California Regional Water Quality Control Board
San Francisco Bay Region

EXECUTIVE OFFICER'S REPORT

A Monthly Report to the Board and Public

APRIL 2010

The next regular scheduled Board meeting is April 14, 2010.
*See **http://www.waterboards.ca.gov/sanfranciscobay/** for latest details and agenda*

Items in this Report (Author[s])

U.S. EPA Approval of TMDL for PCBs in San Francisco Bay (Jan O'Hara)

On March 29, U.S. EPA approved the Total Maximum Daily Load (TMDL) for PCBs in San Francisco Bay. This was the final approval step before we can formally incorporate the TMDL and its implementation plan as an amendment to the Board's Basin Plan. The Board adopted this Basin Plan amendment in February 2008. The State Board approved it in October 2009, and the Office of Administrative Law gave its approval in February 2010.

As with other TMDLs, we did not wait for final approval of the TMDL to begin implementing it. Actions already underway include:

- Through a Proposition 13 grant which ended March 31, the San Francisco Estuary Institute investigated potential sources of both PCBs and mercury in urban runoff and developed tools (e.g., treatment technologies, landscape-based controls, institutional controls) for reducing PCBs and other sediment-bound pollutants in stormwater discharges to the Bay.

- Through an ongoing Proposition 50 grant, the San Francisco Estuary Partnership is investigating the extent of and potential control measures for PCBs in building materials, particularly caulk, used in the Bay Area. If successful, this grant-funded effort will fulfill requirements in the Municipal Regional Stormwater Permit to conduct pilot projects to evaluate measures to manage PCB-containing materials and wastes during building demolition and renovation activities.

- Bay Area municipalities are beginning other PCBs TMDL implementation actions, also required by the Municipal Regional Stormwater Permit. Some of these actions, such as pilot scale implementation of retrofit treatment systems and diversions of runoff to wastewater treatment systems, will be funded by a five million dollar U.S. EPA - San

Francisco Bay Area Water Quality Improvement Funds grant to the Bay Area Stormwater Management Agencies Association.

We will report annually on the progress of all PCBs TMDL implementation actions and any new or relevant information that becomes available.

San Francisco Bay Fish Consumption Risk Reduction Program (Naomi Feger)

On March 1, the Bay Area Clean Water Agencies and the Western States Petroleum Association submitted a plan for reducing the risk associated with the consumption of San Francisco Bay Fish. The proposed plan, which is a permit requirement associated with the San Francisco Bay Mercury TMDL and implements the San Francisco Bay PCBs TMDL, is available for public review on our San Francisco Bay Mercury TMDL Project webpage at http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaymercurytmdl.shtml.

The plan includes working with stakeholders to develop a risk communication and risk reduction strategy and developing a mini-grants program to implement the strategy. The dischargers are proposing to work with the California Department of Public Health to accomplish this effort and are coordinating with the Bay Area Stormwater Management Agencies Association (BASMAA), whose members have a similar permit requirement due this fall. In addition, U.S. EPA recently awarded a San Francisco Bay Water Quality Improvement Fund grant to BASMAA to implement fish consumption risk reduction actions consistent with the proposed approach. A risk reduction program is also part of the Central Valley Water Board's proposed Delta Methylmercury TMDL, and we are discussing options with Central Valley Water Board staff to align the two regional efforts.

We welcome comments until May 10, 2010, on the proposal and encourage stakeholders interested in participating in the development of this program to contact us as well. Comments should be submitted to Jan O'Hara at johara@waterboards.ca.gov.

Property Transfer of Point Molate Completed (George Leyva)

The remaining 40 acres of the 413-acre federal facility known as the Former Naval Fuel Depot Point Molate (NFD Point Molate), situated in the City of Richmond, was transferred to the City on March 29. The City previously received 373 acres of the facility in 2003. This final 40-acre action completes the transfer of the entire NFD Point Molate to the City.

The property transfer includes land use restrictions that are recorded with the property title since it is an active cleanup site and three Board cleanup orders presently apply. On March 25, I approved those land use restrictions, known as the NFD Point Molate Covenant to Restrict Use of Property (Covenant), which was countersigned by the City of Richmond on March 26. The Covenant is necessary to protect public health and safety and the environment from minor concentrations of non-petroleum hazardous substances of concern (chlorinated hydrocarbons). The Covenant will apply to any future property transfers and remains in effect until we make a written determination that all required cleanup activities have been completed, and that the restrictions, as outlined in the Covenant, are otherwise no longer necessary.

Staff will be drafting updated Site Cleanup Requirements within the next few months that will replace existing orders on the facility, update the list of Responsible Parties, and update/revise various cleanup tasks and deadlines so as to facilitate the timely completion of all remaining cleanup activities.

California Groundwater Management Report (Alec Naugle)

On March 24, the Legislative Analyst's Office (LAO) issued a report on California's groundwater management, "Liquid Assets: Improving Management of the State's Groundwater Resources." This report is available at: http://lao.ca.gov/laoapp/PubDetails.aspx?id=2242.

The report: 1) provides background on the State's current approach to groundwater management; 2) addresses current issues with groundwater management, including the impact of water quality on water supply; 3) addresses the disconnect between the law and science of groundwater; and 4) reviews other states' approaches to groundwater management. It notes that California is one of only two western states without a comprehensive state-managed groundwater use permitting system (also sometimes referred to as a groundwater rights system).

The report recommends the Legislature take the following actions:

- Phase in a more comprehensive groundwater monitoring system to allow the State to focus funding and technical assistance efforts in the areas of greatest need;
- Establish "active management areas" (a defined geographic area where specific rules are established to govern the withdrawal and use of groundwater), in circumstances where groundwater overdraft potential or the extent of pollution problems are the highest;
- Bring science and law together to modernize groundwater law to accurately reflect the physical interconnection of surface water and groundwater; and
- Consider phasing in statewide groundwater permitting over a multiyear period, based on data from expanded monitoring requirements, while maintaining local control over implementation of permitting to the extent possible.

Better overall management of California's groundwater resources will be key to assuring long-term water supply reliability. Although the Regional Water Boards focus on water quality, we can play an important role in groundwater resource management by continuing to require effective cleanup of groundwater contamination, regulate waste discharges to land, and promote recycling.

Enforcement – Complaints and Settlements (Brian Thompson)

I have publicly noticed one tentative order setting Administrative Civil Liability (ACL) for a case in which the Board's Prosecution Team reached a settlement with Uni Tile & Marble, Inc., in Hayward (Alameda County). Uni Tile & Marble has agreed to pay $10,000 to the Cleanup and Abatement Account and, in lieu of the remaining penalty of $16,250, cease all stone cutting operations and disassemble this portion of its facility. I intend to sign the

agreement and issue the ACL order if no significant comments are received within the 30-day comment period. A copy of the tentative order can be found on our web site at: http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml.

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

Coastside County Water District, Denniston Water Treatment Plant ($24,000)
East Bay Municipal Utility District, Water Pollution Control Plant ($6,000)
Zone 7 Water Agency, Del Valle Water Treatment Plant ($6,000)

The City of Sausalito did not contest an ACL Complaint and agreed to pay the proposed liability of $75,300 to the Cleanup and Abatement Account, so no ACL order is needed for this case.

Finally, and potentially most significant, we, along with co-plaintiffs, National Resources Defense Council, San Francisco Baykeeper, and Arc Ecology, have reached agreement on a draft consent decree that would settle our suit with the U.S. Maritime Administration and the U.S. Department of Transportation over the Suisun Bay Reserve Fleet, otherwise known as the Mothball Fleet. More details on the settlement of this litigation is discussed in Item 7 on this month's Board Meeting Agenda.

River RAT Trainings (Dale Hopkins and A.L. Riley)

The State Board's Training Academy, in collaboration with Board staff, is holding two trainings on the new River Restoration Analysis Tool ("River RAT") for rivers and streams, a tool developed through a collaboration of federal and State agencies. Dr. Brian Cluer, with the National Oceanic Atmospheric Administration (NOAA) Fisheries, and Conor Shea, with the U.S. Fish and Wildlife Service, will be holding the trainings on April 14 and May 13 at the U.S. EPA Laboratory in Richmond. The training will be open to Board staff, local municipalities, consultants and other interested watershed partners.

The workshop will feature presentations by NOAA, Eric Berntsen from the State Board, and A.L. Riley from our staff, designed primarily to increase the quality and consistency of permit applications for Endangered Species Act Section 7 Biological Opinions and Regional Water Board Clean Water Act Section 401 Certifications. These assessments will also support implementation of our proposed Stream Protection Policy and can also be applied by State and federal grants review staff to select the highest quality ecosystem restoration projects.

The River RAT is designed for use by federal and State permit applicants to guide more efficient, consistent, and comprehensive reviews of stream management and restoration proposals, in the context of both watershed setting and fluvial geomorphic processes. This tool is also helpful for guiding watershed planning efforts and will interest consulting firms or public groups who design restoration projects. The longer term goals of this effort include enabling consistent, comprehensive, timely, and documented reviews by

regulators; facilitating improved project planning and design by proponents; encouraging projects that are attuned to their watershed and geomorphic contexts; questioning perceived constraints on project design and encouraging alternatives analysis; allowing for future climate and land use changes; and encouraging post-project monitoring, appraisal and project aftercare. The assessment tool and supporting Science Document are publically available at http://www.restorationreview.com.

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In-house Training

We had no training in March. Our April training will be on Adobe Acrobat software, something we use extensively to manage electronic documents and cut down on our use of paper files. Brownbag seminars included a March 24 session at which we showed "Saving the Bay" (first of a four part series that aired on KQED recently) and an April 1 session on background arsenic concentrations in Bay Area soils (something that's relevant when cleaning up arsenic-impacted soils).

All are welcome to join us on April 14 at 3 PM in the State Building's Auditorium for a post-Board Meeting showing of the movie "Tapped". This recent documentary examines the bottled water industry and its effects on the environment. The event is sponsored by the Water Board Training Academy.

Staff Presentations

On March 10, Carmen Fewless gave a presentation on the Tomales Bay Pathogen TMDL and the Tomales Bay Grazing Waiver at the 28th Annual Salmonid Restoration Conference. Carmen's presentation was part of the workshop, "The TMDL Road to Watershed Restoration: Developing Them, Implementing Them, and Monitoring Their Effectiveness." A similar workshop is scheduled in Shasta City for the first week of May.

On April 5, Dyan Whyte gave a lecture to UC Berkeley's Water Planet class. Her talk focused on Bay Area water quality issues and contaminants of emerging concern.