

STATE OF CALIFORNIA

**REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

MEETING DATE: January 13, 2016

ITEM: **5**

SUBJECT: **EXECUTIVE OFFICER'S REPORT**

EXECUTIVE OFFICER'S REPORT: *January 2016*

A Monthly Report to the Board and Public

NEXT MEETING: January 13, 2016

WEBSITE: <http://www.waterboards.ca.gov/sanfranciscobay/>

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Prosperity Cleaners Update (Ralph Lambert)

The former Prosperity Cleaners is located in the Marinwood Plaza shopping center, north of San Rafael in Marin County. Releases of tetrachloroethene (PCE) from past dry cleaning operations have impacted soil, soil vapor, and groundwater at the site. Nearby residents concerned about the site addressed the Board during the public forum at several Board meetings last year.

Since our last update in November, there has been good progress at this site. On November 16, Board staff participated in a community meeting in the nearby Casa Marinwood neighborhood, organized by County Supervisor Damon Connolly and his staff. The meeting was attended by about 25 residents and the discharger's consultants and representatives. The meeting provided an opportunity to discuss ongoing site investigation activities, possible cleanup alternatives, future redevelopment of Marinwood Plaza, and the Board's regulatory role.

Vapor intrusion to indoor air: Following the stakeholder meeting, the discharger's consultant submitted a proposal for completion of the soil vapor intrusion evaluation; chiefly, it was a map with proposed soil vapor sampling locations adjacent to Casa Marinwood residences and underground utility lines that may be acting as preferential pathways for vapor migration. During the first week of December, the consultant sampled soil vapor from 31 additional locations. PCE was not detected in any of the 21 offsite locations located in the Casa

Marinwood neighborhood. However, PCE was detected above the residential screening levels at 4 onsite locations along sewer and natural gas utility lines. To date, soil vapor samples have been collected from 55 locations and indicate no current vapor exposure to nearby residents. We will require additional soil vapor sampling to confirm these results.

Offsite groundwater plume delineation: The PCE groundwater plume extends at least 1,800 feet east of the site, under the Silveira Ranch. The discharger's consultant will be proposing additional groundwater investigation work to fully define the extent of the plume.

Silveira Ranch supply well: The discharger's consultant sampled this offsite drinking water supply well on October 23 and confirmed that the recently-installed wellhead treatment is operating properly with no detectable PCE after treatment. The offsite groundwater investigation found PCE in shallow groundwater near the well, and prior well samples have contained low PCE concentrations (below drinking water standards). The wellhead treatment was installed in September 2015.

Next steps: As required by Board Order, the proposed cleanup plan was submitted on December 31, 2015. Following its initial review, Board staff will draft a fact sheet outlining the proposed remedial actions and invite the public to comment on the plan. We will continue to keep the Board informed of new developments at this site.

Cleanup Orders Rescinded by Executive Officer (Stephen Hill)

The Board has delegated to the Executive Officer the authority to issue or rescind site cleanup orders pursuant to Water Code section 13304. The choice between having these orders acted upon by the Board or by the Executive Officer hinges on the degree of controversy and urgency in each case. In general, I issue or rescind these orders in situations where there is little or no controversy or when there is some urgency (e.g., cleanup action is needed promptly to address a current or imminent threat to human health or the environment). Otherwise, we bring these types of cleanup orders to the Board for its consideration and action in a public hearing.

In December, I rescinded a 2011 site cleanup order for the property located at 154 San Lazaro Avenue in Sunnyvale. Metal fabrication activities at this site were suspected as the source of chlorinated solvents found in shallow groundwater. Prior to issuance of the order, the site's owner was recalcitrant in performing necessary investigation work. The owner subsequently completed an investigation and demonstrated that the site is not a likely source of chlorinated solvents. Rescission of the 2011 order was appropriate under these circumstances, and the site was closed in accordance with the Board's low-threat closure guidance.

Also in December, I rescinded two site cleanup orders for the property at 740 Kifer Road in Sunnyvale. In the 1970s and early 1980s, Signetics (predecessor to Philips Electronics) operated a semiconductor fabrication facility at the site. Releases of chlorinated solvents from that operation impacted soil and groundwater. The Board's 1996 and 1997 orders required Philips to investigate and clean up the solvent contamination. Cleanup actions included removal of an underground tank, sumps, and impacted soils, as well as groundwater extraction and treatment. As a result of these actions, groundwater solvent concentrations have been reduced by about 95%. Once the groundwater and extraction wells are properly destroyed, this case will

be closed in accordance with the Board's low-threat closure guidance.

CLRRRA Agreement for Romic Site (Cherie McCaulou)

In November, we entered into a California Land Reuse and Revitalization Act (CLRRRA) agreement with SHH Project Owner LLC (SHHPO), the purchaser of the Romic site at 37445 Willow Street in Newark that is a source of soil and groundwater pollution. Chlorinated solvents were released to soil and groundwater while Foster Chemical Company used the property to store, blend, and package a variety of organic chemicals. Foster Chemical's operations ceased in 1987, due to hazardous waste violations. The CLRRRA agreement will facilitate cleanup of the site and allow for its redevelopment in accordance with the City of Newark's Dumbarton Transit Oriented Development Specific Plan.

SHHPO proposes to demolish the remaining structure on site and implement cleanup in accordance with approved response plans, as well as build a residential project that includes approximately 88 townhomes and 72 affordable housing units. The cleanup plan includes excavating soil, treating groundwater, and installing a vapor barrier venting system under the townhomes and units. The response plans also require ongoing monitoring and an environmental deed restriction for protection of human health.

For context, CLRRRA is a State law passed in 2004 and reauthorized in 2010. It provides eligible parties, such as potential purchasers, certain immunities in order to promote the cleanup and redevelopment of blighted, contaminated properties, often referred to as "Brownfields." A CLRRRA agreement provides an eligible party with liability protection for the site's contamination, while requiring it to conduct necessary site investigation and cleanup. Specifically, the law affords protections from claims made by any person for response costs or other damages associated with a release and prohibits an agency (e.g., the Water Board) from requiring an eligible party to take a response action other than the one required in an approved response plan, subject to certain exceptions related to endangerment. Failure to comply with the work required in a CLRRRA agreement can result in the loss of immunities.

Our goal when considering a CLRRRA agreement is to obtain significant and aggressive cleanup commitments in return for granting liability protection. We first confirm that the requesting party is eligible. We then determine what additional site assessment and cleanup work is needed and make sure that the agreement will result in that work getting done. I will update you on future CLRRRA agreements as we continue to explore the benefits of using this tool to expedite the cleanup of contaminated sites.

Promoting Stream Protection (A.L. Riley)

This past fall, we partnered with a number of agencies and organizations to offer workshops on stream protection and restoration in the East Bay and Marin County. A Saturday workshop was held in the City of San Pablo and was co-sponsored by the Board and the cities of San Pablo and Richmond, organized by the California Urban Streams Partnership. Participants included city staff, a youth employment program, and local residents. The workshop included a lecture on the *dos and don'ts* for managing streams and hands-on field experience installing soil bioengineering re-vegetation systems on Wildcat Creek. This was also an opportunity for a number of Board staff to receive training on stream channel restoration.

A Marin County December 2015 workshop involved an impressive group of partners, including the Marin Resources Conservation District, Marin County Stormwater Pollution Prevention Program, Prunuske Chatham, Inc., Spirit Rock Center, Point Blue Conservation Science, and the Board. This workshop included water conservation and stormwater management measures, in addition to an introduction to healthy stream management and soil bioengineering techniques. The workshop involved a mix of about 50 rural, suburban, and urban property owners; conservation organizations; and local, State, and federal agency staff. This workshop also included lectures with hands-on field experience. It also was attended by Board staff who wanted more field experience. The Board's AmeriCorps-California Conservation Corps watershed stewards, Melissa Orozco and Brendan Martin, under the direction of A.L. Riley, were instrumental in helping make these workshops possible.

Santa Clara County OWTS Plan Approved (Blair Allen)

In 2012, the State Board adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS), more commonly called the OWTS Policy. OWTS are used to treat and dispose of sanitary waste from individual homes and other buildings on properties not connected to a sanitary sewer system. Despite the largely urban image of the San Francisco Bay Region, there are an estimated 100,000 OWTS in use in the Region. The OWTS Policy allows a local agency to propose its own customized program (Local Agency Management Plan or LAMP) to accommodate existing and future county programs that allow the use of OWTS with a wider variety of design, construction, and operation options, including supplemental advanced treatment and/or engineered site-specific distribution systems. The OWTS Policy established a May 2016 due date for the submittal of LAMPs for review and approval by a Regional Water Board.

Santa Clara County is the first local agency in our Region to propose a LAMP. Staff had been engaged throughout the course of developing the County's LAMP, as well as the preceding multi-year process of developing an updated County ordinance for OWTS. Consistent with the process you approved in 2014, I am pleased to report that I approved the County's LAMP in December. Prior to my approval, staff publicly noticed a memorandum summarizing the LAMP and stating that we found the LAMP to be acceptable and complete with respect to the requirements and recommendations of the OWTS Policy and appropriate practices for OWTS installation, operation, and management. We did not receive any public comments. Staff is busy working with other counties preparing LAMPs for submittal by this May.

Point Buckler Island Litigation

In September 2015, I issued a cleanup and abatement order (CAO) to Pt. Buckler Club, LLC, pertaining to unauthorized levee construction on Pt. Buckler Island, a 51-acre island in Suisun Bay. The CAO included findings that the unauthorized construction had adversely impacted tidal wetlands and numerous beneficial uses present at the site, including estuarine habitat, fish migration, preservation of rare and endangered species, fish spawning, and wildlife habitat. The LLC has petitioned the CAO to the State Board.

Among the CAO's tasks, the CAO required the LLC to assess the impacts of the construction activities, which it has done, and develop a workplan for restoring tidal circulation and wetland habitat to the island. In October, I granted the LLC's request to extend the deadline for

submittal of the workplan to January 1, 2016.

On December 23, the LLC filed a petition for writ of mandate and a complaint for injunctive and declaratory relief in Solano Superior Court, including several claims related to due process and challenges to the Board's ability to issue a CAO in this situation. The LLC also filed an ex parte application for a stay, or in the alternative, a temporary restraining order and order to show cause, essentially asking the court to hear, on an expedited basis, a request for a stay of the deadlines in the CAO. The Attorney General's office received service of the complaint and motion on behalf of the Board on December 28, submitted an opposition brief, and appeared at a hearing on the matter in Fairfield on December 29. After oral argument, the court took the matter under submission to review the briefs and, later that day, issued an order staying the CAO, asking the parties for additional briefing on why the stay should (or should not) remain in effect, and scheduled a hearing on the matter for January 14.

On January 4, the Board's Prosecution Team requested that I rescind the CAO so that the full Board could hold a hearing on a revised and updated CAO at a later date. Based on this request, I rescinded the CAO on January 5, which means there is no need for the January 14 court hearing. In rescinding the CAO, I noted that it was my intention to avoid unnecessary procedural litigation and to allow the Board members an opportunity to consider the factual and legal issues in this matter in a public hearing. I expect that the Prosecution Team will circulate a draft CAO for public comment in the coming months so that a hearing on the CAO and any associated enforcement actions can be held before the Board later this spring.

In-house Training

We had no in-house training in December. Our January training will be on online map and data tools and how they can support our regulatory work. We have a Brownbag seminar scheduled for January 7 on a new sampling tool in the world of vapor intrusion (automated continuous real-time indoor air monitoring).

Staff Presentations

In December, Dyan Whyte gave a lecture at the Wine and Water Law Conference. She discussed the Board's planned general orders for vineyards and wineries, currently scheduled for Board consideration in 2016, and the need for comprehensive salt and nutrient plans to protect groundwater in areas with extensive vineyards and wineries.

401 Water Quality Certification Applications Received (Keith Lichten)

The table below lists those applications received for Clean Water Act section 401 water quality certification from November 28 through December 24, 2015. A check mark in the right-hand column indicates a project with work that may be in BCDC jurisdiction.

Project Name	City/Location	County	May have BCDC Jurisdiction
San Rafael Rock Quarry Wharf Maintenance	San Rafael	Marin	✓
Sky Ranch Stabilization	Fairfax	Marin	
Lower Crystal Springs Dam Stilling Basin	Burlingame	San Mateo	

Project Name	City/Location	County	May have BCDC Jurisdiction
Connecting Channel Project			
Almaden Dam Improvement Project		Santa Clara	
Manuel T. Freitas Parkway and Las Gallinas Avenue Intersection Improvements Project	San Rafael	Marin	
San Francisco Bay Trail – Pinole Shores to Bayfront Park	Pinole	Contra Costa	✓
Los Gatos Creek Bridge Replacement, South Terminal Phase III Project, San Jose	San Jose	Santa Clara	
San Francisquito Creek – Low Flow Crossing Modification		San Mateo	
Fiala Residence	Napa	Napa	
SM-1-PM 32.3 – Cross-Culvert Repair	Half Moon Bay	San Mateo	✓
Napa River Bridge Replacement Project	Calistoga	Napa	

Penalty Enforcement (Lila Tang)

The following table shows a recently approved settlement. This month, the Board will hold a hearing on a penalty case involving a complaint issued by Board enforcement staff in September 2014. There is also another complaint on which Board staff and the discharger are still in settlement discussions. In general, all complaints and proposed settlements are available at

http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml.

Settled Actions			
On behalf of the Board, the Executive Officer approved the following:			
Discharger	Violation(s)	Penalty Imposed	Supplemental Environmental Project
City of Calistoga, Dunaweal Wastewater Treatment Plant, in Calistoga	Discharge limit exceedances	\$12,000	None

The State Board's Office of Enforcement includes a statewide summary of penalty enforcement in its Executive Director's Report at http://www.waterboards.ca.gov/board_info/eo_rpts.shtml.

State Board Policies and Permits under Development

The following is a list of statewide policies and permits under development. This table is an abbreviated version of what is routinely distributed as part of the State Board Executive Director's Report. The text in the table is largely unedited except for the deletion of extraneous information.

Policy/Significant General Permit ▼	Status
Antidegradation Policy	State Board is considering preparation of guidance or an additional policy to address application of the Antidegradation Policy to groundwater. Staff distributed a scoping document in June 2015 and held meetings in June and July 2015 to receive comments on the scoping document. Staff is considering the comments received. Staff is also in the process of executing a contract with UC Davis to develop tools to aid in implementation. Web page link: http://www.waterboards.ca.gov/plans_policies/antidegradation.shtml
Bacteria Standards for Ocean and Inland Surface Waters	State Board is developing statewide bacteria water quality objectives and a control program to protect human health in waters designated for water contact recreation (REC-1) from the effects of pathogens. The bacteria objectives are proposed to be adopted as amendments to the statewide Inland Surface Waters, Enclosed Bays and Estuaries Plan and the California Ocean Plan. Staff plans to release draft documents for public review and comment in March of 2016. State Board Web site: http://www.waterboards.ca.gov/bacterialobjectives/
Biological Integrity Plan Development	State Board staff is developing a proposed Implementation Plan for Assessing Biological Integrity of perennial freshwater streams. The goal is to set biological expectations to ensure protection and restoration of aquatic life beneficial uses and to incorporate additional bioassessment monitoring into the Water Boards' regulatory programs. Staff is revising the existing draft Biological Integrity Plan based on the feedback from stakeholders and advisory groups. A revised Draft Plan is scheduled to be released for stakeholder input by spring 2016.
Blue Green Algae Action Levels	State Board staff is working with a multi-agency workgroup to update the Draft Voluntary Guidance Document for California CyanoHABs (CCHABs), related to monitoring and posting public notices. Staff is also coordinating with the Monitoring Council to continue to work issues related to CCHABs.
Chlorine Amendment	The draft Total Residual Chlorine and Chlorine-Produced Oxidants Policy of California is being converted into an amendment to the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. This action is a priority for U.S. EPA.
Industrial General Storm Water Permit Reissuance Implementation	State Board staff sent Notice of Non Compliance letters for Regional Boards 1, 2, 3, 5, 6, and 9 to dischargers that apparently failed to enroll under the new Industrial Storm Water General Permit Order 2014-0057-DWQ. In accordance with Section 13383 of the California Water Code, the notice allows dischargers 60 days to comply by either enrolling or demonstrating that enrollment is no longer applicable to their industrial operation. State Board staff are taking calls and emails in response to the notices and following up with individual dischargers as necessary. Enforcement staff will follow-up with dischargers who have not appropriately responded to the Notice of Non Compliance.

<p>Mercury TMDL and Water Quality Objectives (Reservoirs)</p>	<p>Staff from Regional Boards 2 and 5, and the State Board are developing a TMDL and implementation plan to address fish mercury impairments in about 150 reservoirs around the state. Staff is preparing the scientific and technical analysis (source analysis, linkage, targets, allocations, and implementation plan considerations), and regulatory provisions for the objectives, implementation plan, and TMDL staff held focused stakeholder group meetings in 2014. In addition, staff met with a reservoir operators' focus group four times to discuss and develop ideas and criteria for water chemistry and fisheries management pilot studies. Staff is preparing a staff report for peer review.</p>
<p>Mercury Water Quality Objectives & Implementation</p>	<p>In coordination with the Reservoir Mercury TMDL team, staff is preparing mercury water quality objectives and a plan of implementation. Focus group meetings began in June 2014 and continued through October 2014. The purpose of the meetings was to collect feedback from tribes and other stakeholder groups on the project framework. In October 2014, staff met with regional board representatives and conducted additional outreach to tribes. The draft staff report and the draft regulatory language are expected to be sent for peer review in February or March 2016.</p>
<p>Nonpoint Source (NPS) Implementation and Enforcement Policy Amendments</p>	<p>The NPS Implementation and Enforcement Policy (NPS Policy) is being updated to preclude the use of prohibitions of waste discharge for addressing NPS discharges for those land uses (e.g., irrigated lands) already covered under other regulatory mechanisms (e.g., waivers of waste discharge requirements) for which discharger enrollment fees are being assessed. Staff anticipates releasing a draft of the NPS Policy amendments in late February 2016.</p>
<p>Nutrient Numeric Endpoints Tools</p>	<p>Staff is working with technical advisory groups to produce an implementation strategy document. U.S. EPA contracted to have the nutrient numeric endpoint protocol updated and based on lessons learned through case studies. In 2014, staff organized a Stakeholder Advisory Group, a Science Panel, and expanded a Regulatory Advisory Group for the nutrients in wadeable streams project. The Science Panel met at a Southern California Coastal Watershed Research Project meeting in June 2015 to review the Science Plan. Staff plans conduct Focus Group meetings from February to July 2016. An outreach document will be available for public review in February 2016.</p>
<p>Phase I update of the Bay-Delta Plan: San Joaquin River flows and southern Delta salinity</p>	<p>A Revised Draft SED will be recirculated for public comment early 2016. A Draft plan amendment to be brought to the State Board for consideration by summer of 2016.</p>
<p>Phase II Small Municipal Separate Storm Sewer System (MS4) Permit Amendment</p>	<p>State Board staff is working with Regional Board staff to develop the proposed amendment to Attachment G (titled Region-specific Total Maximum Daily Loads Implementation Requirements) of the existing Phase II Small MS4 Permit to include TMDL implementation requirements. State Board staff is preparing a draft permit amendment per Regional Board, stakeholder, and OCC feedback. The draft permit amendment will be available for public comment in April 2016.</p>

<p>Phase II update of the Bay-Delta Plan: Comprehensive Review</p>	<p>State Board staff is in the process of a phased review and update of the 2006 Water Quality Control Plan for the Bay-Delta (2006 Bay-Delta Plan). The second phase of the review focuses on the following issues: (1) Delta outflow objectives, (2) export/inflow objectives, (3) Delta Cross Channel Gate closure objectives, (4) Suisun Marsh objectives; (5) potential new reverse flow objectives for Old and Middle Rivers; (6) potential new floodplain habitat flow objectives; (7) potential changes to the monitoring and special studies program, and (8) other potential changes to the program of implementation. The Scientific Basis Report is expected to be released for public review in early 2016. Staff is also developing a Substitute Environmental Document that will provide an evaluation of the potential environmental impacts of the proposed changes to the Bay-Delta Plan. This document is expected to be released for public review in 2017.</p>
<p>Statewide General NPDES Permit for Aquatic Animal Invasive Species Control</p>	<p>The Statewide General NPDES Permit for Aquatic Animal Invasive Species Control Applications expires in February 2016. Staff is proposing reissuance of the permit by the State Board. Staff posted the draft permit on December 23, 2015 for a 30-day public comment period, and provided public notice that the State Board will consider for adoption on March 1, 2016.</p>
<p>Statewide General NPDES Permit for Spray Applications</p>	<p>The Statewide General NPDES Permit for Spray Applications expires in February 2016. Staff is proposing reissuance of the permit by the State Board. Staff posted the draft permit on December 23, 2015 for a 30-day public comment period, and provided public notice that the State Board will consider for adoption on March 1, 2016.</p>
<p>Statewide General NPDES Permit for Vector Control Applications</p>	<p>The Statewide General NPDES Permit for Vector Control Applications expire in February 2016. Staff is proposing reissuance of the permit by the State Board. Staff posted the draft permit on December 23, 2015 for a 30-day public comment period, and provided public notice that the State Board will consider for adoption on March 1, 2016.</p>
<p>Statewide General Waste Discharge Requirements Order for Wineries</p>	<p>State Board staff has prepared a concept paper for developing a statewide general order for wineries. The next steps are development of the summary of potential permitting requirements and stakeholder outreach (winery industry and environmental groups) to seek input during the early stages of the permit development.</p>
<p>Statewide Storm Water Construction General Permit Reissuance</p>	<p>State Board staff is planning to prepare a draft permit for the reissuance of the existing Construction General Storm Water Permit, also referred to as the CGP. The CGP reissuance will include proposed implementation of total maximum daily loads (TMDLs). State Board staff is allowing TMDL implementation issues to first be resolved through the State Board's consideration of TMDLs implementation in the existing Industrial General Storm Water Permit prior to proceeding with consideration of the CGP reissuance.</p>
<p>Storm Water Industrial General Permit Amendment for TMDL Implementation</p>	<p>State Board staff is developing TMDL implementation language for the Storm Water Industrial General Permit in collaboration with the Regional Boards that have adopted TMDLs that include industrial storm water discharges as a source (Regions 2, 4, 8, and 9). State and Regional Board staff are collaborating to ensure concurrence on all draft TMDL implementation language prior to public release. The Regional Boards will publicly notice the draft TMDL language in early spring 2016.</p>

<p>Strategy to Optimize Resource Management of Storm Water</p>	<p>State Board staff engaged with stakeholders statewide to identify and discuss storm water program issues and potential approaches to address them. The product of this collaboration is a prioritized list of potential Water Board actions that identifies ways to expand the breadth of the storm water program to utilize the Board's regulatory role with management of storm water to better focus on incentive-driven, multiple-benefit approaches that achieve tangible results in terms of both improved water quality and supply. Staff released a draft Storm Water Strategy for public comment and review from November 2-16, 2015. A revised version with response to comments will be presented to the board on January 6, 2016 for consideration.</p>
<p>Toxicity Amendments to the Inland Surface Waters, Enclosed Bays, and Estuaries Plan</p>	<p>State Board staff prepared draft toxicity amendments and a staff report. Staff released the draft documents for public review and received comments in summer 2012. Those comments are currently under review. Considering these comments and the Water Board's mandates, staff is preparing a revised draft staff report and environmental document. Once the draft documents are revised, staff will initiate additional stakeholder outreach and circulate the draft documents for public review. Staff expects to release the draft documents in early 2016.</p>
<p>Underground Storage Tank Electronic Reporting</p>	<p>State Board staff is preparing a formal rulemaking package which updates the California Code of Regulations, title 23, to require electronic reporting of data from the underground storage tank regulated community to the certified unified program agency (CUPA), and from the CUPA to the State. These regulations are consistent with Health and Safety Code section 25404(e)(4) requiring the submission of Unified Program data electronically through the California Environmental Reporting System (CERS). The proposed regulatory changes to title 23 will bring the regulations in-line with statutory requirements. No new requirements are being introduced in this update other than requiring submission of data electronically instead of on paper. Staff will initiate the formal rule making process this fall and present it to the Board for adoption early 2016.</p>
<p>Water Effects Ratios</p>	<p>Staff is preparing a proposed Water Effects Ratio Policy. This project will provide guidance on developing water effect ratios.</p>