We documented that there are two manifestations of trash in waters of the region: direct dumping or littering (including wind-blown into streams from adjacent lands), and downstream accumulation. We were surprised at how much trash is deposited during dry weather. Trash also appears to be a ubiquitous problem at the bottom of all watersheds, regardless of economic demographics or density of urban areas, with particularly high plastic levels in wet weather. We observed there is usually no improvements over time when we removed trash, as it is deposited right back again in wet weather, in many cases at higher levels. So the trash issue appears not to be improving with the normal existing management practices, and may be getting worse. Places with active municipal management and citizen involvement had the lowest trash deposition rates, most notably upper Sausal Creek in Oakland. Lake Merritt is on the 303(d) list for trash, and the results of this study suggest we consider moving development of that TMDL project higher on our TMDL priority list. There is no systematic trash monitoring in the San Francisco Bay, but this study also suggests that its loading to the Bay is significant.

Christine Boschen served as the lead facilitator for a workshop at the Conference that convened "Potential Implementers" towards the development of, "Trash and Debris in Urban Runoff: an

Action Plan for California." The Action Plan is a deliverable under the Prop 13 grant from the Los Angeles Water Board to the Algalita Marine Research Foundation and the Coastal Commission. Ann Riley also led a panel discussion at the Conference on innovative monitoring approaches for trash, in which Steve Moore participated.

South Bay Salt Pond Discharges (Steve Moore, Robert Schlipf)

This has been another summer of learning for the South Bay salt pond Initial Stewardship Plan, managed by State Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS). As we reported in April, the interim management of discharges from the salt ponds has posed challenges for water quality, particularly dissolved oxygen, due to algae proliferation in the ponds when the days get longer and hotter. We do not see this same effect in the Bay due to its naturally murky state. Communication with these agencies about the discharges has been excellent this summer.

At least five corrective measure approaches have been tried with varying success to improve oxygen levels, including baffles, water cascading over weirs to decant oxygenated waters from the surface into the Bay, solar-powered aerators, and closing off salt ponds from the Bay during nighttime (when oxygen is lowest) and reopening in the morning. The latter measure has been implemented by Cargill Salt at Pond A18 and has kept that pond's discharge above permitted dissolved oxygen levels, but it is too labor-intensive for the two resource agencies at this time, since they manage 10 discharge points between them. During a hot spell in early August, USFWS closed off Ponds A16/A17 to avoid discharging low oxygen waters, but after eight days, a fish kill occurred in the former salt pond, attracting gulls, which also adversely affected nesting birds there. In hindsight, it may have been more appropriate to open the discharge gate for two-way flow, allowing high oxygen waters affected by San Jose effluent to freshen that pond at the discharge point. These "lessons learned" are part of the long-term restoration planning effort led by the Coastal Conservancy.

Robert Schlipf and Steve Moore made a presentation at the August 17 Pond Ecology Workshop about dissolved oxygen water quality standards here and on the east coast, as well as case studies from the South Bay's ponds and sloughs. It appears that our sloughs and Bay can comply with site-specific standards adopted on the east coast based on rigorous scientific study, but the ponds would still have trouble complying. We remain concerned that the shapes and water residence times of the former salt ponds lead to algae blooms and unacceptably low dissolved oxygen levels that cannot be mitigated except through complete re-design of the ponds, e.g., creating more narrow shapes on the landscape with higher flow-through. Low dissolved oxygen in ponds harms fish and makes them more subject to predation. This may explain why there are so many leopard sharks in the intake ponds, as documented by U.S. Geological Survey biologists.

We will evaluate the agencies overall compliance with permit requirements this winter as part of our annual report review, just as we did last year, and keep the Board informed of the results.

Basin Plan General Update (Steve Moore, Sarah Raker, Jeff Kapellas)

A general, non-regulatory update of the Basin Plan, the Board's main regulatory guidance document, has been proposed and is undergoing [public comment](http://www.waterboards.ca.gov/sanfranciscobay/basinplan.htm) (see bottom third of the following link for details <<http://www.waterboards.ca.gov/sanfranciscobay/basinplan.htm>>). If the update remains non-controversial, we will bring the update's proposed changes to the Board for adoption on October 19. The last general update of the Basin Plan occurred in 1995. As such, there are program and issue descriptions that are out-of-date, making the document less user-friendly to the public.

The update's proposed changes can be grouped into (1) document organizational update, (2) beneficial use maps and tables update, including correction of errors, and (3) program description updates. Document organizational changes include a numbering scheme for Basin Plan Sections to facilitate citation, a list of acronyms, and formation of a new Chapter 7 for TMDLs and other Water Quality Attainment Strategies. The designated beneficial uses and water bodies in previous printed Basin Plans have been reviewed and have a number of errors that need correction. The maps of the Basin Plan will be updated using 21st century mapping technology. Program descriptions will be updated for groundwater protection and management, wastewater pollution prevention, watershed management, wetlands, onsite treatment (septic) systems, water recycling (formerly called reclamation), and selected municipal wastewater facilities. We will also include text on emerging water quality issues such as wetland restoration, desalination, and emerging contaminants of concern.

The appearance of the Basin Plan will benefit from updated maps, tables and desktop publishing. We have worked with San Francisco Estuary Project staff to design a new template, to create a file on our website that is printable on both color and black-and-white printers.

Discharges into Areas of Special Biological Significance (Susan Gladstone)

On August 31, the State Water Board held a workshop in Monterey to receive comments about the State's process of obtaining an exception to the Ocean Plan's discharge prohibition (including stormwater discharges) into Areas of Special Biological Significance (ASBS) along the coast of California. ASBS are defined as "those areas designated by the State Board requiring protection of species of biological communities to the extent that alteration of natural water quality is undesirable." Of the thirty-four ASBS statewide, there are [six ASBS](#) in our region. These ASBS are: James Fitzgerald Marine Reserve in San Mateo County; Duxbury Reef, Bird Rock, Pt. Reyes Headlands, and Double Point in Marin County; and the Farallon Islands. While many of the other ASBS in the State are often located offshore of highly urbanized areas with associated pollutants from storm water runoff, the six ASBS in our Region are affected mainly by coliform bacteria and are all located in or adjacent to relatively rural areas or in a distant offshore area.

In October 2004, State Water Board staff issued letters to stormwater programs, state and federal parks, and other entities that have unpermitted discharges into ASBS notifying them of the need to request an exception to the prohibition or to cease the discharge. The Ocean Plan allows the State Board to grant 'special permission' to discharge into an ASBS, provided that the exception will not compromise beneficial uses of ocean waters and that the public interest will be served. Once the exception is granted, the Regional Water Board must then issue a permit for the discharge. However, the application for the exception itself requires detailed water quality and biological data collection to demonstrate that allowing the discharge to continue will not compromise beneficial uses.

At the August meeting, State Water Board staff proposed the concept of a 'General Exception' to the prohibition for runoff from private residences, agricultural and grazing lands, mooring fields and piers. Comments during the workshop indicated this issue is most significant in terms of stormwater management from urban areas of the state. Representatives from the environmental community proposed development of stewardship groups and establishing compliance schedules for the discharges. Members of the State Board presiding at the workshop directed staff to schedule another

workshop in southern California this fall. Once these issues are resolved at the Statewide level, our staff will propose specific actions to the Board to deal with discharges into our ASBS.

Determining Additional Responsible Parties at 327 Moffett Blvd., Mountain View

(Dorothy Dickey)

The Board voted at its March 2005 meeting to conduct a formal evidentiary proceeding to consider Union Bank's request that the Board name additional parties to the Board's cleanup order for 327 Moffett Blvd., Mountain View. At the time that the Board voted, it was informed that Union Bank was requesting that the Board name two additional parties that had both operated on the site. One of the parties requested that the Board use formal, trial-type procedures in such a proceeding as allowed under the Board's regulations.

The Board agreed to hold a brief formal hearing (of about a day) that would include such procedures as cross-examination, limited oral testimony under oath, etc. In order to keep the hearing time to about a day, the Board was informed that the formal hearing would be preceded by extensive pretrial proceedings conducted by Board staff. Those proceedings would involve formal discovery, written submission of all direct testimony, resolution of objections to admissibility of evidence, etc. Because Union Bank is the party requesting the change to the order and because the facts are in such dispute, staff would have a different role than it assumes in other cleanup orders. In this matter, staff would not bring a recommendation to the Board but would instead serve as the Board's advisor in assessing the evidence presented by Union and the other parties.

The Chair designated Steve Morse, one of the Board's Assistant Executive Officers, as the Board's hearing officer for purposes of holding any prehearing conferences in this matter. The Chair requested that Steve confer with him about any significant matters to be resolved through the prehearing conference process.

In July, Union Bank formally requested that the Board amend the Board's cleanup order by adding ten parties to the order (eight other in addition to the two previously mentioned). In his capacity as the Board's hearing officer on this matter, Steve Morse has issued a prehearing order that indicates that the next step in the proceeding will be to bring the matter back to the Board for its vote on whether it wishes to have an evidentiary hearing now that Union Bank has clarified the scope of its request.

The Board is not bound by its decision in March 2005, and thus will have the opportunity to consider various options in light of Union's request. The options would include holding a trial-type hearing over multiple days; holding a panel hearing; deferring any resolution of the issue of naming additional parties until litigation between the parties has been resolved; deferring action until there is increased threat from contamination at the site to human health or the environment; and deferring action until there are more staff resources available.

Potrero Hills Landfill Expansion, Fairfield (Keith Roberson)

On August 23, the Solano County Board of Supervisors voted 3-2 to certify as complete the Environmental Impact Report (EIR) for the proposed expansion of the Potrero Hills Landfill by Republic Services Inc. This vote upheld Republic's appeal of the Solano County Planning Commission's earlier decision to not certify the EIR, and moves the project forward into the permitting process by local and state agencies. The Supervisors did not accept the Planning

Commission's recommendation to deny Republic's appeal and require modifications to the EIR. Also, by voting to certify the EIR as complete and adequate in its present form, the Supervisors approved the project without requiring Republic to address concerns expressed by various regulatory bodies including the Bay Conservation and Development Commission (BCDC), the California Department of Fish & Game (CDFG), and our staff. A local group opposed to the landfill expansion is expected to appeal the Supervisor's approval of the project and certification of the EIR to BCDC.

In the days leading up to the August 23 meeting, the Supervisors received letters from staff at BCDC and CDFG recommending that the Supervisors accept the Planning Commission's recommendation to deny Republic's appeal and require revisions to the EIR. BCDC staff expressed many concerns about the environmental impacts of the project, chiefly that the landfill's location within the Suisun Marsh renders the project incompatible with land use restrictions identified in the Suisun Marsh Protection Plan and Solano County's Local Protection Plan for Suisun Marsh. The CDFG staff expressed concerns about impacts to the marsh and associated threatened and endangered species. Our Watershed Division staff also issued a letter to the Supervisors on August 19 expressing their concerns that the project involves relocating a creek and filling of wetlands and would therefore require Water Board issuance of a Section 401 Certification pursuant to the Clean Water Act. Staff's letter also noted that this certification is a discretionary permit that could be denied and that sufficient information to make an evaluation has not yet been received by Board staff. I will keep the Board informed of the project's progress through the local and state agencies' permitting process.

Hamilton Wetland Restoration Project Update (Naomi Feger)

Two significant events have occurred since July when the Board approved the Hamilton Wetlands Restoration Project (HWRP) Section 401 Water Quality Certification and Waste Discharge Requirements for the restoration project at the former Hamilton Army Airfield in Novato.

On July 20, 2005, the United States Fish and Wildlife Service (USFWS) issued its Biological Opinion on the effects of the restoration on the endangered California Clapper Rail and the Salt Marsh Harvest Mouse under the Endangered Species Act. On August 18, 2005, the Bay Conservation and Development Commission issued a Consistency Determination to the US Army Corps of Engineers (Corps) for the project.

Approvals from our Board, USFWS and BCDC are significant steps in moving the HWRP forward. The Corps anticipates getting contracts in place by Spring 2006 to bring the Port of Oakland 50-foot project sediments onto the site by Fall 2006. In the meantime, the Corps has issued a contract to begin some site preparation activities.

Gambonini Mine Celebration (Jill Marshall)

On Friday morning, October 21, the Board will be hosting a "Celebration of Partnerships and Restoration" at the now-closed Gambonini Mercury Mine site in West Marin. The event will highlight effective partnerships between U.S. EPA's Superfund Division, the Board, and local organizations such as the Marin Conservation Corps, the Marin Resource Conservation District and Circuit Riders.

Background: The Gambonini mine, located approximately 60 km north of San Francisco in the Tomales Bay watershed, was an open pit mercury mine that generated over 300,000 m³ of waste. Drainage from the mine goes to Walker Creek, the second largest tributary to Tomales Bay. Water

quality studies suggest that hundreds to thousands of kilograms of mercury were discharged from the mine site to downstream waters since mining ceased in 1972. Ongoing discharges from the inoperative mine have resulted in high mercury concentrations in fish and wildlife. Board staff will be releasing a TMDL project report in October for mercury in Walker Creek.

Pre-TMDL Implementation Actions: In an effort to mitigate mercury transport from the Gambonini mine, the U.S. EPA and the Board (using Cleanup and Abatement Funds) initiated an emergency Superfund cleanup action in August 1999. The overall goal of the project was to eliminate, to the maximum extent feasible, the discharge of mercury-laden sediments from the 12-acre mining waste pile.

Results: This mine cleanup leveraged Cleanup and Abatement funds along with low-cost and low-tech revegetation and erosion control measures to an unprecedented degree and is a unique success story. Mercury levels have dropped throughout the Walker Creek watershed, both on the mine site and downstream of the mine.

Members of the public are welcome to attend the 11 a.m. to 12:30 p.m. event and celebrate the public, private and non-profit partnerships that jointly contributed to improving water quality in the Walker Creek watershed. Information will be available on our web site at http://www.waterboards.ca.gov/sanfranciscobay/news_items/GamboniniOct21direction.pdf. For further information contact Jill Marshall (jamrshall@waterboards.ca.gov).

Central Station - West Oakland (Mark Johnson)

Staff updated the Board in July on this site in a followup on concerns presented at the Board's June public forum by members of the West Oakland Environmental Indicators Project. The Central Station site is a significant Oakland Brownfield project, roughly 29 acres in size and located adjacent to the 880 freeway in West Oakland. The site includes the former Oakland Train Station, which has been closed for many years and which will be preserved as part of the redevelopment. The developers and the City of Oakland have been working through the entitlement process to allow the site to be redeveloped into almost 1500 residential units, with a 15% below market rate (affordable housing) component.

The redevelopment of this property has been a charged issue in the community, as it will bring significant changes to West Oakland. Now that the entitlement process for the development has been finalized, the completion of environmental investigations and remediation is necessary prior to the actual development. Board staff will require a comprehensive public participation program as part of the investigation and remediation process. It is the objective of staff to bring the community to the table in the decision-making process. Staff has met with the developers and some interested community members, including Environmental Indicators Project representatives. An initial fact sheet, prepared by the developers, has been distributed within the community, and a formal public participation plan is currently being developed for Board use. As part of developing the public participation plan, several individuals as well as organized community groups have been interviewed to discuss their concerns and determine the best way to involve the community in the decision-making process. Community interviews have been completed and the first draft of the public participation plan will be submitted to our office in the near future. In addition, a second fact sheet will be prepared and distributed to the community and other stakeholders following its review and

approval. Initial public meetings will then be held to discuss the regulatory process, community involvement, environmental conditions and remedial activities to be conducted at the site.

Board staff will continue to keep the Board informed of progress on this site.

Hookston Station, Pleasant Hill (Chuck Headlee)

Earlier this month, I conditionally approved the *Baseline Risk Assessment* report for the Hookston Station site in Pleasant Hill, Contra Costa County. My conditional approval incorporates comments from the Department of Health Services' Environmental Health Investigation Branch (EHIB), the agency providing toxicological support to the Board staff on this project, as well as several public comments. Staff held a community meeting to discuss the results of the report and solicit comments on June 20, 2005, at Fair Oaks Elementary School in Pleasant Hill. The conditional approval requires several changes to the *Baseline Risk Assessment* based on our internal review as well as the comments mentioned above. To gain final approval the responsible parties must revise the report and resubmit it by October 1, 2005.

The risk assessment has been a focal point of our oversight for several months and a subject of significant community interest. Its conditional approval should hasten the rest of the cleanup process. The Board's site cleanup order for Hookston Station requires the responsible parties to submit a cleanup plan within 120 days after approval of the *Baseline Risk Assessment*. Based on this schedule, we expect to bring a final site cleanup order to the Board for your consideration in spring 2006. The final order will set cleanup standards and approve a cleanup plan that includes vapor intrusion mitigation measures for affected residences as well as ongoing monitoring.

We continue to require site history information and site investigation work by landowners and past operators in the area upgradient of the Hookston Station site. This work is intended to identify sources of groundwater contamination that did not originate on the Hookston Station site, including sources of the solvent PCE and the fuel oxygenate MTBE. Once we have sufficient evidence to name specific responsible parties, we will require complete investigation and appropriate cleanup.

Solvent Spill in Sunnyvale (Max Shahbazian)

On July 15, a demolition contractor spilled 250 gallons of the chlorinated solvent perchloroethylene (PCE) while working at the former AMD semiconductor facility at 1165 East Arques Avenue in Sunnyvale. This is a federal Superfund site overseen by the Board; the demolition work is being done as part of a site redevelopment project and is being overseen by the City of Sunnyvale. The spill happened when the contractor damaged a PCE-containing transformer at the facility. The transformer was clearly marked that it contained "Perclene", which is the commercial name for PCE. This spill could have been avoided through a simple pre-demolition site inspection and completion of a facility closure checklist.

In response to the spill, the property owner hired a hazardous waste cleanup contractor to oversee cleanup. To date over 1,800 cubic yards of PCE-impacted soil has been excavated and removed from this site and the owner has spent over half a million dollars cleaning up the spill. Several rounds of soil confirmation samples have been collected to define the extent of PCE-impacted soil. Due to the shallow depth of groundwater at this site (10 feet below surface), it is feared that some of the PCE infiltrated into groundwater. This site is already a cleanup site under Board oversight due to chemical spills that occurred in the 1970s. The site was in the final stages of soil and groundwater

cleanup when this PCE spill occurred. As part of our ongoing oversight of the site, we will require additional groundwater monitoring to determine if the recent spill has impacted groundwater and if it will require additional cleanup. We are also assessing enforcement options with regard to the spill itself.

Recission of Norge Cleaners Containment Zone, Napa (Mary Rose Cassa)

Earlier this month, I rescinded the 1997 site cleanup order for the Norge Cleaners site in Napa. Staff will issue a case closure letter shortly. This action is noteworthy in that the site cleanup order included a containment zone. A 1996 amendment to the State Board's site cleanup policy (Resolution 92-49) authorizes Water Boards to designate containment zones, which are limited areas of groundwater pollution that have been sufficiently investigated and remediated and need not be further remediated, provided that the pollution poses no significant risk to human health, safety, or the environment.

Norge Cleaners was the location of a retail dry cleaning facility near downtown Napa. Soil and groundwater underlying the site were impacted by perchloroethylene (PCE) and related breakdown products as a result of dry cleaning operations. Board staff oversaw significant soil and groundwater remediation at the site during the period 1994-1996. Pollutant concentrations in groundwater declined significantly during this period, although they remained well above cleanup standards. Tight soils at the site have prevented significant migration of pollutants and have also substantially prevented further decline in PCE concentrations in the groundwater.

In 1996, Norge Cleaners applied for a containment zone as part of its final cleanup plan. At the time, staff concluded that Norge had completed all feasible cleanup work, and additional cleanup work would not result in significant risk reduction or mass removal. In May 1997, the Board issued final site cleanup requirements, including a containment zone, a site management plan, and groundwater monitoring requirements at the site. The site has since been redeveloped.

Since 1997, solvent concentrations in groundwater have continued to decline. Current concentrations are less than 700 µg/l (parts per billion) total VOCs in one monitoring well and much less elsewhere. These levels still exceed drinking water standards, which apply to groundwater here since it qualifies as a "potential source of drinking water" (as does most groundwater in our region). However, groundwater below the site is not currently used for municipal supply, and we do not anticipate any beneficial use in the near future. We anticipate that groundwater pollution concentrations will continue to decline over time, due to past source-removal work and ongoing natural attenuation mechanisms (including bio-degradation of solvents in groundwater). The groundwater pollution plume is now quite small and residual pollution does not pose an adverse risk to human health, water quality, or the environment. Norge Cleaners therefore qualifies for a low-risk case closure.

Containment zones are intended for areas where we do not expect beneficial uses of groundwater to be restored for a very long time. When the State Board policy was established in 1996, it was seen as a way to cope with the technical problem of being unable to reach drinking water standards and other stringent cleanup standards at most groundwater pollution sites. Since then, we have developed new technical and regulatory tools to cope with this problem. On the technical side, many sites are documenting significant reductions in groundwater pollution using natural attenuation and enhanced bio-degradation methods, particularly for fuels and solvents. On the regulatory side, the State Board has endorsed the concept of low-risk case closures, whereby groundwater pollution cases can be

closed if the residual concentrations are declining and will meet water quality objectives before any future beneficial use of the groundwater is needed. These developments, coupled with the substantive procedural requirements added by the State Board to our Board's proposed containment zone policy, have limited the number of containment zone applications. The policy remains relevant to our cleanup program, but we expect it will be used mainly at sites with highly persistent groundwater pollutants, such as arsenic and other metals.

Norge Cleaners was the first containment zone in the state when it was established in 1997. Since then, three additional containment zones have been established, including two more in this region (the PACCAR site in Newark and the Intel Fab 1 site in Santa Clara). Staff is proposing rescission of the Intel Fab 1 site cleanup order on this month's Board agenda ([see item 5.D.](#)), for reasons that are similar to those at Norge Cleaners.

Public Participation at Cleanup Sites (Stephen Hill)

We are in the process of preparing and circulating public notifications for all the cleanup sites overseen by the Board, as a follow-up to public participation training held here in spring 2005. Site-specific notifications will be sent to all landowners, residents, and occupants within a certain radius of each cleanup site as well as other potentially interested persons. The notifications will describe known site conditions, past work to investigate and clean up site contamination, next steps, the Board's oversight process, and how interested persons can obtain more information. We expect to send out about 700 public notifications this fall. The notifications will inform recipients of the presence of these cleanup sites and help us gauge the degree of public interest at the various cleanup sites we oversee. These notifications will augment our existing public participation efforts, notably at federal Superfund sites and at sites with demonstrated public interest.

This effort is the next stage in our implementation of public participation tools presented by [State Board](#) staff in a series of internal trainings conducted at each of the Water Board's offices in spring 2005; our session was in June. One portion of the training identified specific public participation tools suitable for cleanup sites. The tools are summarized in my April 2005 Executive Officer's Report. To recap, we will continue to tailor our public participation efforts at cleanup sites to the perceived need, based on the severity of contamination and the degree of public interest. The tools provide explicit criteria for determining the appropriate level of effort. They also suggest a minimum level of effort for all cleanup sites and incorporate specific public participation requirements for leaking underground fuel tanks, Brownfield sites, and other special categories. Our office played a leadership role in developing the public participation tools for site cleanup and helping to organize this portion of the training.

In addition to the initial-notification effort, we will be implementing other aspects of the public participation tools. Below is a partial list:

- Publicize draft cleanup plans and provide public comment periods for these plans at all cleanup sites.
- Provide fact sheets and host community meetings at cleanup sites with greater community interest
- Provide opportunities for public comment on other key documents as appropriate
- Make key documents available at local repositories and/or the Board's website

Similar efforts are under way at the other Water Boards. We will provide future updates as we gain experience with these public participation tools.

In-house Training

We had no in-house training in August. Our September training will be an 8-hour health and safety refresher for staff whose work involves hazardous material sites.

Staff Presentations and Outreach

Visitors from Spain

Carmen Fewless and Larry Kolb briefed a six-member delegation from northern Spain on California water issues. Our guests praised California's system for regulating pollution as being closer to local conditions and not based on edicts from the capital. They saw some of our problems as being very similar to theirs, especially the delivery of water at very low prices to farmers, the consequent lack of incentive for conservation, and the shortage of water for the environment and for urban use.

Ranch Water Quality Short Course

On August 10, Carmen Fewless gave a presentation at the University of California Cooperative Extension/Natural Resources Conservation Service - Ranch Water Quality Short Course in Gilroy. Carmen's presentation to Ranchers within the Board's jurisdiction was titled, "Agricultural Requirements in the San Francisco Bay Region".

Korean Environmental Institute Visitor

On August 29, Stephen Hill met with Dr. Sang-il Hwang, associate research fellow at the Korea Environment Institute (Seoul) to discuss approaches to site cleanup and setting cleanup standards in the two countries. Dr. Hwang was particularly interested in the Board's "multi-media" approach to site cleanup that considers a full range of environmental concerns, including human health, water quality, ecological receptors, and nuisance.

Floodplain Management Association Annual Conference

On September 8, I spoke at this Annual Conference in Sacramento as part of a panel on reducing the impacts of land development on stream water quality and stability, entitled, "No Adverse Impact." The focus of my talk was how our Board is increasingly shifting the emphasis of our regulation on creeks and rivers from a project-by-project review and approval through water quality certification or waste discharge requirements to a watershed-wide planning approach by addressing the effects of increased impervious surface, developing and implementing hydromodification management plans, and developing a regionwide stream protection policy.