

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

MEETING DATE: May 10, 2023

Item: 8

Executive Officer's Report
REVISED

Executive Officer's Report May 4, 2023

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Update on Regional Water Board v. Dhillons Lawsuit (Brian Thompson and Agnes Farres)

Last month the Solano County Superior Court approved a settlement between the Regional Water Board, the San Francisco Bay Conservation and Development Commission (BCDC), and property owners Param and Amandeep Dhillon. The settlement requires the Dhillons to pay a \$1.7 million penalty and restore portions of White Slough's East Lagoon that was destroyed at their Vallejo property.

In late 2019, the Dhillons filled part of the White Slough's East Lagoon on their property with thousands of cubic yards of dirt. White Slough is a protected tidal wetland east of the Napa River near the intersection of State Routes 31 and 29 and designated as a resource conservation area by the City of Vallejo. The East Lagoon is a protected seasonal pond and wetland that provides important habitat for birds and wildlife.

The Board filed the lawsuit to enforce its 2020 Water Code Section 13267 Order requiring the Dhillons to submit technical reports and its 2021 Cleanup and Abatement Order R2-2021-1011 requiring the Dhillons to undertake corrective action and restore the affected waters of the state, including wetlands, on their property.

The settlement also resolves BCDC's lawsuit against the Dhillons to enforce its cease and desist order for violating the McAteer Petris Act and the White Slough Protection and Development Act. The Regional Water Board will get almost a \$1 million of the \$1.7 million civil penalty, with the remainder going to BCDC. The penalty includes the outstanding administrative civil liability of \$61,374 that the Board imposed on the Dillons in November 2020 (through Order R2-2020-0030). Importantly, the terms of the settlement require the Dhillons to assess the damage they caused and restore the lagoon to its former condition. The settlement provides clear deadlines and additional civil penalties for failing to comply.

The Water Board staff will continue its work to ensure the restoration of the affected waters by closely tracking and enforcing the terms of the settlement agreement. The Board is committed to protecting wetlands for future generations.

Community Engagement (Staff)

2023 Lehigh Southwest Cement Plant & Permanente Quarry Public Meeting

On April 26, Groundwater Protection Division Manager Jessica Watkins and Land Disposal Program Manager Keith Roberson participated on a panel of regulatory and government agencies at the *2023 Lehigh Southwest Cement Plant & Permanente Quarry Public Meeting* in Cupertino. Santa Clara County Supervisor Joe Simitian hosts this annual meeting to give the public a chance to get updates directly from the various agencies and ask questions. Water Board staff provided an overview of our regulatory authority and how three different divisions play a role at the site (Groundwater Protection, Watershed Management, and NPDES Wastewater and Enforcement). Specifically, Water Board staff were prompted to talk about how we regulate the backfilling of large holes (such as the quarry pit) and to summarize the violations that occurred in the last year. Other agencies that participated on the panel were the Bay Area Air Quality Management District, City of Cupertino, Santa Clara County Counsel, Santa Clara County Department of Environmental Health, Santa Clara County Planning Office, and Valley Water. U.S. Fish and Wildlife Service was unable to attend in person this year, so they provided an update with a handout.

State Risk Assessors Quarterly Meeting

On April 18, Senior Engineering Geologist Ross Steenson from the Groundwater Protection Division presented a "Total Petroleum Hydrocarbons (TPH) 101" at the State Risk Assessors quarterly meeting. U.S. EPA sponsors the meeting to support the states by providing a forum for learning and discussion about topics related to risk assessment and toxicology. About 170 toxicologists and risk assessors attended from various state agencies. The meeting centered around U.S. EPA's recent update of its "2009 Provisional Peer-Reviewed Toxicity Values (PPRTVs) for Complex Mixtures of Aliphatic and Aromatic Hydrocarbons," which are toxicity values derived for use in the U.S. EPA Superfund program. Toxicity values for chemicals in our own Environmental Screening Levels may be selected from PPRTVs when there is no U.S. EPA Integrated Risk Information System value or peer-reviewed value derived by the California Office of Environmental Health Hazard Assessment. It is likely there will be some changes to our petroleum mixture Environmental Screening Levels during the next update. At the meeting, Ross explained that petroleum products are complex mixtures that consist of hundreds to thousands of chemicals and, after release to the environment, complexity increases because composition changes over space and time due to weathering processes. Ross went on to discuss the two major approaches to petroleum/TPH risk assessment: (1) relying on a few toxicologically well characterized chemicals that make up a tiny fraction of the mixture or (2) using TPH fractions that comprise smaller groups of hydrocarbons based on size and molecular structure (e.g., C5 to C8 aliphatics). At the meeting, U.S. EPA explained why it updated the PPRTVs, including new toxicity data and a change to medium/high aromatic fraction boundary, and Oak Ridge National Laboratory spoke regarding the corresponding changes to U.S. EPA's TPH fraction Regional Screening Levels.

Bay Area Flood Protection Agencies Association Annual Meeting

On March 30, Water Board staff participated in the Bay Area Flood Protection Agencies Association's annual meeting, *The Changing Landscape of Flood Management and Channel Maintenance*. The meeting focused on challenges associated with climate change and flood capacity maintenance, and included field inspections of the lower Guadalupe River and San Tomas Aquino Creek in the South Bay. Watershed Management Division Manager Keith Lichten participated in two panels: Providing Flood Protection for Today and Tomorrow, and Stream Maintenance Planning. He focused on the Board's goals for coordinated watershed planning, examples of progressive work being completed by Bay Area flood agencies, and opportunities to reconsider the roles of various stakeholders. That includes identifying how cities can develop more-resilient drainage infrastructure that helps absorb and slow runoff before it reaches constrained creeks and flood channels. The meeting also considered funding challenges and ways to efficiently authorize needed maintenance, such as the Board's authorization of Stream Maintenance Programs for routine maintenance activities.

San Francisco Chapter of American Society of Civil Engineers

On March 15, Watershed Division Manager Keith Lichten presented Updates from the Regional Water Quality Control Board: Climate Change Adaptation, Trash Control, and Low Impact Development, at the local *American Society of Civil Engineers – Environmental and Water Resources Institute, San Francisco Chapter* lunch meeting. The presentation included discussion of the Board's engagement to help the Bay Area adapt to rising tides, such as our coordinated interagency work on State Highway 37 in the North Bay; work with Caltrans to control trash; and ongoing work to require low impact development water quality controls that slow runoff, infiltrate it into the ground, and use soil and vegetation as a filter.

Workforce Planning (Eileen White)

Leadership Development

On April 24, we held our Spring Inhouse Leadership Training on workforce planning, onboarding tools and systems, and hybrid work. We hold these inhouse leadership trainings twice per year as part of our [Strategic Workplan](#) commitment to advancing workforce planning and development efforts as one of our highest priority organizational activities. Continuous support of leadership development and practice is a priority action for our organization because about 40 percent of our management team has been newly promoted into a leadership role at the Water Board within the last five years.

April In-House Training: Contaminants of Emerging Concern (Alessandra Moyer)

Last month, the NPDES Wastewater and Enforcement Division hosted an all-staff training on contaminants of emerging concern (CECs). CECs are constituents that may or may not be new but are just now starting to be recognized as a threat to the environment and human and animal health. Unlike legacy contaminants (e.g., mercury and PCBs), most CECs are not strictly regulated. We heard from in-house and outside experts about how we identify, investigate, prioritize, and seek to prevent water quality impacts related to CECs, including tire wear particles, per- and polyfluoroalkyl substances (PFAS), and pesticides.

Several staff members provided both technical training as well as information on how the water board addresses various CECs and regulations within our region. In addition to our staff, we had three experts from collaborating agencies in the SF Bay participate in the training. Diana Lin, Ph.D., Senior Scientist at the San Francisco Estuary Institute (SFEI), presented on the Regional Monitoring Program's tiered risk-based framework for prioritizing CECs. Stephanie Hughes, P.E., Senior Lecturer in Environmental Science at Santa Clara University and consultant to the Bay Area Clean Water Agencies, discussed the pathways by which indoor pesticides can enter surface waters and impact aquatic ecosystems, and Anne-Cooper Doherty, Ph.D., Lead of the Chemical Evaluation Unit at the California Department of Toxic Substances Control, described the Department's Safer Consumer Products Program, which identifies potentially hazardous product-chemical combinations and requires manufacturers to engage in an evaluation of alternatives.

This training was part of our ongoing in-house training program. The goal is to provide a structured opportunity for our team to come together and learn, share, and discuss topics relevant to our work. These trainings introduce new staff to the breadth of our mission, and everyone benefits from program updates, technical case studies, and group discussions of important and timely topics, such as environmental justice, evidence-based decision-making, and emerging threats to water quality.

Enforcement Actions (Brian Thompson and James Parrish)

The following tables show the proposed and settled enforcement actions since last month's report. Because the proposed settlements are pending and could come before the Board, *ex parte* communications are not allowed. Please refer to the [Pending Enforcement Liabilities and Penalties](#) webpage for more information on the details of the alleged violations and proposed settlements.

Proposed Settlements

The following has been noticed for a 30-day public comment period. If no significant comments are received by the deadline, the Executive Officer will sign an order implementing this settlement.

Discharger	Violations	Proposed Penalty	Comment Deadline
Meta, formerly known as Facebook	Insufficiently treated discharge and late and incomplete report	\$509,800 ¹	May 29, 2023

¹ Includes \$252,300 for a Supplemental Environmental Project for the Regional Monitoring Program to investigate harmful algal blooms in San Francisco Bay, including collection of priority data, model development and application, and data synthesis.

Settled Actions

On behalf of the Board, the Executive Officer approved the following:

Discharger	Violations	Imposed Penalty	Supplemental Environmental Project
West County Agency	Effluent Limitation Violations	\$69,000	\$40,000 ¹
North San Mateo County Sanitation District	Effluent Limitation Violations	\$210,000	\$112,500 ²

¹ Includes \$40,000 for a Supplemental Environmental Project for the KIDS for the BAY Watershed Rangers Program to provide disadvantaged schools in Richmond with trash cleanup projects that raise awareness of watershed health and social behaviors that contribute to non-point source pollution.

² Includes \$112,500 for a Supplemental Environmental Project for green stormwater infrastructure and pedestrian bulb-out at Santa Barbara Avenue and Vista Grande Avenue in Daly City.

401 Water Quality Certification Applications Received (Abigail Smith)

The table below lists those applications received for Clean Water Act section 401 water quality certification from March 16 through April 12, 2023. A check mark in the right-hand column indicates a project with work that may be in Bay Conservation and Development Commission (BCDC) jurisdiction.

Project Name	City/Location	County	May have BCDC Jurisdiction
Lake Chabot Road Mile Marker 2.42	Castro Valley	Alameda	
City of Livermore Stream Maintenance Program	Livermore	Alameda	
Oliver de Silva Asphalt Facility Emergency Bank Repair	Oakland	Alameda	✓
Clayton Quarry South Overburden Fill	Clayton	Contra Costa	
Diablo Road Trail	Danville	Contra Costa	
1230 Cambridge Drive	Lafayette	Contra Costa	
Chevron Richmond Long Wharf Removal of Structure	Richmond	Contra Costa	✓
Marin County Stream Maintenance Program	Multiple	Marin	
Little Mountain Open Space Preserve Emergency Cleanout of Sediment Basins	Novato	Marin	
McNears Beach Fishing Pier Emergency Repair	San Rafael	Marin	✓
Ayala Cove Boat Dock Replacement-Geotechnical Investigation	Tiburon	Marin	✓
Greenwood Bay HOA Seawall Repair	Tiburon	Marin	✓
Napa Yacht Club Maintenance Dredging	Napa	Napa	✓
Nova North	Napa	Napa	
2530 Las Amigas Road Culvert Repair	Unincorporated	Napa	
2001 Ralston Hillsborough Emergency Creek Bank Stabilization	Hillsborough	San Mateo	

Project Name	City/Location	County	May have BCDC Jurisdiction
Main Access Culvert Replacement	San Bruno	San Mateo	
Oak Cove Culvert Bank Stabilization	San Bruno	San Mateo	
Bermuda Drive Bridge Replacement	San Mateo	San Mateo	✓
Pilarcitos Quarry Emergency Culvert Cleanout	Unincorporated	San Mateo	
Sawyer Camp Trail Culvert 29 Sediment Removal	Unincorporated	San Mateo	
321 Manzanita Way Emergency Bridge Repair	Woodside	San Mateo	
County of Santa Clara Emergency Road and Airports	Multiple	Santa Clara	
Vallejo Sewer Relocation	Vallejo	Solano	