

**BACWA EXECUTIVE BOARD MEETING**  
**Thursday, March 22 2012, 9:00 a.m. – 2:30 p.m.**

**HANDOUTS**

Handout Packet is available on the BACWA website ([www.BACWA.org](http://www.BACWA.org)).

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12	Amendment 1 to SFEI Selenium Sampling and Analysis; No Cost Extension to December 31, 2012; File 12,314.	5
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	a. Executive Director Authorization for Lab Committee Chair to incur travel expenses to attend PITTCO; \$3,015.00.	
	b. Chair Task Authorization, using as-needed contract for RMC, to prepare regional nutrient sampling plan; \$10,000.	
36 – 39	Board Action Request – Authorize Amendment 1 to Day, Carter, Murphy Prop84 support agreement; increase amount to \$50,000; File 12,490.	10
40 – 42	Board Action Request – Authorize Chair to retain services of James M. Kelly for interim Executive Director Services, \$70,000.00; File 12,689.	11
43	Board Action Request – Authorize Chair/Executive Director to contribute to SWAMP Suisun Bay Workplan Effort for pesticide analysis, \$50,000.00; File 12,690.	12
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## Executive Board Meeting Agenda

Thursday, March 22, 2012, 9:00 a.m. – 2:30 p.m.  
EBMUD Operations Center, 2020 Wake Ave., Oakland, CA

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### **ROLL CALL AND INTRODUCTIONS (9:00 a.m. – 9:05 a.m.)**

### **PUBLIC COMMENT (9:05 a.m. – 9:10 a.m.)**

### **PRESENTATIONS (9:10 a.m. – 9:50 a.m.)**

1. *Selenium Effluent Characterization Study*, Don Yee, SFEI
2. ~~*Recycled Water Statutory Re-Write*, Bobbi Larson, WaterReuse~~

### **CONSENT CALENDAR (9:50 a.m. – 9:55 a.m.)**

3. February 23, 2012 BACWA Executive Board Meeting minutes
4. January 2012 Treasurer's Report
5. Amendment 1 to agreement with SFEI for Selenium Sampling and Analysis; no cost extension to December 31, 2012; File 12,314.

### **REPORTS (9:55 a.m. – 11:00 a.m.)**

6. Committee Reports
7. Executive Board Reports
8. Executive Director Report
9. Chair & Executive Director Authorized Actions
  - a. Executive Director Authorization for Lab Committee Chair to incur travel expenses to attend PITTCO; \$3,015.00.
  - b. Chair Task Authorization, using as-needed contract for RMC, to prepare regional nutrient sampling plan; \$10,000.

### **OTHER BUSINESS (11:00 a.m. – 2:30 p.m.)**

10. Authorization: Amend contract with Day, Carter Murphy to increase amount to \$50,000; File No. 12,490
11. Authorization: Authorize Chair to retain the services of James M. Kelly, for interim Executive Director Services, not to exceed \$70,000, File No. 12,689.
12. Authorization: Authorize Chair/Executive Director to contribute \$50,000 for pesticides analysis to the SWAMP Suisun Bay Workplan Effort; File No. 12,690.
13. Discussion: NPDES Permit Petition Dismissal.
14. Discussion: Regulatory Updates:
  - a. Mercury/PCBs Watershed Permit
  - b. Whole Effluent Toxicity
  - c. Triennial Review
  - d. Nutrients (no materials attached)

15. FY 2012 – 2013 Budget Discussion (materials will be distributed at the meeting)

**NEXT REGULAR MEETING**

The next meeting of the Board is tentatively scheduled for April 26, 2012.

**ADJOURNMENT (2:30 p.m.)**



## Executive Board Meeting Minutes

Thursday, February 23, 2012, 9:00 a.m. – 12:00 p.m.

EBMUD Operations Center  
2020 Wake Avenue, Oakland, CA

### ROLL CALL AND INTRODUCTIONS

Executive Board Representatives: Ben Horenstein, Chair (East Bay Municipal Utility District); Laura Pagano (San Francisco Public Utilities Commission); Karl Royer (East Bay Dischargers Authority); Ann Farrell (Central Contra Costa Sanitary District); Kirsten Struve (City of San Jose).

Other Attendees: Margaret Orr (Central Contra Costa Sanitary District); Dave Williams (East Bay Municipal Utility District); Jim Ervin (City of San Jose); Amanda Roa (Delta Diablo Sanitation District); Monica Oakley (RMC Water and Environment); Holly Kennedy (HDR Engineering); Denise Connors (Larry Walker Associates); Ed Gross (Resource Management Associates); Amy Chastain (BACWA); Alexandra Gunnell (BACWA).

### PUBLIC COMMENT

There were no public comments.

### PRESENTATION

Under **agenda item 1**, Ed Gross of Resource Management Associates presented information about Two and Three Dimensional Effluent Modeling.

### CONSENT CALENDAR

*Consent calendar **agenda items 2 - 3** were approved in a motion made by Ben Horenstein and seconded by Kirsten Struve. The motion carried unanimously.*

2. December 19, 2011 BACWA Executive Board Meeting minutes
3. November 2011 and December 2011 Treasurer's Reports

### REPORTS

**Committee Reports** for **agenda item 4** were included in the meeting handout packet and attendees were invited to elaborate on their reports or field questions.

April 1, 2012 is the deadline for BACWA to submit the annual Mercury Watershed Permit Group Report to the San Francisco Regional Water Quality Control Board (RWQCB). Monica Oakley of RMC Water and Environment distributed a Schedule for Remaining Activities. It was noted that formal approval of the report by the BACWA Executive Board (Board) is not necessary, though an opportunity for review and revision requests will be provided to the Board before the report is finalized.

Dave Smith of WaterReuse California has expressed interest in updating the Board on efforts to rewrite California statutes related to water recycling. The Executive Director will invite Dave to present at the March Board meeting.

BACWA Executive Board members were invited to share any items of interest under **agenda item 5, Executive Board Reports**.

- Chair announced that Amy Chastain has notified the BACWA Board that she has accepted another position and will be ending her term as BACWA's Executive Director (ED). The Board expressed their appreciation for her outstanding years of service. A transition plan is being crafted by the ED with the assistance of the Board and further updates will follow in March.
- Dave Williams informed attendees that the Aquatic Science Center and San Francisco Estuary Institute (SFEI) boards will be merging into one governing board, though the two organizations will remain separate. A facilitator will assist with the merger over the next few months.
- Kirsten Struve announced that she will no longer be representing San Jose on the BACWA Board since she has accepted a position with Palo Alto and will be leaving San Jose. The ED recommended a review of BACWA representation on Regional Monitoring Program (RMP) and SFEI boards to determine if changes are necessary.
- EBMUD Whole Effluent Toxicity (WET) test results seem to be caused by CO<sub>2</sub> and anyone interested in doing further research on this topic, should contact them.
- Recent toxicity test results have brought SFPUC back into compliance with their permit requirements.
- Jim Kelly's retirement party will be held at CCCSD on March 27, 2012 from 3 – 5 pm.
- SFPUC has been awarded the Clean Water America Alliance 2012 U.S. Water Prize.

For **agenda item 6**, the **Executive Director's Report**, was included in the meeting handout packet and reviewed by the Executive Director. Meeting attendees were given the opportunity to discuss the contents of the report.

The following **Chair & Executive Director Authorized Actions** were made since the December 15, 2011 BACWA Board Meeting (**Agenda item 7**).

- a. Chair Authorization for agreement with O'Rourke support of BAPPG Asian FOG Outreach campaign; \$6,100; File 12,623.
- b. Executive Director Authorization for agreement with Lilli Keinanen for graphic design support of BAPPG Outreach campaign; \$1,700; File 12,661.
- c. Chair Authorization to fund travel expenses for Biosolids Chair to attend WEF 2012 Biosolids Conference; \$1,996.50.

In light of current budget constraints, the Board had concerns about approving **agenda item 8, funding travel expenses for Biosolids Vice-Chair to attend WEF 2012, Biosolids Conference**. If the Biosolids Committee would like to present additional information about the value of this action, the Board Chair could authorize use of funds for this purpose.

For **agenda item 9**, a request to **dismiss BACWA Permit Petitions and authorize the ED to retain assistance with dismissals**, the Board requested that Melissa Thorne review the petitions and notify them of specific concerns about dismissing them. Once recommendations from Ms. Thorne are reviewed by the Board this item will be brought back for consideration at the March Board meeting.

Under **agenda item 10**, the Board authorized the ED to proceed with **funding Electronic Reporting System Database Maintenance** by entering into an agreement with SFEI to complete Task 1. The ED

will obtain a more detailed scope for this task from SFEI prior to executing the agreement. *The motion was made by Ben Horenstein, seconded by Laura Pagano, and passed unanimously.*

For **agenda item 11, 2012-2013 Budget & Financial Issues** were reviewed in a discussion led by the ED. Agencies should send any policies related to consultant rates to the ED. The ED will draft a letter, for Board review, notifying BACWA members that dues will remain the same for 2012-13, but with the upcoming transition of the Executive Director position and impending costs surrounding nutrient issues, dues may increase in 2013-14. The Board will continue discussions and notify the membership of any planned increases for 2013-14 dues, prior to the end of the 2012 calendar year. The Board suggested including funds for another nutrient workshop in the 2012-13 budget. A detailed breakdown of the budget will be circulated to the Board.

A discussion surrounding **Nutrients, agenda item 12**, included an update on the **February 8, 2012 Regional Water Board hearing** and **short-term next steps**. A summary of key developments was included in the handout packet. The ED and HDR will work with CCCSD to determine when a meeting could be scheduled to update the POTW community about the impact of CCCSD's new permit requirements. As requested, the ED will provide the BACWA Board with a summary of Suisun Bay studies' interim results. The ED will also circulate a scope for facilitation services from CONCUR along with example assessments for Board feedback. Additionally, the Board and other interested persons will have the opportunity to review the draft section 13267 letter regarding effluent characterization and respond to the ED with any concerns by the end of the business day, today. The permits committee noted that the costs of additional testing and sampling for the effluent characterization study required by the draft 13267 letter could have significant financial impact on smaller agencies.

The next regular BACWA Board meeting will be held March 22, 2012 at the EBMUD Treatment Plant Operations Center from 9 a.m. – 12 p.m.

The meeting adjourned at 12:00 p.m.



# Bay Area Clean Water Agencies

A Joint Powers Public Agency

Leading the Way to Protect our Bay

March 7, 2012

MEMO TO: Bay Area Clean Water Agencies Executive Board  
MEMO FROM: Wanda B. Hendrix, Treasury Manager, East Bay Municipal Utility District  
SUBJECT: Seven Month Treasurer's Report

As required by section eight of the Joint Powers Agreement establishing the Bay Area Clean Water Agencies (BACWA) and California Government Code Sections 6500 et seq., attached is the BACWA Treasurer's Report for the period covering **July 1, 2011 through January 31, 2012** (seven months of Fiscal Year 2011-2012). This report covers expenditures, cash receipts, and cash transfers for the following BACWA funds:

- Bay Area Clean Water Agencies (BACWA),
- BACWA Training Fund (Trng Fnd),
- Air Issues and Regulation Group (AIR),
- Bay Area Pollution Prevention Group (BAPPG),
- BACWA Legal Reserve Fund (Legal Rsrv),
- Water Quality Attainment Strategy (WQA CBC),
- BACWA Operating Reserve Fund (BACWAOpRes),
- Regional Water Recycling (RWR),
- BACWA Reserve (Reserve),
- Water/Wastewater Operator Training (WOT),
- Prop84 Bay Area Integrated Regional Water Mgmt (PRP84),
- WQA Emergency Reserve Fund (WQA Emerg),
- WQA Tech Action Fund (TechAction),
- CBC Operating Reserve Fund (CBC OpRsrv), and
- Prop50 Bay Area Integrated Regional Water Mgmt (PRP50)

## Fund Balances as of month end 1/31/12

DESCRIPTION	BEGINNING FUND BALANCE 7/1/11	TOTAL RECEIPTS	TOTAL DISBURSEMENTS	ENDING FUND BALANCE 1/31/12	OUTSTANDING ENCUMBRANCES	UNOBLIGATED FUND BALANCE 1/31/12
BACWA	493,687	438,989	285,915	646,761	209,442	437,319
TRNG FND	251,387	789	5,000	247,176	-	247,176
AIR	26,584	76,849	60,273	43,159	52,552	(9,393)
BAPPG	19,711	79,120	33,000	65,831	21,393	44,438
LEGAL RSRV	301,664	953	-	302,617	-	302,617
WQA CBC	141,691	324,730	224,348	242,074	115,071	127,003
BACWAOPRES	151,785	480	-	152,265	-	152,265
RWR	16,608	52	-	16,660	-	16,660
RESERVE	120,000	-	-	120,000	-	120,000
WOT	93,270	61,815	89,500	65,585	-	65,585
PRP84	-	51,020	21,455	29,565	8,545	21,020
WQA EMERG	402,219	1,270	-	403,489	-	403,489
TECHACTION	251,387	794	-	252,181	-	252,181
CBC OPRSRV	162,899	514	-	163,413	-	163,413
PRP50	549,577	694,538	1,060,208	183,908	55,885	128,023
	2,982,470	1,731,915	1,779,699	2,934,686	462,888	2,471,798



## BACWA Revenue Report for January 2012

DEPARTMENT	REVENUE TYPE	AMENDED BUDGET	CURRENT PERIOD			YEAR TO DATE				UNOBLIGATED
			DIRECT	INVOICED	JVS	DIRECT	INVOICED	JVS	ACTUAL	
Bay Area Clean Water Agencies	BDO Member Contributions	450,000	-	-	-	-	271,500	(1,500)	270,000	180,000
Bay Area Clean Water Agencies	BDO Fund Transfers	25,000	-	-	-	-	-	11,395	11,395	13,605
Bay Area Clean Water Agencies	BDO Interest Income	5,000	-	-	809	-	-	2,344	2,344	2,656
Bay Area Clean Water Agencies	BDO Assoc.&Affiliate Contr	162,000	-	-	-	-	153,750	1,500	155,250	6,750
<b>BACWA TOTAL</b>		<b>642,000</b>	-	-	<b>809</b>	-	<b>425,250</b>	<b>13,739</b>	<b>438,989</b>	<b>203,011</b>
 BACWA Training Fund	BDO Interest Income	-	-	-	227	-	-	789	789	(789)
<b>TRNG FND TOTAL</b>		-	-	-	<b>227</b>	-	-	<b>789</b>	<b>789</b>	<b>(789)</b>
 AIR-Air Issues&Regulation Grp	BDO Member Contributions	84,828	-	-	-	-	71,754	5,000	76,754	8,074
AIR-Air Issues&Regulation Grp	BDO Interest Income	-	-	-	48	-	-	95	95	(95)
<b>AIR TOTAL</b>		<b>84,828</b>	-	-	<b>48</b>	-	<b>71,754</b>	<b>5,095</b>	<b>76,849</b>	<b>7,979</b>
 BAPPG-BayAreaPollutnPreventGrp	BDO Member Contributions	80,505	-	-	-	-	28,259	50,746	79,005	1,500
BAPPG-BayAreaPollutnPreventGrp	BDO Interest Income	3,079	-	-	44	-	-	115	115	2,964
<b>BAPPG TOTAL</b>		<b>83,584</b>	-	-	<b>44</b>	-	<b>28,259</b>	<b>50,861</b>	<b>79,120</b>	<b>4,464</b>
 BACWA Legal Reserve Fnd	BDO Interest Income	-	-	-	277	-	-	953	953	(953)
<b>LEGAL RSRV TOTAL</b>		-	-	-	<b>277</b>	-	-	<b>953</b>	<b>953</b>	<b>(953)</b>
 WQA-WtrQualityAttainmntStratgy	BDO Member Contributions	450,000	-	-	-	-	324,030	-	324,030	125,970
WQA-WtrQualityAttainmntStratgy	BDO Other Receipts	114,751	-	-	-	-	-	-	-	114,751
WQA-WtrQualityAttainmntStratgy	BDO Interest Income	1,600	-	-	289	-	-	700	700	900
<b>WQA CBC TOTAL</b>		<b>566,351</b>	-	-	<b>289</b>	-	<b>324,030</b>	<b>700</b>	<b>324,730</b>	<b>241,621</b>
 BACWA OperatingRsrve Fnd	BDO Interest Income	-	-	-	140	-	-	480	480	(480)
<b>BACWAOPRES TOTAL</b>		-	-	-	<b>140</b>	-	-	<b>480</b>	<b>480</b>	<b>(480)</b>

## BACWA Revenue Report for January 2012

DEPARTMENT	REVENUE TYPE	AMENDED BUDGET	CURRENT PERIOD			YEAR TO DATE				UNOBLIGATED
			DIRECT	INVOICED	JVS	DIRECT	INVOICED	JVS	ACTUAL	
Regional Water Recycling	BDO Interest Income	-	-	-	15	-	-	52	52	(52)
<b>RWR TOTAL</b>		-	-	-	<b>15</b>	-	-	<b>52</b>	<b>52</b>	<b>(52)</b>
WOT - Wtr/Wwtr Operat Training	BDO Member Contributions	150,000	-	-	-	-	68,246	(6,746)	61,500	88,500
WOT - Wtr/Wwtr Operat Training	BDO Interest Income	-	-	-	92	-	-	315	315	(315)
<b>WOT TOTAL</b>		<b>150,000</b>	-	-	<b>92</b>	-	<b>68,246</b>	<b>(6,431)</b>	<b>61,815</b>	<b>88,185</b>
Prop84BayAreaIntegRegnIWtrMgmt	BDO Interest Income	-	-	-	20	-	-	20	20	(20)
Prop84BayAreaIntegRegnIWtrMgmt	Agency Prefunding Admin Exp	-	-	-	-	-	29,500	21,500	51,000	(51,000)
<b>PRP84 TOTAL</b>		-	-	-	<b>20</b>	-	<b>29,500</b>	<b>21,520</b>	<b>51,020</b>	<b>(51,020)</b>
WQA Emergency Resrve Fnd	BDO Interest Income	-	-	-	370	-	-	1,270	1,270	(1,270)
<b>WQA EMERG TOTAL</b>		-	-	-	<b>370</b>	-	-	<b>1,270</b>	<b>1,270</b>	<b>(1,270)</b>
WQA Tech Action Fund	BDO Interest Income	-	-	-	231	-	-	794	794	(794)
<b>TECHACTION TOTAL</b>		-	-	-	<b>231</b>	-	-	<b>794</b>	<b>794</b>	<b>(794)</b>
CBC Operating Resrve Fnd	BDO Interest Income	-	-	-	150	-	-	514	514	(514)
<b>CBC OPRSRV TOTAL</b>		-	-	-	<b>150</b>	-	-	<b>514</b>	<b>514</b>	<b>(514)</b>
Prop50BayAreaIntegRegnIWtrMgmt	BDO Interest Income	-	-	-	386	-	-	1,207	1,207	(1,207)
Prop50BayAreaIntegRegnIWtrMgmt	BDO Administrative Expense	-	-	-	-	-	19,661	-	19,661	(19,661)
Prop50BayAreaIntegRegnIWtrMgmt	Contra Costa Regional Intertie	-	-	-	-	-	-	-	-	-
Prop50BayAreaIntegRegnIWtrMgmt	EBMUD Richmond RWP	-	-	-	-	-	-	-	-	-
Prop50BayAreaIntegRegnIWtrMgmt	Pacifica RWP	-	-	-	-	-	669,960	-	669,960	(669,960)
Prop50BayAreaIntegRegnIWtrMgmt	Montara Groundwater Project	-	-	-	-	-	3,710	-	3,710	(3,710)
Prop50BayAreaIntegRegnIWtrMgmt	Alameda Creek Phase 2 Fish	-	-	-	-	-	-	-	-	-
<b>PRP50 TOTAL</b>		-	-	-	<b>386</b>	-	<b>693,331</b>	<b>1,207</b>	<b>694,538</b>	<b>(694,538)</b>

## BACWA Expense Report for January 2012

DEPARTMENT	EXPENSE TYPE	AMENDED BUDGET	CURRENT PERIOD				YEAR TO DATE				OBLIGATED	UNOBLIGATED
			ENC	PV	DA	JV	ENC	PV	DA	JV		
Bay Area Clean Water Agencies	BC-Collections System	25,000	(3,644)	3,644	-	-	13,283	11,717	-	-	25,000	-
Bay Area Clean Water Agencies	BC-Permit Committee	25,000	(2,361)	2,361	-	-	13,735	11,265	-	-	25,000	-
Bay Area Clean Water Agencies	BC-Water Recycling Committee	18,000	-	-	-	-	4,026	13,744	-	-	17,770	231
Bay Area Clean Water Agencies	BC-Biosolids Committee	5,000	-	-	-	-	-	-	-	-	-	5,000
Bay Area Clean Water Agencies	BC-InfoShare Groups	25,000	(1,540)	1,540	-	-	18,835	6,166	-	-	25,000	-
Bay Area Clean Water Agencies	BC-Laboratory Committee	7,000	-	-	-	-	-	-	-	-	-	7,000
Bay Area Clean Water Agencies	BC-Miscellaneous Committee Sup	61,000	(5,930)	5,930	-	-	27,888	12,962	-	-	40,850	20,150
Bay Area Clean Water Agencies	TS-Media Relations Support	-	-	-	-	-	-	-	-	-	-	-
Bay Area Clean Water Agencies	TS-Consultant Support	-	-	-	-	-	-	-	-	-	-	-
Bay Area Clean Water Agencies	LS-Regulatory Support	4,000	-	(5,162)	-	-	3,254	746	-	-	4,000	-
Bay Area Clean Water Agencies	LS-Executive Board Support	2,000	-	-	-	-	2,000	-	-	-	2,000	-
Bay Area Clean Water Agencies	CAS-CWAA	10,000	-	-	-	-	-	-	1,000	-	1,000	9,000
Bay Area Clean Water Agencies	CAS-CPSC	5,000	-	-	-	-	-	-	5,000	-	5,000	-
Bay Area Clean Water Agencies	CAS-PSI	500	-	-	-	-	-	-	500	-	500	-
Bay Area Clean Water Agencies	CAR-BACWA Annual Report	15,000	-	-	-	-	1,903	13,997	1,052	-	16,952	(1,952)
Bay Area Clean Water Agencies	CAR-BACWA Website Development/	10,750	(703)	703	-	-	7,092	2,408	1,220	-	10,720	30
Bay Area Clean Water Agencies	AS-BACWA Admin Expense	15,000	-	-	24	-	-	-	1,612	-	1,612	13,388
Bay Area Clean Water Agencies	CAR-Other Communications	5,000	-	-	-	-	-	-	-	-	-	5,000
Bay Area Clean Water Agencies	SP-BAPPG Contribution	50,000	-	-	-	-	-	-	-	50,000	50,000	-
Bay Area Clean Water Agencies	GBS-Contingency	88,950	-	-	-	-	-	-	10,000	-	10,000	78,950
Bay Area Clean Water Agencies	GBS- Meeting Support	17,000	-	-	3,444	-	819	181	8,085	-	9,085	7,915
Bay Area Clean Water Agencies	AS-Executive Director	139,000	(23,290)	23,290	-	-	58,237	80,703	-	-	138,940	60
Bay Area Clean Water Agencies	AS-Assistant Executive Directo	70,000	(4,972)	4,972	-	-	36,296	31,904	-	-	68,200	1,800
Bay Area Clean Water Agencies	AS-EBMUD Administrative Servic	40,000	-	-	-	-	22,075	17,925	-	-	40,000	-
Bay Area Clean Water Agencies	AS-Insurance	3,800	-	-	-	-	-	-	3,729	-	3,729	71
<b>BACWA TOTAL</b>		<b>642,000</b>	<b>(42,440)</b>	<b>37,278</b>	<b>3,468</b>	<b>-</b>	<b>209,442</b>	<b>203,717</b>	<b>32,198</b>	<b>50,000</b>	<b>495,357</b>	<b>146,643</b>
BACWA Training Fund	BDO Fund Transfers	-	-	-	-	-	-	-	-	5,000	5,000	(5,000)
<b>TRNG FND TOTAL</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>5,000</b>	<b>5,000</b>	<b>(5,000)</b>
AIR-Air Issues&Regulation Grp	BDO Administrative Expense	4,040	-	-	-	-	-	-	-	4,040	4,040	-
AIR-Air Issues&Regulation Grp	BDO Contract Expenses	80,790	(6,828)	6,828	-	-	52,552	55,733	500	-	108,785	(27,995)
<b>AIR TOTAL</b>		<b>84,830</b>	<b>(6,828)</b>	<b>6,828</b>	<b>-</b>	<b>-</b>	<b>52,552</b>	<b>55,733</b>	<b>500</b>	<b>4,040</b>	<b>112,825</b>	<b>(27,995)</b>
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-Fog	20,800	(7,075)	7,075	-	-	10,000	8,999	81	-	19,080	1,720
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-Mercury	8,500	-	-	-	-	4,924	2,116	-	-	7,040	1,460
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-Pesticides	10,000	-	-	-	-	-	-	10,000	-	10,000	-
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-Copper	9,000	-	-	-	-	4,181	1,728	-	-	5,909	3,091
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-Pharmaceutical	7,499	-	-	-	-	-	-	-	-	-	7,499
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-General P2	1,500	-	-	-	-	80	1,420	-	-	1,500	-
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-Emerging Issues	8,000	-	-	-	-	2,000	-	-	-	2,000	6,000
BAPPG-BayAreaPollutnPreventGrp	BAPPG-CE-Other	11,000	(1,365)	1,365	-	-	209	4,842	-	-	5,050	5,950
BAPPG-BayAreaPollutnPreventGrp	BDO Administrative Expense	3,815	-	-	-	-	-	-	-	3,815	3,815	-
<b>BAPPG TOTAL</b>		<b>80,114</b>	<b>(8,439)</b>	<b>8,439</b>	<b>-</b>	<b>-</b>	<b>21,393</b>	<b>19,105</b>	<b>10,081</b>	<b>3,815</b>	<b>54,394</b>	<b>25,720</b>

## BACWA Expense Report for January 2012

DEPARTMENT	EXPENSE TYPE	AMENDED BUDGET	CURRENT PERIOD				YEAR TO DATE				OBLIGATED	UNOBLIGATED
			ENC	PV	DA	JV	ENC	PV	DA	JV		
WQA-WtrQualityAttainmntStratgy	WQA-CE-Technical Support	344,934	(18,196)	18,196	-	-	88,538	80,131	9,999	-	178,669	166,265
WQA-WtrQualityAttainmntStratgy	WQA-CE-Collaborations & Sponso	90,000	-	-	-	-	-	-	98,750	-	98,750	(8,750)
WQA-WtrQualityAttainmntStratgy	WQA-CE-Commun. & Reporting	47,000	(4,142)	4,142	-	-	22,978	14,022	-	-	37,000	10,000
WQA-WtrQualityAttainmntStratgy	WQA-CE-Other	100,000	-	5,162	-	-	3,554	21,446	-	-	25,000	75,000
<b>WQA CBC TOTAL</b>		<b>581,934</b>	<b>(22,338)</b>	<b>27,500</b>	-	-	<b>115,071</b>	<b>115,599</b>	<b>108,749</b>	-	<b>339,419</b>	<b>242,515</b>
WOT - Wtr/Wwtr Operat Training	BDO Administrative Expense	2,500	-	-	-	-	-	-	-	2,500	2,500	-
WOT - Wtr/Wwtr Operat Training	BDO Contract Expenses	140,000	-	-	-	-	-	-	87,000	-	87,000	53,000
<b>WOT TOTAL</b>		<b>142,500</b>	-	-	-	-	-	-	<b>87,000</b>	<b>2,500</b>	<b>89,500</b>	<b>53,000</b>
Prop84BayAreaIntegRegnlWtrMgmt	BDO Administrative Expense	-	(14,910)	14,910	-	-	8,545	21,455	-	-	30,000	(30,000)
<b>PRP84 TOTAL</b>		-	<b>(14,910)</b>	<b>14,910</b>	-	-	<b>8,545</b>	<b>21,455</b>	-	-	<b>30,000</b>	<b>(30,000)</b>
Prop50BayAreaIntegRegnlWtrMgmt	BDO Fund Transfers	-	-	-	-	-	-	-	-	21,500	21,500	(21,500)
Prop50BayAreaIntegRegnlWtrMgmt	BDO Administrative Expense	-	(45)	45	-	-	1,551	449	366	1,040	3,406	(3,406)
Prop50BayAreaIntegRegnlWtrMgmt	BDO Contract Expenses	-	(2,493)	2,493	-	-	54,334	10,979	-	-	65,312	(65,312)
Prop50BayAreaIntegRegnlWtrMgmt	Contra Costa Regional Intertie	-	-	-	-	-	-	-	50,000	-	50,000	(50,000)
Prop50BayAreaIntegRegnlWtrMgmt	Regional Conservation	-	-	-	-	-	-	-	18,500	-	18,500	(18,500)
Prop50BayAreaIntegRegnlWtrMgmt	EBMUD Richmond RWP	-	-	-	-	-	-	-	212,760	-	212,760	(212,760)
Prop50BayAreaIntegRegnlWtrMgmt	South Bay Advanced Regional RW	-	-	-	-	-	-	-	5,786	-	5,786	(5,786)
Prop50BayAreaIntegRegnlWtrMgmt	Pacifica RWP	-	-	-	-	-	-	-	673,117	-	673,117	(673,117)
Prop50BayAreaIntegRegnlWtrMgmt	Montara Groundwater Project	-	-	-	-	-	-	-	5,241	-	5,241	(5,241)
Prop50BayAreaIntegRegnlWtrMgmt	Alameda Creek Phase 2 Fish	-	-	-	-	-	-	-	60,469	-	60,469	(60,469)
<b>PRP50 TOTAL</b>		-	<b>(2,538)</b>	<b>2,538</b>	-	-	<b>55,885</b>	<b>11,428</b>	<b>1,026,240</b>	<b>22,540</b>	<b>1,116,093</b>	<b>(1,116,093)</b>

**AMENDMENT NO. 1  
TO  
AGREEMENT BETWEEN  
BAY AREA CLEAN WATER AGENCIES  
AND  
SAN FRANCISCO ESTUARY INSTITUTE  
FOR  
Selenium Sampling and Analysis**

This Amendment No. 1 is made this 22<sup>nd</sup> day of March, 2012, in the City of Oakland, County of Alameda, State of California, to that certain agreement dated January 1, 2011, File 12,314 by and between San Francisco Estuary Institute ("SFEI") and Bay Area Clean Water Agencies, (BACWA) (the "Agreement") in consideration of the covenants hereinafter set forth.

The Agreement is hereby amended as follows:

1. BACWA and SFEI agree to extend the original contract termination date to December 31, 2012.
2. Except as herein expressly modified, the Agreement remains in full force and effect.

BAY AREA CLEAN WATER AGENCIES

By \_\_\_\_\_  
Ben Horenstein, Chair Executive Board

Dated \_\_\_\_\_

SAN FRANCISCO ESTUARY INSTITUTE

By \_\_\_\_\_  
Rainer Hoenicke, Executive Director

Dated \_\_\_\_\_

BACWA EIN: 94-3389334

{00916918.2}

## Report to BACWA Board from AIR Committee (March 2012)

<b>Document Control</b>	Prepared by Divya Bhargava (Project Engineer) Reviewed by Randy Schmidt (Committee Chair)
<b>Committee Request for Board Action</b>	None at this time.
<b>Committee Agenda Items</b>	None at this time.

### Recent Committee Actions:

<b>Recent Committee Actions</b>	<ul style="list-style-type: none"> <li>Committee Meeting was held on January 25, 2012 at the CH2M HILL office</li> <li>Meeting highlights are available on the website and regulatory updates are summarized below</li> </ul>
<b>AIR Website</b>	<a href="http://bacwa.org/Committees/AirIssuesRegulations.aspx">http://bacwa.org/Committees/AirIssuesRegulations.aspx</a>

### News and Updates:

<b>CARB GHG Mandatory Reporting Tool Update</b>	<ul style="list-style-type: none"> <li>Reporting Dates: <ul style="list-style-type: none"> <li>April 10, 2012: Reports are due for facilities and suppliers of fuels and carbon dioxide, except when subject to Abbreviated Reporting</li> <li>June 1, 2012: Reports are due for Electric Power Entities, and current reporters subject to Abbreviated Reporting. Facilities that have not previously reported to ARB do not have to file reports until June 1, 2013 (per Title 17, CCR 95103(a)(7))</li> </ul> </li> <li>On February 22, 2012, ARB launched its redesigned mandatory reporting of GHGs webtool: <ul style="list-style-type: none"> <li>Tool has greater alignment with the USEPA reporting requirements, though some slight differences remain because of California's emission reduction requirements</li> <li>The new system is called the California Electronic Greenhouse Gas Reporting Tool, or Cal e-GGRT <a href="https://ssl.arb.ca.gov/Cal-eGGRT/login.do">https://ssl.arb.ca.gov/Cal-eGGRT/login.do</a></li> <li>Those facilities with GHG emissions that exceeded 10K metric tons of CO<sub>2</sub>e in 2011 will need to utilize this tool to report emissions</li> <li>ARB staff working on the next phase of Cal e-GGRT development to allow even more consistency between the two jurisdictions</li> </ul> </li> </ul>
<b>For more information</b>	<a href="https://ssl.arb.ca.gov/Cal-eGGRT/login.do">https://ssl.arb.ca.gov/Cal-eGGRT/login.do</a> <a href="http://www.ccdsupport.com/confluence/display/help/Harmonization+of+EPA's+e-GGRT+and+CARB's+Cal+e-GGRT">http://www.ccdsupport.com/confluence/display/help/Harmonization+of+EPA's+e-GGRT+and+CARB's+Cal+e-GGRT</a>
<b>BAAQMD Regulation 2 (Rules 1,2, 4 and 6) Update</b>	<ul style="list-style-type: none"> <li>In order to incorporate recent U.S. EPA mandated requirements, BAAQMD is proposing amendments to Regulation 2: Permits, Rule 1: General Requirements, Rule 2: New Source Review, Rule 4: Emissions Banking, and Rule 6: Major Facility Review</li> <li>Following are the major proposed amendments: <ul style="list-style-type: none"> <li>Revise the New Source Review Rule (Regulation 2-2) to incorporate new federal PSD requirements, including the National Ambient Air Standard (NAAQS) for NO<sub>2</sub> (1-hour) and PM<sub>2.5</sub> (24-hour and annual) and GHG PSD review requirements</li> <li>Incorporate EPA PM<sub>2.5</sub> requirements for NSR and emission banking</li> <li>Incorporate EPA Title V permitting requirements for Major Sources of</li> </ul> </li> </ul>

## Report to BACWA Board from AIR Committee (March 2012)

	<p>GHGs (Tailoring Rule)</p> <ul style="list-style-type: none"> <li>- Clarifying language has been added to permit exemptions that may have been previously misinterpreted or where clarification is needed.</li> <li>- Removed permit exemption for space heaters.</li> <li>- Reorganize Regulation 2 and Rules 1, 2, 4 and 6 so that it is easier to read; applicable definitions are now located in Rule 1 and standards are now located in the most appropriate rules.</li> <li>- Clarifying language has been added to further detail the procedure of determining a modified source and the calculation of emission increases.</li> <li>- Add public noticing requirements for new facilities and modifications to existing facilities that may result in a significant increase of criteria pollutants.</li> </ul> <ul style="list-style-type: none"> <li>• CH2M HILL attended a public workshop and follow-on technical working group meeting on February 22<sup>nd</sup> and 28<sup>th</sup> respectively</li> <li>• Recommend reviewing the proposed regulation revisions if: <ul style="list-style-type: none"> <li>✓ Your facility a major source</li> <li>✓ You will be applying for a new or modified permit for sources of PM2.5 or NO2 (applies to major sources or smaller)</li> <li>✓ Your facility will meet future Title V or PSD thresholds (assuming EPA includes biogenic GHGs)</li> </ul> </li> <li>• Deadline for submitting comments on draft language of Regulation 2: <u>March 27, 2012</u></li> </ul>
<b>For more information</b>	<a href="http://www.baaqmd.gov/Divisions/Planning-and-Research/Rule-Development/Current-Regulatory-Public-Hearings.aspx">http://www.baaqmd.gov/Divisions/Planning-and-Research/Rule-Development/Current-Regulatory-Public-Hearings.aspx</a>

Next AIR  
Committee  
Meeting:

Wednesday, April 18, 2012  
Venue: TBD

# BAPPG Committee Report to BACWA Board

Meeting Date: March 22, 2012  
Prepared By: Sarah Scheidt, City of Sunnyvale  
BAPPG Committee Chair

## Project Updates

Project	Update	Completion Date
Pharmaceutical	BAPPG placing an advertisement in the 2012 Chinook Book promoting pharmaceutical disposal option awareness. The advertisement will be similar to the pharmaceutical tear off sheets that Palo Alto developed, which is attached for reference. The funding is needed now for securing the spot in the Chinook Book that will be published and distributed in August / September 2012. BAPPG is funding \$1900 out of our 2011/12 Unplanned Issues budget.	August / September 2012
	On behalf of BACWA, BAPPG created and sent a letter to the Alameda County Supervisor in support of the adoption of Alameda County's Safe Drug Disposal Ordinance. The ordinance would require pharmaceutical companies to design and fund a program for the disposal of their unused products. The Supervisor's vote on the ordinance has been delayed until no later than June to allow for more comprehensive discussions with the pharmaceutical industries. The letter is attached for reference.	February 2012
Copper	BAPPG's Copper fact sheet has been updated to incorporate significant new insights and graphics (from "Lead and Copper Corrosion Control in New Construction" by Edwards, et al., ©2011 Water Research Foundation). Final review is occurring and the brochure should be finished by April 2012.	April 2012
General P2	<p>BAPPG Chair attended the Executive Meeting for the SF Bay Protection and Behavior Change Campaign on February 21. BAPPG will continue to represent BACWA as needed for the Campaign at the Executive level and as regular members of the Steering Committee. A Decision Model for the campaign was reviewed and approved. The Creative Brief will be finalized and brought to the Steering Committee meeting on March 19<sup>th</sup> for approval. The Campaign hopes to complete the Brief and develop the brand in time to allow for a link to the "Got Ants?" OWOW campaign. The Creative Brief and Decision Model are attached for reference.</p> <p>The Executive Group decided to apply for an EPA Water Quality Improvement Grant totaling \$250-300K and provide as much match support as possible. It is possible that the Campaign could possibly provide 50% matching funds which would enhance the competitiveness for these EPA grant funds. As another way to enhance the proposal, the scope of the EPA grant request will focus on addressing TMDL-related issues, in particular for pesticides. SFEP is currently taking the lead on the grant. The initial four page Proposal is due on March 16; and the full proposal is due by May 4 if we are selected progress in the application process.</p>	Ongoing

## Next BAPPG Meeting

April 4, 2012, 10am – 12 pm  
Elihu Harris State Building  
1515 Clay Street, 2<sup>nd</sup> Floor, Room 12  
Oakland, CA



**OLD PILLS PILING UP?**



**NO DRUGS DOWN  
THE DRAIN**

**MEDICINES (INCLUDING PET  
MEDICINES) THAT ARE FLUSHED  
OR DISPOSED DOWN DRAINS  
CAN POLLUTE WATERWAYS,  
INCLUDING SAN FRANCISCO BAY.**

**DISPOSE OF MEDICATIONS PROPERLY AT A  
LOCATION NEAR YOU. SEE REVERSE FOR  
MORE INFORMATION OR VISIT OUR WEBSITE.**

**WWW.BAYWISE.ORG**





March 5, 2012

Supervisor Miley in partnership with the  
Senior Alcohol and Other Drug (AOD)  
Prevention Workgroup  
1221 Oak Street, #536  
Oakland, CA 94612

**Also sent via email to [kamika.dunlap@acgov.org](mailto:kamika.dunlap@acgov.org)**

**RE: Support of the Alameda County Safe Drug Disposal Ordinance**

Dear Supervisor Miley and AOD Prevention Workgroup,

The Bay Area Clean Water Agencies (BACWA) is a joint powers agency, formed under California Government Code section 6500 *et seq.*; our 54 member agencies own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that provide sanitary services to over 6.5 million people in the nine-county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals charged with protecting the environment and public health.

BACWA is pleased to support the adoption of Alameda County's Safe Drug Disposal Ordinance. Each year, over \$225 billion in medications are prescribed; and it is expected to grow to \$550 billion by 2017. A 2002 study by the United States Geological Survey (USGS) found that 80% of streams in the U.S. have measurable concentrations of prescription drugs including steroids and hormones. Wastewater treatment plants are designed to remove conventional pollutants such as suspended solids and biodegradable organic material; they are not designed to remove very low concentrations of synthetic pollutants such as pharmaceuticals. Without convenient disposal options, people often store expired or unused drugs in their home where they can end up in the wrong hands or are discarded by dumping them down drains, flushing them down toilets or throwing them in the trash.

For the better part of a decade, member agencies of the BACWA have provided residents with an easy, safe and cost effective way to dispose of their pharmaceutical waste. Currently there are over 100 permanent collection locations for residents to dispose of pharmaceuticals that cost thousands of dollars for the various local governments to manage.

We support the concept of requiring pharmaceutical companies to design and fund a program for the disposal of their unused products. Local governments, such as ours, do not profit from the sale of pharmaceuticals. Therefore, we should not bear the cost of their collection and proper disposal, nor should our ratepayers.

BACWA Support Letter

March 5, 2012

Page 2 of 2

BACWA supports the extended producer responsibility (EPR) concept in this ordinance which aligns with other EPR programs which recently passed the California legislature for carpet and paint. BACWA believes that pharmaceutical companies should share in the responsibility for proper management of the pharmaceuticals they produce.

BACWA thanks you for your leadership on this important issue and strongly supports the Alameda County Safe Drug Disposal ordinance.

Sincerely,

A handwritten signature in black ink that reads "Amy Chastain". The signature is written in a cursive, flowing style.

Amy Chastain  
Executive Director

cc: Kamika Dunlap, [kamika.dunlap@acgov.org](mailto:kamika.dunlap@acgov.org)

## **DRAFT CREATIVE BRIEF**

March 19, 2012 version for Steering Committee Review

### **1. YOUR COMPANY OR PRODUCT**

We are a consortium of cities and districts within the nine-county Bay Area that discharge stormwater and wastewater into the San Francisco Bay-Delta Estuary, and we include coastal entities that discharge into the Pacific Ocean. Funding participants of the consortium include Bay Area Stormwater Management Agencies Association (BASMAA, representing 79 cities and six counties), Bay Area Clean Water Agencies (BACWA, representing 60 wastewater entities), City of San José, San Francisco Public Utilities Commission, and San Francisco Estuary Partnership (SFEP). SFEP is the fiscal agent for the consortium.

As discharge agencies, we are required by the Regional Water Quality Control Board to engage in public outreach with the goal of keeping specific pollutants from entering our waterways. Our outreach seeks to inspire people to adopt behaviors that keep these pollutants from entering indoor plumbing (the sanitary sewer system) and from entering outdoor storm drains (the stormwater sewer system). We do not promote a product or service but rather behavior for the public good, aka “social marketing” or, specifically in the environmental arena, “fostering sustainable behavior.”

Working together at the regional level, the consortium aims to unify the disparate outreach efforts previously undertaken by its members. The mission of the consortium is:

**As stormwater and wastewater agencies charged with protecting Bay Area waterways from specific pollutants, we collaborate on regional behavior change campaigns in order to achieve message effectiveness, cost efficiencies, and permit compliance in reaching and influencing our shared audiences.**

### **2. WEBSITE**

As the regional effort evolves, we intend to create a “clearinghouse website” that reflects our brand, campaigns, and pertinent information. A website that reflects a portion of the pollution prevention messages that we are interested in promoting is [baywise.org](http://baywise.org), which is collectively managed by some of our members.

### **3. PROJECT DESCRIPTION**

We need an iconic brand for pollution prevention, one that will overarch a range of pollutant-specific campaigns that will play out over the coming decades. The mission of the brand is:

**Become a cultural icon that establishes an identity and value for pollution prevention and that helps inculcate behaviors that protect water quality as a way of life for Bay Area residents.**

Parameters for the brand are clarified in Section 7. The consortium plans to use outreach strategies that will help embed the brand in the Bay Area’s collective psyche and culture, and these are outlined in Section 8.

#### 4. TARGET AUDIENCE

More than 7.1 million people inhabit the Bay Area, living within a one-hour drive or less of one of the world's most beautiful bay-delta-coastal watersheds. While the population includes great diversity in age, ethnicity, education, and income, our concern is a commonality for everyone to rally around: The commonality that simple individual daily habits in the Bay Area have a profound collective effect on our water quality, which in turn affects our quality of life:

- Our daily habits can affect the capacity of our waterways to provide healthy habitat to an extraordinary range of fish, birds, and other wildlife.
- Our daily habits can affect the capacity of our waterways to support important local economies, particularly fishing, boating, and tourism.
- Our daily habits can affect recreational use of waterways; for example, pollutants can result in closed beaches.
- Our daily habits can be a driver in utility rates and taxes, creating the need to expend public funds on programs for pollution control, waterway cleanups, and species that are endangered, at least in part, because of pollutants.

**Mass appeal and translation.** A pollution prevention brand that can establish itself with such a large and diverse audience must be one with mass appeal and one that can successfully translate into the main languages spoken in the Bay Area; the consortium has an assessment of the key needed languages underway.

**Audience for brand vs. sub-campaigns.** There is also a distinction between the broad audience associated with the brand and general campaigns and the audiences of the pollutant-specific campaigns that run under the brand. Depending on the topic, specific campaigns may target more finely parsed sub-audiences, such as:

- People who litter or who accidentally litter (e.g., debris falling from a car)
- People who use pesticides and herbicides or who hire landscape professionals
- People who need to dispose of unwanted medicines
- People who allow cooking oil, fats, and grease to go down the sink
- People who allow leaky motor oil to land on streets
- People who wash their cars and allow the water to enter storm drains
- Pet owners who need to be careful with pet waste

It is the job of these specific campaigns, not the brand, to address behaviors and calls to action. The brand must be broad and flexible enough to overarch this range of campaigns.

**Audience perceptions.** Residents may have values and perceptions of the waterways we seek to protect and of pollution prevention issues, which are the focus of our brand and campaigns. The consortium is making progress on collecting surveys conducted by our members that may help us better understand our audience's perceptions. As an example, public polling for a potential regional tax to fund Bay wetland restoration revealed that the term "San Francisco Bay" can mean different things to different people; in this poll, Cupertino residents associated "San Francisco Bay" with travelling up to the city of San Francisco and viewing the Bay from there.

## 5. COMPETITION

We don't face competition in the traditional sense. However, there are other water quality brands at play in the Bay Area, which include:

- Bay Area non-profits, such as Save the Bay, Baykeeper, and The Watershed Project, which each communicate water quality messages.
- Programs shepherded by members of our consortium, including Our Water Our World, Watershed Watch, and Clean Water Program.
- State and water industry initiatives associated with pollution prevention and water quality, such as No Drugs Down the Drain, Save our Water, and Water is Life.

It is important that our brand be distinct from those used by the above-listed entities and those of other public entities. To assist with this, we have compiled a **Compendium of Water Quality Logos & Brands**.

## 6. KEY MESSAGES

As previously discussed, sub-campaigns will carry specific key messages and calls to action. But across all the campaigns we are working to attain greater public understanding of this general concept:

Your daily habits have a profound effect on the quality of water in our Bay, ocean, and Delta, and the health of these waterways in turn affects your quality of life and the shared quality of life in the Bay Area.

Whatever you allow down a drain inside your home or business travels to a wastewater treatment plant that cleans the wastewater before discharging it into the Bay, ocean, or Delta. But treatment cannot remove or neutralize all chemicals, such as medicines or solvents, and so some of these harmful substances may pass through. Similarly, whatever you allow to flow from landscaping or whatever is dropped in a street can enter a storm drain and be carried directly into waterways without treatment (except in San Francisco, where stormwater is treated at wastewater treatment plants). Runoff that flows into storm drains can convey litter, pesticides, automotive oils, pet waste, car wash suds, and everything else that isn't disposed of properly in trash cans or taken to a household hazardous waste drop-off. It's important to prevent pollution at the source – our habits can be the source.

## 7. OBJECTIVES & DESIGN PARAMETERS

Parameters that will shape the development of the brand are listed below:

- **Mass appeal.** The brand should have mass appeal across the Bay Area's broad and diverse residential population. The consortium is developing a set of demographics to better define this broad target audience; ultimately, we seek a brand that crosses categories of age, income, education, etc.

- ***Translate well.*** The brand wording or tagline should translate well into key languages spoken in the Bay area. The consortium is identifying those languages.
- ***Not trendy but distinct.*** We are looking for a brand that is fairly timeless in its appeal so as to sustain our communications for decades, noting that like all brands, some degree of evolution to refresh and maintain relevance is likely over time. As stated in Section 5, there are a number of water quality and environmental programmatic brands in place, with a number of these in operation in the Bay Area. We do not want our brand to be confused with or associated with any particular program.
- ***Juxtapose with consortium agency identities.*** The brand and sub-campaigns are not envisioned as ever being saddled by a slate of the consortium members' logos. However, it is possible that a partner would create some collateral, for example, pet waste mitts to be distributed in local parks within an agency's service area, and these might feature both the regional brand and the agency logo. The brand must therefore be capable of juxtaposing with a member's logo, and there should be clear guidelines in the brand usage guidelines on how to do that.
- ***Awaken environmental and non-environmental individuals alike.*** Research shows that people who think they care about the environment and think they are doing a good job with environmentally-friendly habits are often mistaken and they have ample room to improve their habits. This means we are not necessarily aiming the brand and campaigns at awakening only those who have not thought about the consequences of their actions. Essentially we are targeting all those who have potential to change or improve their habits; it is only the incorrigible that we do not bother including in our target audience.
- ***Consider implications of being a "Fifth or Sixth Wave" brand.*** In the book "Why We Buy, Why We Brand," author Debbie Millman explores the history of branding, noting how certain marketplace and societal dynamics have shaped distinct periods of approaches to branding. She posits that in the early 2000s, we are in the "fifth wave" of branding — where the most successful brands are those that foster relationships and community connection. She predicts the sixth wave of successful brands to be ones "that offer hope."
- ***Tagline.*** The consortium is interested in a brand with a tagline; the brand may be a logo and tagline, or just a tagline that is artistically rendered. The brand employed in Puget Sound — Puget Sound Starts Here—is an example of the latter.

## 8. PLANNED MEDIA OUTLETS

The consortium plans to use outreach strategies and media outlets that will help embed the brand in the Bay Area's collective psyche and culture; these include:

- ***Grass root channels*** - With the participation of all Bay Area cities, counties, sanitation districts, stormwater programs, and a number of non-profit environmental partners, the consortium will use significant grassroots channels to help saturate the public sphere with its brand and campaigns in a sustained manner. These channels include agency newsletters, websites, and Facebook pages, public events, collateral at libraries, city halls, community centers, and other public facilities, etc.
- ***Media buys, social media, and news media*** - The consortium may also undertake region-wide media buys, depending on funding. Social media and news media tactics are also intended to support the campaigns.
- ***Promotional items*** - The brand and campaign messages may be employed on a range of collateral and promotional items (e.g., pet waste mitts, car wash discount coupons, grease scrapers, used motor oil funnels, t-shirts, hats, water bottles, book marks, etc.)

## 9. PREFERENCES & EXAMPLES

Examples of water quality or environmental campaigns that are working under long-term brands include:

- Puget Sound Starts Here – [www.pugetsoundstartshere.org](http://www.pugetsoundstartshere.org)
- Think Blue <http://www.sandiego.gov/thinkblue/>
- Keep Tahoe Blue - <http://keptahoeblue.org/>
- Don't Mess with Texas
- Be the Street (a new brand designed by SGA which is about to launch in association with a BASMAA Youth Litter campaign).

As mentioned in Section 5, the consortium has compiled a **Compendium of Water Quality Logos & Brands**, but has not vetted and secured consensus on which brands we might consider emulating; the consortium will discuss the value of going through such an exercise.



# Collection Systems Committee

## Report to BACWA Board

March 15, 2012

From: Andy Morrison, Committee Chair

Prepared By: Andy Eggleston

### Committee Request for Board Action:

None

### Highlights of New Items Discussed and Action Items

#### **SSO Volume Estimation Training**

Union Sanitary District (USD) Staff provided a demonstration at the March 1 committee meeting of their unique sanitary sewer overflow (SSO) flow rate and volume estimation training facilities at their Corporation Yard in Union City. The facilities were designed to create an opportunity to observe mock SSOs from each of the different covers that exist within the USD service area at controlled flow rates.

Volume estimates must be determined for each SSO to meet Regional and State Water Board reporting requirements. Several techniques have been established for use in estimating the volume of an SSO (although none are exact, nor can any one method be used in all circumstances). Regardless of which techniques are used, Committee members noted the importance of documenting both the Agency's selected methods and the applicable training procedures.

One commonly-used SSO volume estimation method is based on an illustrative tool developed by the City of San Diego Metropolitan Wastewater District that includes labeled pictures of SSOs at different flow rates, or a more recent tool developed by the California Water Environment Association Southern Section Collection Systems Committee (CWEA SSCSC). USD staff recognized that, while the design of this tool is good, similar volumes presented very differently based on the characteristics of the manhole covers they originated from (e.g., size, number of pick holes, weight, if any of the holes were clogged, if the cover was stuck, etc). USD has used their on-site training facilities to create their own field reference tools specific to their service area, to train staff of the use on these (and other) volume estimation tools, and to simulate various SSO conditions using metered flows. The training facilities were designed and constructed in-house, at a cost of approximately \$26,000 (including and mostly consisting of staff labor time).

USD staff have offered the use of their facilities to other agencies, but stress the importance of using agency-specific manhole covers for those training events. USD's covers may be temporarily replaced for this purpose.

#### **Pre-Inspection Questionnaire**

State Water Board staff are continuing to send their 18-page pre-inspection questionnaire to Bay Area collection systems agencies. It appears that agencies are being selected based on an analysis of CIWQS data, although the exact criteria and weighting factors have not been provided. The pre-inspection questionnaire is available on the BACWA website at <http://bacwa.org/committees/collection-systems/documents>.

#### **SSS WDR Revisions Update**

SSO Annual Reports and Annual SSMP Audits were due to the Regional Water Board on March 15. Several committee members have responded to Jim Fisher's presentation at the December 2011 Collection Systems Committee meeting by including more narrative with their SSMP Audit than in previous years.

#### **Upcoming Conferences and Meetings**

CWEA will be holding two upcoming webinars on SSO volume estimation techniques: the first, on May 8, is designed for legally responsible officials (LROs), and the second, on May 15, is for data submitters and first responders. These webinars are expected to be followed by a hands-on training in June. More information will be provided on these events as it become available.

#### **Next BACWA Collection Systems Committee Meeting**

Our next meeting will be held on Thursday, April 12, 2012, from 1:30 – 3:00 PM at the Boy Scouts Facility in San Leandro.

**Committee Request for Board Action: None.**

**Adoption of Permits/Permit Amendments –**

Apr – Rodeo Sanitation District is on schedule.  
 Jun – Central Marin Sanitation Agency

**Regional Water Board Staff News:** Lila Tang, Bill Johnson, and Tong Yin attended this joint meeting of Permit and Lab committees.

- Lila reported no new significant change to her group's staffing: As previously reported – Lila's group lost Heather Ottaway, Gina Kathuria, Johnson Lam, and at least a portion of Tong Yin over the past several months. The group gained Dylan Garner and Marcia Liao and is now staffed as planned.
- Water Board staff is shifting their email accounts to Microsoft Office. The change could cause temporary email service interruption from now until 1 April. Lila advised that urgent matters with Water Board staff should to be communicated by phone if email response is not received.
- Lila also advised that new staff member, Dylan Garner is reviewing P2 Annual Report submissions regarding PCBs P2 reporting to determine Water Board guidance for next year. Jim Ervin suggested that Water Board staff also consider Annual Reporting requirements for PCBs under POTW, Stormwater, and Pretreatment programs in order to avoid double or triple reporting of PCBs control efforts.

**Pretreatment 13267 letter released Feb:** Pretreatment annual and semi-annual reports now must be transmitted as pdf files electronically via the CIQWS/eSMR system. This does not appear to be causing any problems among reporting agencies.

- Lila advised that this 13267 letter was issued in response to a short-deadline request from State Board.
- Some agencies may need to register their Pretreatment manager as an approved electronic signature authority with the State Board eSMR office.
- NPDES Permit Attachment H still lists a requirement that Pretreatment Annual and Semi-Annual reports be submitted to Water Board in hard copy. Lila acknowledged that the 13267 letter supersedes Attachment H.

**Nutrients 13267 letter released 2 March:** The nutrient 13267 letter requires that listed POTWs provide a Sampling and Analysis Plan (SAP) by 30 April and begin monitoring a suite of nutrient and nutrient-related parameters by 1 July. The 13267 letter encouraged POTWs to "collectively submit one sampling plan."

- Monica Oakley prepared a schedule to coordinate BACWA preparation of a joint SAP and data reporting template. Workgroup meetings or correspondence by email will begin the week of 19 March.
- BACWA will propose that POTWs begin nutrient monitoring during the month of July as opposed to "by 1 July" because the Fiscal Year and quarterly reporting schedule for everyone corresponds to the month of July.
- POTWs will be provided with an electronic form to submit to BACWA listing individual contract labs and deviations from 13267 requirements that need to be incorporated into the collective SAP.
- The 13267 letter also contains requirements to characterize and report historical data by 1 June. Some members expressed concern that some historical data may not be compatible with current requirements: the effort to characterize or recover data back to 1975 could be a waste of time. It was generally agreed that individual discharges should wait to see the consolidated data reporting template (excel spreadsheet) before collecting historical data. The standardized data reporting format will be key.
- There was also a suggestion that quarterly nutrient reporting required by the 13267 letter could be compiled by BACWA for submission to Water Board.

**Related Nutrient meetings:**

- 22 March: CALTEST is providing a free workshop on nutrient sampling and analysis techniques.
- 29 March: NNE meeting at Water Board.

**Triennial Review – Public Workshop on 27 March (comments due 17 April):** The Triennial Review workshop will be held at 1515 Clay Street, Oakland on 27 March, 1:00 to 3:00. The workshop will consider prioritization for a number of Basin Plan water quality issues. Water Quality objectives for Toxicity, Dissolved Oxygen, and Nutrients are just a few of the parameters to be discussed.

**Toxicity Policy / Toxicity Workgroup:** The second Toxicity Workgroup meeting will be at SF PUC on 15 March. Toxicity testing using Echinoderms will be demonstrated. There will also be discussion about the latest State-wide toxicity policy implementation proposal presented to TriTAC and the possibility for including toxicity implementation standards, such as consideration of dilution, in the Triennial Review process.

**Announcement – Constituents of Emerging Concern:** Workshop on draft report at SFEI on the morning of 23 March. The workshop will also be available via webinar. There is some concern that the State Board panel working on CECs could eventually decide to recommend monitoring of CECs or surrogate parameters. TriTAC is planning comment on the CEC studies and recommendations.

**Mercury BACWA Group Reporting:** BACWA Consolidated Report due 1 April. All POTW agencies have reported in.

Monica Oakley provided a summary of the mercury data from 2008-2011. POTWS are well below the 17 kg/year Group Mass Limit for Mercury. The POTW group mass for 2011 was 2.7 kg (0.2% of the total annual load to the Bay)

**Next BACWA Permits Committee Meeting:** Tuesday, April 10th, 2012, at EBMUD Plant Library.

# Recycled Water Committee

## Report to BACWA Board

March 16, 2012

Prepared By: Cheryl Muñoz  
Committee Chair

### Committee Requests for Board Action:

None.

### Business Discussed and Action Items:

Business	Discussion
<b>BAIRWMP and Prop 84 Updates</b>	<u>BAIRWMP Updates</u> <ul style="list-style-type: none"> <li>Planning Grant <ul style="list-style-type: none"> <li>Comments on the draft project template that will be used to update and add projects was discussed, as well as the current list of stakeholders. The draft template will be distributed to the BACWA agencies for review in the next few weeks.</li> <li>Recognizing that preparation of the recycled water project BAIRWMP Update information will be labor intensive, based on experience with the preparation of the 2006 BAIRWMP, the Committee recommended that the chair obtain an estimate for consultant assistance.</li> </ul> </li> <li>Prop. 84 Implementation Grant <ul style="list-style-type: none"> <li>No update from DWR at this point on agreement language. Finalizing the DWR agreement is dependent on DWR's feedback to questions and comments from BACWA and the other "grantee" agencies and organizations.</li> <li>Once the DWR agreement is signed, the Local Project Sponsor agreements will follow.</li> </ul> </li> </ul>
<b>Legislative/Regulatory Updates</b>	<u>WaterReuse Association CA Section's Proposed Recycled Water Statutory Re-write (Water Recycling Act of 2012)</u> <ul style="list-style-type: none"> <li>A comment letter from the Committee was drafted and submitted to the Managing Director of the CA Section of WaterReuse indicating BACWA agencies' concerns with the language as written.</li> <li>AB 2398, authored by ASMB Hueso and Co-authored by ASMB Huffman, was brought forward as a skeleton bill by the WaterReuse Board. WaterReuse provided the Committee and updated "internal draft" of the bill that reflects revisions received from their membership.</li> <li>Committee members were concerned that BACWA comments were not incorporated into the latest draft or the skeleton bill. Clarification was requested from WaterReuse, and the bill is anticipated to be amended in late March to bring forward the full scope of the proposed legislation.</li> </ul>
<b>FY 12/13 Committee Budget</b>	<ul style="list-style-type: none"> <li>The main activity for the Committee in FY 12-13 will be preparation of the recycled water section of the BAIRWMP Update. A proposal of \$50,000 was received from Whitley-Burchett &amp; Associates to provide coordination services to the Committee for the Update.</li> </ul>
<b>Next RW Committee Meeting</b>	<p>Wednesday, 4/7/12 from 10:00 am to 12:00 pm EBMUD Headquarters, 2nd Floor Small Conference Room.</p>



## Director's Report to the Board

February 18, 2012 – March 16, 2012

Prepared for the March 22, 2012 Executive Board Meeting

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### A. ORGANIZATIONAL DEVELOPMENTS

#### 1. *Financial.*

The Executive Director (ED) and Assistant Executive Director (AED) prepared contracts, processed invoices, reviewed and approved the January Treasurer's Report, and prepared materials for the March Budget workshop.

#### 2. *Communications.*

The ED prepared and distributed the February e-newsletter. 35% of the 351 recipients viewed the message. The most clicked through links were the order requiring electronic pretreatment reporting and the nutrients section 13267 order.

#### 3. *Other.*

During this period, the ED and AED prepared for the February and March Executive Board meetings. The ED met with BACWA Board representatives to discuss the ED transition.

### B. REGULATORY AFFAIRS

#### 1. *Mercury/PCBs Watershed Permit.*

The ED participated in several meetings related to the risk reduction requirements of the Watershed Permit, including one with the Central Valley Regional Water Board who has assumed responsibility for developing a program in their region, and wishes to build upon the Bay Area's work. As is described in the materials for the March 22 Executive Board meeting, the expectations with regards to the next permit's risk reduction requirements are unclear. There is, however, general interest in ensuring that some level of work continue, though the details of funding need to be worked out.

In the interim, the California Department of Public Health, with assistance from the San Francisco Estuary Institute (SFEI) has submitted a concept proposal to EPA for their Water Quality Improvement Fund in hopes of being able to continue the work past 2012. The process consists of two-steps, with the first being a concept proposals. Selected proposals proponents will be invited to submit more detailed proposals in April. The proposal includes: (a) maintaining the existing Bay Area stakeholder advisory group; (b) conducting fish tissue monitoring; (c) supporting community-based outreach, education, and exposure reduction projects; and (d) developing educational materials, evaluate sign posting, and implement training activities.

#### 2. *Nutrients.*

On March 2, the Regional Water Board issued an order to all POTWs using its authority under section 13267 of the Water Code. The order requires POTWs to undertake two years of nutrients sampling and reporting. The order also requires the following (deadlines are in parentheses):

- (a) Sampling Analysis Plan (April 30, 2012);
- (b) Commencement of monitoring (July 1, 2012);
- (c) Reporting template (to be used by October 1, 2012);
- (d) Description of the type and quantity of nutrient data available from 1975 through 2012 (June 1, 2012);
- (e) All electronic nutrient data collected between 2004 and 2009 (September 1, 2012);
- (f) All other electronic nutrient data collected between 1877 and 2012 (December 1, 2012);
- (g) Quarterly reports using template (October 1, 2012 and quarterly thereafter);
- (h) Interim summary report (July 1, 2013); and
- (i) Final summary report (July 1, 2014).

The Chair has authorized RMC to develop a group sampling plan, a preference for which is expressed in the order. Potential next steps for BACWA are to consider the agency's potential role in developing the reporting template, compiling data, and submitting reports. The permits and laboratory committees held a joint meeting in March – attended by the Regional Water Board – to discuss this order.

### **3. *Suisun Bay Ammonium.***

The Suisun Bay workgroup met at the end of February to discuss this year's sampling events and agree upon stations, monitoring parameters, etc. See the materials prepared for the March executive Board meeting for more details.

The Water Agencies who commented on Vallejo's draft NPDES permit have petitioned it to the State Water Board, requesting that it be vacated based on the permit's failure to adequately address ammonium issues.

### **4. *Whole Effluent Toxicity.***

See the materials prepared for the March Executive Board meeting for details.

### **5. *NPDES Permit Petitions.***

See the materials prepared for February & March Executive Board meetings for details

### **6. *Constituents of Emerging Concern.***

A State Water Board Science Advisory Panel has released a draft report titled *Monitoring Strategies for Chemicals of Emerging Concern (CECs) in California's Aquatic Ecosystems*. The report describes four products delivered by the panel in the report:

- Product #1: A conceptual, risk-based approach to assess and identify CECs for monitoring in California receiving waters;

- Product #2: Application of the risk-based screening framework to identify a list of CECs for initial monitoring;
- Product #3: An adaptive, phased monitoring approach with interpretive guidelines that direct and update actions commensurate with potential risk; and
- Product #4: Research needs to develop bioanalytical screening methods, link molecular responses with higher order effects, and fill key data gaps.

A meeting to present the report, and to hear public feedback is schedule to be held at SFEI on March 23.

## **C. COLLABORATIONS**

### **1. *IRWMP/Prop 84/Prop 50.***

BACWA has resolved most issues related to the LPS agreements, but is still waiting on language from DWR regarding changes their attorney agreed to make at our January 2012 meeting.

The IRWM Plan update team continued to meet to discuss, among other things, the process for soliciting input on plan elements and changes. It was agreed that the functional area representatives would assume responsibility for soliciting their members' input and transmitting it to the Plan update consultant. The ED has coordinated with the Recycled Water Committee to investigate consultant support for synthesizing and relaying POTWs' feedback on the draft plan and for gathering information on projects to be included in the plan.

### **2. *Regional Outreach Campaign.***

The ED attended a meeting of the Executive Committee of the Regional Outreach Campaign. The EC is comprised of representatives of the various agencies who have contributed financial or substantial in-kind services to the Campaign. The Committee discussed, and supported, a proposal to apply to EPA's Water Quality Improvement Fund to support this effort.

### **3. *Other.***

The ED also attended meetings of the ReNUWIt Technical Advisory Board, the San Francisco Estuary Institute/Aquatic Science Center, and the San Francisco Estuary Partnership Implementation Committee; and met with various Regional Water Board staff.

## **D. MEETINGS**

CEC Panel Public Meeting: March 23 (SFEI)

Triennial Review Meeting: March 27 (Regional Water Board Building)

NNE Stakeholder Advisory Group Meeting: March 29 (Regional Water Board Building)

BAPPG Meeting: April 4

Water Recycling Committee Meeting: April 4

Permits Committee Meeting: April 10

Laboratory Committee Meeting: April 11

Collection Systems Committee Meeting: April 12  
AIR Committee Meeting: April 18  
BAMI Meeting: April 25  
Executive Board Meeting: April 26





## AUTHORIZATION TO INCUR TRAVEL EXPENSES

### SECTION A – TRAVELER INFORMATION

Name Kenneth Lee  
Organization: San Francisco Public Utilities Commission  
BACWA Affiliation: Laboratory Committee  
Telephone No.: 415-920-4965  
Email Address: klee@sfgwater.org

### SECTION B – REASON FOR TRAVEL

Attend the 2012 Pittsburg Conference on Analytical Chemistry and Applied Spectroscopy (PITTCON), the most comprehensive annual meeting on laboratory science in the world. The conference offers educational and technical programs that will enable the attendee to provide technical support to the Lab Committee on issues related to water quality monitoring and analysis.

### SECTION C – TRAVEL DESCRIPTION

Number of Days: 5 days (March 11th – March 15th, 2012)  
Location: Orlando, FL  
Travel Method(s): Air and local transportation

### SECTION D – BUDGET

	<u>Amount</u>	<u>Description</u>
<u>Travel:</u>	\$750	Airline Ticket
<u>Meals:</u>	\$280	\$56 per diem
<u>Lodging</u>	\$1000	\$174/ night + tax for five nights
<u>Registration</u>	\$885	Conference/Short Courses
<u>Other</u>	\$100	Airport shuttle
<b><u>TOTAL</u></b>	<b>\$3015.00 (estimated)</b>	

**Submitted By:** Kenneth Lee, Lab Committee Chair, 2/16/2012

**Approved By:** Amy Chastain, BACWA Executive Director 3/6/2012



## BACWA CHAIR AUTHORIZATION REQUEST

FILE NO.: 12,431

DATE: March 12, 2012

**TITLE: Chair Authorization to use RMC As-Needed Contract to develop Nutrient Sampling, Analysis and Reporting Protocols.**

### RECOMMENDED ACTION

Chair authorization for a task authorization with RMC to prepare a nutrient sampling and analysis plan, for an amount not to exceed \$10,000.

### SUMMARY

On March 2, 2012, the Regional Water Board issued a section 13267 order requiring POTWs to sample their effluent and influent for a number of nutrient-related parameters. The order requires submittal of a sampling and analysis plan by April 30, 2012 and expresses a preference for submittal of one plan by all dischargers. This authorization will enable RMC – the firm that currently manages BACWA’s annual mass mercury reporting – to develop the sampling and analysis plan for the region by the specified deadline.

Per the Executive Director’s request, RMC has prepared a scope, schedule and budget to provide support for three different aspects of the 13267 order: (1) sampling and analysis plan, (2) reporting template, and (3) routine reporting. This full scope is attached, however, this authorization is only for the first element: development of the sampling and analysis plan.

### FISCAL IMPACT

Approximately \$34,000 is currently available in the miscellaneous technical and regulatory support line of the BACWA budget.

### ALTERNATIVES

No other alternatives were considered as the BACWA contracting policies authorize a sole source selection process for contracts under \$50,000.

### ATTACHMENTS

1. Scope, schedule and estimated budget.

Approved By:

/s/ Ben Horenstein

Date:

## **Development of Group Nutrients Sampling Plan and Data Reporting Template** **DRAFT**

March 12, 2012

On March 2, 2012 the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) sent a letter to municipal wastewater agencies discharging to San Francisco Bay, requiring the monitoring and reporting of nutrient (nitrogen and phosphorus) data. The Regional Water Board is authorized to require this type of data collection under Section 13267 of the California Water Code. In this letter the Regional Water Board also encouraged agencies, through an entity such as BACWA, to submit one group sampling plan, and to develop one data reporting template to facilitate the data compilation effort after data are submitted.

RMC will provide assistance to BACWA in developing a group nutrients sampling plan and a data reporting template. It is expected that all historical nutrients data requested in the 13267 letter (for data collected prior to July 1, 2012) will be submitted by wastewater agencies on an individual basis.

### **Steps for Group Nutrients Sampling Plan:**

- Create draft Group Sampling Plan form(s) for BACWA agencies to provide information (different but complimentary forms may be developed for the three different categories of agencies)
- Transmit final Group Sampling Plan form to BACWA agencies for information collection, and provide deadline to respond
- Compile information into one draft master Group Sampling Plan
- Develop narrative to describe deviations recommended from 13267 letter and other considerations for the Group Sampling Plan
- Coordinate review of draft Group Sampling Plan
- Finalize Group Sampling Plan for BACWA submittal to Regional Water Board

### **Steps for Data Reporting Template:**

- Develop workgroup – representatives would be one person from a small agency, one person from a medium agency, one person from a large agency, one person from SFEI (David Senn), and one person from the Regional Water Board
- Develop Data Reporting Template concept, including considerations for ease of agency use, efficiency of compiling data from all agencies into one system of data, and other considerations
- Hold one workgroup meeting to present and discuss proposed concept for the template, and receive input from workgroup
- Create draft Data Reporting Template and circulate to workgroup for review
- Meet with workgroup to discuss comments on draft Data Reporting Template

- Finalize Data Reporting Template
- Distribute final Data Reporting Template to BACWA agencies for their use

**Group Reporting (optional):**

The reports being required by the Regional Water Board over the next two years as indicated in the 13267 letter include eight quarterly reports, one interim report, and one final report. If at a later date BACWA desires to compile BACWA agency data into a group report, RMC can assist with this data compilation effort. If there is interest in this activity, the data compilation could be conducted for all 10 reports, or just the interim and final reports, or just the final report.

Although the Data Reporting Template development process is designed to anticipate and resolve any potential issues, this level of data collection is a little more involved than the mercury data reporting. If BACWA decides to conduct a data compilation for more than one report, there would be an opportunity to fully test the Data Reporting Template and possibly make adjustments after the first report is compiled.

The estimated cost for compiling the data, for planning purposes, is approximately \$20,000 for each report. In general it is anticipated that the first quarterly report would have a higher estimated cost than subsequent quarterly reports, and that the interim and final reports would have a higher cost than the quarterly reports. In any event the overall cost for reporting can be refined at a later date after the Group Sampling Plan and Data Reporting Templates are complete, and after a decision is made on how many reports (if any) are desired.



## BACWA EXECUTIVE BOARD ACTION REQUEST

AGENDA NO.: 10

FILE NO.: 12,490

MEETING DATE: March 22, 2012

### TITLE: Proposition 84 Legal Support

☒ MOTION

☐ RESOLUTION

☐ DISCUSSION

### ACTION UNDER CONSIDERATION

Amend an existing agreement with Day, Carter, Murphy to enable continued legal support in negotiating Proposition 84 agreements and approvals with the California Department of Water Resources (DWR) and Local Projects Sponsors (LPS), for the period April 1, 2012 through June 30, 2013.

### SUMMARY

DCM was BACWA's legal counsel in the negotiations with DWR and LPSs regarding the Proposition 50 grant currently administered by BACWA. Based on this experience and the recognition that similar legal issues would arise in the Proposition 84 negotiations, BACWA retained DCM to assist with the Proposition 84 negotiations.

In 2011, BACWA entered into a contract with DCM for a total of \$30,000 for Proposition 84 assistance. The total budget for Proposition 84 legal services is expected to be approximately \$50,000, but the initial contract value of \$30,000 was limited by the amount of funding provided by the LPSs at the time of the contract. This limitation is because one of the conditions imposed by BACWA in agreeing to be the Proposition 50 and 84 grant administrator is that the agency not incur costs for which funding has not been provided.

When the original contract was executed, only \$30,000 had been provided to BACWA by the LPSs. At this time, sufficient funds have been collected from the Local Project Sponsors to cover the contract increase, and this amount is necessary to complete the work underway to resolve liability, indemnification and administrative issues outstanding between BACWA, DWR and the LPSs.

A variance from BACWA's contracting policy – which limits the amount that a contract can be amended to 25% of the initial contract value – is being requested due to the unique nature of BACWA's role as the Proposition 84 grantee where participants are required to fund 100% of administrative and legal costs with no costs to BACWA.

### FISCAL IMPACT

Funding for this contract is available in the Proposition 84 account, which is funded by the grant participants. After the Prop 84 grant agreement with DWR is executed and invoicing begins, these legal costs are expected to be eligible for reimbursement.

## **ALTERNATIVES**

BACWA procurement policies do not require consideration of alternatives because the contract value does not exceed \$50,000.

## **ATTACHMENT**

1. Contract amendment 1

**AMENDMENT NO. 1  
TO  
AGREEMENT BETWEEN  
BAY AREA CLEAN WATER AGENCIES  
AND  
DAY CARTER, MURPHY  
FOR  
Prop 84 Legal Support**

This Amendment No. 1 is made this 22<sup>nd</sup> day of March, 2012, in the City of Oakland, County of Alameda, State of California, to that certain agreement dated August 1, 2012, File 12,490 by and between Day, Carter, Murphy ("DCM") and Bay Area Clean Water Agencies, (BACWA) (the "Agreement") in consideration of the covenants hereinafter set forth.

The Agreement is hereby amended as follows:

1. BACWA and DCM agree to increase the original contract amount of \$30,000 by \$20,000, to be funded by the Prop 84 Admin Expense budget line item, fiscal years 2011-13 for a new not to exceed agreement total of \$50,000.
2. BACWA and DCM agree to the hourly rates and reimbursable expenses for the period of April 1, 2012 through June 30, 2013 as specified in Exhibit B (rev 4-1-2012).
3. Except as herein expressly modified, the Agreement remains in full force and effect.

BAY AREA CLEAN WATER AGENCIES

By \_\_\_\_\_  
Ben Horenstein, Chair Executive Board

Dated \_\_\_\_\_

DAY, CARTER, MURPHY

By \_\_\_\_\_  
James Day, Partner

Dated \_\_\_\_\_

BACWA EIN: 94-3389334

{00916918.2}

**EXHIBIT B**

**To Amendment No. 1 to Agreement Between  
Bay Area Clean Water Agencies and  
Day Carter & Murphy LLP  
for Prop 84 Legal Support**

**HOURLY RATES/REIMBURSABLE EXPENSES**

James M. Day Jr.	\$340.00 per hour
Ralph R. Nevis	\$320.00 per hour
Joshua L. Baker	\$300.00 per hour
E. Ryan Stephensen	\$260.00 per hour





## BACWA EXECUTIVE BOARD ACTION REQUEST

AGENDA NO.: 11

FILE NO.: 12,689

MEETING DATE: March 22, 2012

**TITLE: Interim Executive Director**

☒ MOTION

☐ RESOLUTION

☐ DISCUSSION

### ACTION UNDER CONSIDERATION

Authorize the BACWA Chair to retain the services of James M. Kelly to provide interim Executive Director services, not to exceed \$70,000, for the Fiscal Years 2011-2012 and 2012-2013.

### SUMMARY

The contract with BACWA's current Executive Director, Amy Chastain, will terminate on March 23, 2012. This action will provide the BACWA Chair with the authority to enter into a contract, on BACWA's behalf, with James M. Kelly to provide interim Executive Director services. The term of the contract shall not exceed six months, and compensation shall be identical to the current Executive Director's. The services provided are described in the draft scope of work (attached).

### FISCAL IMPACT

This action will not have any budgetary impacts because the compensation is the same as that provided to the current Executive Director and contemplated in the Fiscal Year 2012-2012 budget.

### ALTERNATIVES

This action does not require consideration of any alternatives because BACWA's contracting policy does not apply to the Executive Director position.

### ATTACHMENTS

1. Draft scope of work

## **EXHIBIT A SCOPE OF WORK**

The Consultant shall serve in a full-time capacity as the interim Executive Director of the Bay Area Clean Water Agencies (BACWA), providing professional services at the direction of the BACWA Executive Board. These services include, but are not limited to the following:

### **Organizational Management**

1. Financial, Administrative, and Communication Tasks
  - Develop and maintain sound financial practices;
  - Prepare an annual budget that implements the Board's goals and objectives,
  - Prepare and manage contracts consistent with the budget, workplan and the Board's direction;
  - Ensure that compliance with applicable rules and regulations (e.g. the Brown Act);
  - Oversee BACWA's role as fiscal agent for State and other grants;
  - Maintain official records and documents;
  - Prepare monthly member newsletters; and
  - Ensure preparation of an annual report as required by the Joint Powers Agreement.
2. Executive Board, Committee and Member Tasks
  - Organize and facilitate Executive Board meetings;
  - Coordinate committees and provide chairs with all necessary support;
  - Assist the Executive Board in maintaining beneficial relationships with regulatory agencies;
  - Ensure preparation and approval of an annual workplan with Executive Board and Committee input;
  - Promote active and broad participation by volunteers in all areas of the organization's work.

### **Executive Search Assistance**

- Assist the Executive Board in researching different Executive Director models and in determining the appropriate model for BACWA to pursue;
- With Board direction, develop and issue a request for proposals for an Executive Director and any other positions that the Executive Board wishes to fill;
- Help, as requested, the Executive Board in evaluating and selecting a new Executive Director.

### **Program Management**

1. General
  - Act as a lead in communicating with regulatory agencies on issues of importance to BACWA;
  - Prepare, or assist in preparing, comment letters on behalf of BACWA members regarding technical and regulatory issues;
  - At the direction of the Executive Board, carry out technical, regulatory, and scientific projects to benefit BACWA members; and
  - Represent BACWA at meetings of the San Francisco Bay Regional Water Board, the State Water Resources Control Board, the California Association of Sanitation Agencies, and the Summit Partners;
  - Represent BACWA at meetings of the Integrated Regional Water Management Plan Coordinating Committee and Plan Update Team, Aquatic Science Center, Regional Monitoring Program, the National Association of Clean Water Agencies, San Francisco Bay Estuary Partnership Implementation Committee, and the San Francisco Bay Regional Outreach Campaign Executive Committee as time permits.

## 2. Nutrients

- Undertake actions to further the BACWA Executive Board's objective of assisting in developing the region's understanding of the potential impacts of nutrients on Bay beneficial uses;
- Organize and facilitate meetings between BACWA and the Regional Water Board regarding nutrient-related issues;
- Ensure Suisun Bay members coordinate with the Regional Water Board and other stakeholders to undertake studies related to the impacts of ammonia/ammonium on beneficial uses;
- Manage existing contract with the San Francisco Estuary Institute; and
- Support projects to advance technologies related to cost-effective nutrient controls.

## 3. Other Regulatory

- Assist BACWA in planning for and responding to other ongoing regulatory and policy-related projects including: the State's Whole Effluent Toxicity Policy, dismissal of BACWA permit petitions current at the State Water Board, and reissuance of the Mercury/PCBs Watershed Permit.

# **COMPENSATION & REIMBURSABLE EXPENSES**

## **Compensation**

The Consultant shall be paid \$11,645 on a monthly basis for services rendered. Compensation for services provided for periods less than a calendar month shall be made on a daily prorated basis.

## **Reimbursable Expenses**

BACWA shall reimburse the Executive Director for all reasonable, work-related expenses, including the following, consistent with BACWA's policies and procedures:

- Direct expenses incurred on behalf of the agency (e.g., copies, catering, etc.);
- Travel to meetings, workshops, and conferences as a representative of BACWA; and
- Any such other expenses authorized, in writing, by the Board Chair on case-by-case basis.



## BACWA EXECUTIVE BOARD ACTION REQUEST

AGENDA NO.: 12

FILE NO.: 12,690

MEETING DATE: March 22, 2012

### TITLE: 2012 Suisun Bay Study Participation

☒ MOTION

☐ RESOLUTION

☐ DISCUSSION

### ACTION UNDER CONSIDERATION

Authorize a contribution of \$50,000 for pesticides analysis as part of the Surface Water Ambient Monitoring Program (SWAMP) Suisun Bay Workplan implementation for Fiscal Year 2012-2013.

### SUMMARY

Questions about the potential impacts of ammonium discharges from POTWs have been raised by scientific researchers and water supply agencies. The Regional Water Board is currently leading a study – funded, in part, by the Surface Water Ambient Monitoring Program – to generate information about whether ammonium is affecting the Suisun Bay foodweb. This study is currently a collaborative effort between the Regional Water Board, the State and Federal Water Contractors Agency (SFWCA), San Francisco State's Romberg-Tiburon Center (RTC), the Central Contra Costa Sanitary District (CCCSD), and BACWA. It is a two-year study, with one year remaining.

Last year, BACWA contributed \$50,000 to the effort to enable samples collected in the Suisun Bay area to be analyzed for pesticides to determine whether any observed inhibition could be caused by parameters other than ammonium. 2011 was an unusually wet year and none of the samples collected exhibited inhibition or other forms of toxicity. Additionally, the results of the pesticides analysis revealed nothing at levels likely to cause inhibition. This year is likely to be relatively dry and, therefore, it is expected that the lower flows through Suisun Bay will increase the concentrations of ammonium, pesticides and other constituents in samples collected. The pesticide data could provide data to help determine whether non-nutrient causes of inhibition and toxicity may exist, and may identify potential non-point sources of water quality impacts.

The issue for BACWA's consideration is whether to allocate funding to this project to defray the costs of the pesticides analysis.

### FISCAL IMPACT

This project was not included in BACWA's budget or workplan. In Fiscal Year 2011-2012, BACWA allocated approximately \$230,000 for nutrient-related efforts in the Clean Bay Collaborative (CBC) budget. Current nutrient-related expenditures are projected to be close to \$300,000. Total expenditures for the CBC for this fiscal year are expected to be close to, or even exceed, total revenues. Authorization of this expense may require BACWA to rely on CBC reserves.

### ALTERNATIVES

This action does not require consideration of any alternatives.

### ATTACHMENTS

None



## BACWA EXECUTIVE BOARD ACTION REQUEST

AGENDA NO.: 13

FILE NO.: NA

MEETING DATE: March 22, 2012

### TITLE: Disposition of Pending NPDES Permit Petitions

☐ MOTION      ☐ RESOLUTION      ☒ DISCUSSION

### ACTION UNDER CONSIDERATION

Discuss, and decide upon, next steps for addressing National Pollutant Discharge Elimination System (NPDES) permits petitioned by BACWA to the State Water Board.

### SUMMARY

Between 2001 and 2009, BACWA petitioned the State Water Board for review of twenty-five NPDES permits and, concurrently, asked that the State Water Board hold those petitions in abeyance (meaning not act on them until BACWA requested). After a discussion at the Pardee Technical Retreat, the BACWA Board requested that the Executive Director review these petitions and recommend whether some or all of them should be dismissed.

BACWA requested technical (RMC) and legal (Downy Brand) recommendations regarding the disposition of the pending petitions. A summary of the recommendations is below. In brief, both reviewers support immediate dismissal of the permits – upon consent from the permittees – for nine of the 22 petitions. Both reviewers also requested that a subset of permits be dismissed only after the permits reissue. One reviewer limited this subset to permits to be reissued in 2012, while the other included permits to be reissued through 2013.

The Board is asked to review the recommendations and determine next steps.

### FISCAL IMPACT

There is not fiscal impact at this time. Dismissal of the petitions may result in some legal and consultant costs related to communications with the State Water Board and permittees.

### ALTERNATIVES

This action does not require consideration of any alternatives.

### ATTACHMENTS

1. Table Summarizing Technical & Legal Recommendations
2. Legal Memorandum

**Summary of permit petition recommendations.**

<b>Agency</b>	<b>Technical Recommendation</b>	<b>Legal Recommendation</b>
Benicia	Dismiss	Dismiss after renewal (10/2013)
Burlingame	Dismiss	Dismiss after renewal (2/2013)
CCCSD	Dismiss	Dismiss
CMSA	Dismiss after renewal (6/2012)	Dismiss after renewal (6/2012)
CC No. 5	Dismiss	Dismiss
Delta Diablo	Dismiss	Dismiss
Fairfield	Dismiss	Dismiss
MC No. 5	Dismiss after renewal (8/2012)	Dismiss after renewal (8/2012)
Millbrae	Dismiss	Dismiss
Palo Alto	Dismiss	Dismiss
Pinole	Dismiss after renewal (8/2012)	Dismiss after renewal (8/2012)
Rodeo	Dismiss	Dismiss after renewal (10/2013)
S. SF	Dismiss	Dismiss after renewal (2/2013)
San Jose	Dismiss	Dismiss
San Mateo	Dismiss	Dismiss after renewal (11/2013)
SASM	Dismiss	Dismiss after renewal (8/2013)
Sausalito-Marin	Dismiss	Dismiss after renewal (9/2013)
SBSA	Dismiss	Dismiss after renewal (2/2013)
SF Airport	Decide whether BACWA wants to continue a petition for pesticides issue.	Dismiss after renewal (9/2013)
SF Southeast	Dismiss	Dismiss
Sunnyvale	Dismiss	Dismiss
West County	Dismiss	Dismiss after renewal (8/2013)

ATTORNEY-CLIENT PRIVILEGED MEMORANDUM

VIA EMAIL

To: AMY CHASTAIN, EXECUTIVE DIRECTOR, AND BACWA BOARD MEMBERS  
From: MELISSA A. THORME  
Date: MARCH 5, 2012  
Re: **BACWA PETITION DISMISSALS**  
Climat: 33277.00002

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**BACKGROUND**

Since approximately the year 2000, the Bay Area Clean Water Agencies (“BACWA,” which was then referred to as the Bay Area Dischargers Association or “BADA”) began getting involved in permit appeals in the San Francisco Bay Region. The first substantial participation was in the Tosco permit appeal related to, among other things, USEPA’s policy of requiring permits to limit impairing pollutants to “no net loading” in the time frame before a TMDL was adopted.

Also about that time, permit holders and environmental groups in the San Francisco Bay region began appealing NPDES permits on a variety of issues, and BACWA began to get involved in many of these appeals (see attached Attachment A – a tracking sheet of the issues in those appeals as of 2001) to encourage good decisions and to avoid bad precedent. Subsequent participation by BACWA in court cases related to permit petitions followed.

BACWA soon thereafter made a decision to appeal almost every POTW permit coming out of the San Francisco Region from 2001 through mid-2009 to put pressure on the Regional Board to make better permitting and basin planning decisions that would not put permit holders at risk of non-compliance or subject permittees to unnecessary enforcement actions and third party lawsuits.<sup>1</sup> In other cases, petitions were filed to counterbalance appeals filed by environmental organizations such as Baykeeper and California Sportsfishing Protection Alliance (“CSPA”). The permit petitions currently being held in abeyance with the State Water Resources Control Board (“State Board”) for 22 permitted entities are a result of these policy decisions.

**CURRENT PETITIONS HELD IN ABEYANCE**

The petitions listed in Attachment B are the BACWA appeals currently being held in abeyance by the State Board. For each petition, there is a recommended action to be taken by BACWA. Most of these recommendations coincide with those made by RMC in its independent review of the petitions.

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<sup>1</sup> BACWA also appealed the PCB permit adopted in 2012. That petition is also in abeyance and not discussed here.

As recognized in the spreadsheet put together by RMC and in Attachment B, many of the issues that were regularly appealed have now been addressed either through new individual permits or the watershed-based permits for mercury (Order No. R2-2007-0077) and dioxin-TEQ (Order No. R2-2010-0054). Where mercury and dioxin were the sole issues, these petitions have been recommended for dismissal.

From this analysis, nine (9) petitions can be dismissed. (*See* Attachment B (petitions for CCCSD, Contra Costa No. 5,<sup>2</sup> Delta Diablo, Fairfield, Millbrae, Palo Alto, SF Southeast/Bayside, San Jose, and Sunnyvale.) However, prior to dismissal, BACWA should check with the permit holder to be certain that dismissal will not prejudice them in any way. In addition, BACWA should send a letter along with the dismissals stating that BACWA is in now way conceding any of the issues being dismissed and maintains the right and ability to raise these issues again in the future should they arise again in new permits adopted in the San Francisco Bay region.

Additionally, three (3) other petitions (Benecia, Rodeo, and So. SF/San Bruno) may also fall into the dismissal category. In these three cases, the current permit was not appealed and BACWA must decide whether to maintain its appeals of the earlier permits until the next permit is adopted. It is likely this decision can be made after consultation with the permit holder as with any other appeal that is recommended for dismissal.

The remaining permit appeals contained many issues besides just mercury and dioxin, and some of those permits are coming up for reconsideration and renewal soon. In those ten (10) cases (Burlingame, CMSA, SASM, Marin Co. No. 5, Pinole, SFIA, San Mateo, Sausalito-Marin, SBSA, and West County/Richmond), maintaining the petition in abeyance is recommended until the new permits are adopted so that some leverage can be maintained by BACWA and the permittee. However, if the permit holder has no need for maintaining the permit appeal, then BACWA can decide to dismiss these petitions even before the permit is renewed.

## CONCLUSION

BACWA should be proud that its hard work has paid off in that most all of the issues raised in the currently pending appeals have been resolved and can now be dismissed. This result demonstrates that a tough stance may be warranted in some cases in order to get the attention of the regulatory agencies and to encourage the regulators to work cooperatively instead of adversely with permit holders. BACWA's dismissal of these appeals, where they are no longer deemed necessary, demonstrates both BACWA's good will and its ability to also work cooperatively where its members' needs have been met by agency actions.

1216933.1

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<sup>2</sup> This permit was appealed due to Baykeeper's appeal of the Mercury Watershed permit as a precaution. This would be another policy decision whether to maintain the precautionary appeals notwithstanding the Mercury permit.



## ATTACHMENT A

# SUMMARY OF SAN FRANCISCO BAY RWQCB NPDES PERMIT APPEAL ISSUES AS OF APRIL 9, 2001

*[See separate table for list of petitioners for the 15 appeals. Shaded columns = WaterKeepers petitions]*

APPEAL ISSUE	PETITION NUMBER AND PERMIT BEING APPEALED															NUMBER OF APPEALS WITH THIS ISSUE
	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	
<b>A.</b> The NPDES permit is improper because it: (1) is not adequately enforceable (2) does not adequately maximize reclamation (3) would allow the use of untreated wastewater for crop irrigation (4) would not result in less discharge to the Napa River, and (5) improperly applies the Basin Plan's waiver of discharge prohibition for reclamation projects.	X (a)															N/A
<b>B.</b> The Permit fails to adequately justify and document the statutory and regulatory provisions for all of the conditions and limits.		X	X													2

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
C. The Permit fails to provide the calculations and/or explanations of the derivation of specific effluent limitations.		X	X													2
D. The Permit establishes interim mass effluent limits pending TMDL completion that are not appropriate; are inadequately documented; and are miscalculated.		X	X		X	X		X	X		X	X	X		X	10
E. The Permit's requirement to submit and implement [or expand an existing] Waste Minimization Plan is not adequately documented and is inconsistent with the Water Code.		X	X		X	X		X	X		X	X		X		9
F. The Permit includes an Optional Mass Offset provision that is not adequately described, and there is no documentation of the legal or regulatory basis for the provision.		X	X													2
G. The Permit includes a number of findings based on Section 303(d) of the CWA and the		X	X		X	X		X	X		X	X	X	X	X	11

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCDD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (h)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
[continued] future adoption of TMDLs and WLAs that are inapplicable, inappropriate, inadequately documented, and inconsistent with the purpose of the Permit. [re Tosco Findings 41 and 42 – removal of dilution credits, and no net loading.]																
H. The RWQCB has failed to consider all of the evidence in the administrative record and/or the administrative record does not support the Permit.		X	X													2
I. The RWQCB acted arbitrarily and capriciously in issuing the Permit based on the evidence submitted by other parties commenting on the Permit.		X	X													2
J. The RWQCB has exceeded the authority given to it under the laws of the State of California.		X	X													2
K. Dilution credits should not be issued for any impairing pollutants because such a practice: (1) violates findings that the Bay has no assimilative capacity to dilute them (2) is inconsistent with the Basin Plan (3) violates				X			X			X						3

APPEAL ISSUE	1. American Canyon	2. C&H Sugar (b)	3. C&H Sugar (b)	4. Vallejo SFCDD (b)	5. Napa SD (c)	6. Napa SD (c) (d)	7. Napa SD (c)	8. Sausalito MCSD (b)(e)	9. Sausalito MCSD (b)(e)	10. Sausalito MCSD (b)	11. EBDA (f) (g)	12. EBDA (f) (g)	13. EBDA (f)	14. USS-POSCO (b)	15. SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
[continued] antidegradation policies and (4) does not represent BPJ.																
L. The RWQCB has no authority to issue interim effluent limits without a compliance schedule.				X			X			X						3
M. Delaying WQBELs until the completion of TMDLs is illegal and undermines the 303(d) process.				X			X									2
N. The Permit does not impose <u>actual</u> performance-based mass limits because: (1) inadequate data are provided to allow verification of stated mass limits (2) for Hg, the mass limits are exaggerated by the use of higher detection limits than can actually be achieved (3) the Discharger (Vallejo only) is permitted an increase in flow which, by definition, would violate true historical performance-based mass limits.				X						X						2
O. Dilution credits for discharges to the Mare Island Strait are not authorized because sufficient mixing does not occur.				X												1
P. The Permit does not include the necessary				X			X			X						3

APPEAL ISSUE	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (h)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
[continued] concentration limitations for impairing pollutants based on the insufficient rationale that adequate water quality data are not available to conduct a Reasonable Potential Analysis.																
<b>Q.</b> The Permit fails to employ an adequate Reasonable Potential Analysis for numerous non-impairing pollutants, and doesn't even mention other priority pollutants.				X												1
<b>R.</b> The Permit improperly omitted performance-based mass limits for dioxins, PCBs, furans, dieldrin, chlorodane, diazinon, and DDT based on the unreasonable justification that meaningful mass limits cannot be calculated where detection limits are higher than effluent concentrations.				X												1
<b>S.</b> The Permit fails to include a detailed I/I correction program with enforceable goals and deadlines.				X												1
<b>T.</b> The Discharger should not be allowed an increase in discharge flow because: (1) the discharger cannot safely manage existing flows (2) the increase violates the Permit's own findings				X												1

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
[continued] that current performance-based mass loads cannot be exceeded and (3) the discharger's 1993 Antidegradation Analysis is insufficient and outdated.																
U. The Permit should not allow effluent limits to be stated in terms of fecal coliform because there is not justification, and it would violate the Basin Plan requirement that it must be conclusively demonstrated that no adverse impact on beneficial uses will occur.				X						X						2
V. Monitoring requirements must be expanded to include additional pollutants (more OP pesticides) and increased monitoring frequency (such as weekly for bioaccumulative pollutants).				X												1
W. The interim effluent limitations for copper and mercury are inconsistent with the law and are unattainable because they are based on a treatment process that is being replaced with one that will result in higher effluent copper and mercury levels.					X	X										2
X. The Permit improperly included numeric effluent limitations for certain constituents which					X	X										2

APPEAL ISSUE	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	NUMBER OF APPEALS WITH THIS ISSUE
	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	
[continued] were not detected in the effluent or receiving water, merely because numeric limits were included in the previous permit.																
Y. The numeric effluent limitation in the Permit for cyanide is improperly based on the NTR WQO, but should be based on the Basin Plan WQO. Furthermore, the SIP was misapplied in determining the cyanide limit.					X	X										2
Z. The Permit requirement for 85% removal of BOD and TSS should be reduced for wet weather conditions as allowed by the exceptions clause in the EPA secondary treatment regulations.					X	X										2
AA. The failure of the RWQCB to require additional ambient WQ monitoring to be conducted under the RMP, instead of by the discharger, is unlawful and unreasonable.					X	X		X	X							4
BB. The provision in the Permit requiring the discharger to investigate improved solids removal to reduce dioxin in the effluent has no legal or scientific basis.					X	X										2



	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (h)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
CC. The Permit requirement for receiving water sampling during the no-discharge wet-season months is not supported by the record or findings, and is inconsistent with the law.					X	X										2
DD. The Permit requirement for daily sampling for ammonia for the duration of bioassay tests is not based on the record or findings, and is inconsistent with the law.					X	X										2
EE. The Permit requirement that certain constituents be sampled in both the wet and dry seasons, even though the discharger does not normally discharge in the dry season, is not based on the record or findings, and is inconsistent with the law.					X	X										2
FF. The Permit requirements are invalid because the RWQCB violated the dischargers due process rights by providing inadequate review time, and by requiring immediate compliance.					X	X										2

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
<b>GG.</b> The RWQCB violated CEQA when adopting the Permit because it failed to consider the environmental consequences, and to explore alternatives and mitigation measures.					X	X		X	X		X	X			X	7
<b>HH.</b> The Permit failed to reduce the Napa SD mass limits for impairing pollutants by the amount of the new American Canyon plant mass limits.							X									1
<b>II.</b> The Permit violates the antibacksliding provisions of the CWA by failing to include numeric effluent limits for certain constituents which were assigned numeric limits in the previous permit.							X			X						2
<b>JJ.</b> The Permit undermines CTR WQBELs for numerous pollutants by basing effluent limits on detection limits which can be far higher, some thousands of times higher, than actual CTR WQOs.							X									1
<b>KK.</b> The copper source control and reduction study required by the Permit has no legal, scientific or technical basis, and lacks conformance with the Water Code and the CWA.								X	X							2

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
LL. The receiving water beneficial use study required by the Permit related to switching to a fecal coliform effluent limitation is duplicative of other similar studies; has no legal, scientific or technical basis; and lacks conformance with the Water Code and the CWA.								X	X							2
MM. In adopting the Permit, the RWQCB failed to acknowledge that POTWs are supposed to be treated differently under the CWA than other point sources in that toxic constituents are supposed to be dealt with to the extent possible through pretreatment programs, instead of end-of-pipe treatment.											X	X				2
NN. The interim effluent limit in the permit for bis(2) is inconsistent with the law because it is based on insufficient monitoring data; may be unachievable without costly controls; and the RWQCB has the discretion under the SIP to not include an interim limit in this case.											X	X				2
OO. The effluent limitations in the Permit for PAHs are inconsistent with the law because they											X	X				2

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (h)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
[continued] are based on insufficient monitoring data; may be unachievable without costly controls; and are not based on SIP-prescribed mixing zone rules.																
PP. The PAHs source control and PP program required by the Permit has no clearly articulated legal, scientific, or technical basis and is not in conformance with the Water Code and the CWA.											X	X				2
QQ. The RWQCB included daily maximum effluent limits in the Permit which does not comply with federal regulations in this case.											X	X				2
RR. The RWQCB improperly included an inaccurate (too early) effective date in the permit.											X					1
SS. In adopting the Permit, the RWQCB had no support in the evidence or regulatory authority to defer a decision on the discharger's request for a 10:1 shallow water dilution credit for chronic toxicity.														X		1
TT. The effluent limit in the Permit for dioxin TEQ is inconsistent with the law because there is no applicable valid WQO; the limit violates the CWA; the limit is not required by the CTR; and															X	1

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
[continued] the limit violates the APA and the Water Code.																
UU. The interim effluent limit in the Permit for tributyltin is inconsistent with the law because there is no applicable WQO for tributyltin adopted in accordance with the Water Code, CEQA, and the APA.															X	1
VV. The Permit fails to require that testing for whole effluent acute toxicity employ the 4th Edition EPA protocol based on juvenile fish, but instead improperly allows the discharger to use an outdated and less accurate method.										X						1
WW. The interim daily maximum limit for cyanide stated in the Permit is excessive and illegal because it is 25 times higher than the WQO; because it is based on the questionable procedure in this instance that, because no ambient cyanide										X						1

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	
APPEAL ISSUE	American Canyon	C&H Sugar (b)	C&H Sugar (b)	Vallejo SFCDD (b)	Napa SD (c)	Napa SD (c) (d)	Napa SD (c)	Sausalito MCSD (b)(e)	Sausalito MCSD (b)(e)	Sausalito MCSD (h)	EBDA (f) (g)	EBDA (f) (g)	EBDA (f)	USS-POSCO (b)	SBSA (b)	NUMBER OF APPEALS WITH THIS ISSUE
[continued] concentration data are available to calculate an effluent concentration limit, the previous permitted limit must be used; and a more rational approach would be to set the interim effluent limit at 1 ug/L which assumes that the ambient concentration is zero ug/L.																

#### **NOTES**

- a** This appeal [#1] by the Plumbers and Steamfitters Local Union No. 343 (Vallejo) was dismissed by the SWRCB on 1/9/01 because it failed to raise substantive issues appropriate for review.
- b** Petitioner has requested that the appeal be held in abeyance, and the SWRCB has agreed.
- c** The SWRCB consolidated the three appeal petitions for the Napa SD Permit (NSD, BADA, WaterKeepers).
- d** The BADA appeal (#6) of the Napa SD permit simply incorporated by reference the entire Napa SD appeal (#5)
- e** The BADA appeal (#9) of the Sausalito permit simply incorporated by reference the entire Sausalito appeal (#8)
- f** The SWRCB consolidated the three appeal petitions for the EBDA Permit (EBDA, BADA, Contra Costa Council).
- g** The BADA appeal (#12) of the EBDA permit incorporated by reference [with the exception of one issue] the entire EBDA appeal (#11)
- h** This appeal [#10] by WaterKeepers Northern California was not accepted by the SWRCB because it was received after the deadline. However, when reviewing the contested permit, the SWRCB may still consider any of the issues presented by WaterKeepers.

## **LEGEND TO APPEAL NUMBERS**

<b><u>APPEAL NO. ON SUMMARY TABLE</u></b>	<b><u>PERMITTEE</u></b>	<b><u>PETITIONER</u></b>
1.	City of American Canyon	Plumbers and Steamfitters Local Union No. 343 (Vallejo) *
2.	C&H Sugar Co./ Crockett- Valona Sanitary District	C&H Sugar Co. / Crockett-Valona Sanitary District
3.	C&H Sugar Co./ Crockett- Valona Sanitary District	Contra Costa Council
4.	Vallejo SFCD	WaterKeepers Northern California
5.	Napa Sanitation District	Napa Sanitation District
6.	Napa Sanitation District	Bay Area Dischargers Association
7.	Napa Sanitation District	WaterKeepers Northern California
8.	Sausalito-Marin City Sanitary District	Sausalito-Marin City Sanitary District
9.	Sausalito-Marin City Sanitary District	Bay Area Dischargers Association
10.	Sausalito-Marin City Sanitary District	WaterKeepers Northern California **
11.	East Bay Dischargers Authority	EBDA, DSRSD, Livermore
12.	East Bay Dischargers Authority	Bay Area Dischargers Association
13.	East Bay Dischargers Authority	Contra Costa Council
14.	USS-POSCO Industries, Inc.	USS-POSCO Industries, Inc.
15.	South Bayside System Authority	South Bayside System Authority

\* This appeal by the Plumbers and Steamfitters Local Union No. 343 (Vallejo) was dismissed by the SWRCB because it failed to raise substantive issues appropriate for review.

\*\* This appeal by WaterKeepers Northern California was not accepted by the SWRCB because it was received after the deadline. However, when reviewing the contested permit, the SWRCB may still consider any of the issues presented by WaterKeepers.

## ATTACHMENT B



### BACWA Petitions Spreadsheet

<u>Name:</u>	<u>SWRCB/ OCC No.</u>	<u>Date Petition Filed:</u>	<u>Abeysance Expiration Date</u>	<u>Issues Appealed</u>	<u>Recommended Action</u>
<b>Benicia</b> [R2-2008-0014]	A-1422	9/17/2001 (2008 permit not appealed)	10/24/2013	Dioxin TEQ, mercury, selenium, copper, nickel, dieldrin, 44-DDE, mass limits, dilution, PMP, mass offsets, CEQA	<b>Maintain or Dismiss<sup>1</sup></b> – Last permit not appealed, many limits resolved. – This permit is up for review soon and may have similar issues in the renewal. Policy decision.
<b>Burlingame</b> [R2-2008-0008]	A-1907	2/29/2008 (current permit)	2/28/2013	Dioxin TEQ, copper, 4,4-DDE, alpha-BHC, dieldrin, cyanide, dilution, blending, PMP, mass offsets, Prohib. A.5, improper RP	<b>Maintain</b> This permit is up for review soon and may have similar issues in the renewal.
<b>Central Marin Sanitation Agency (BACWA)</b> [R2-2007-0007]	A- 1419(a) A-1828(b)	2001 2/22/2007	02/22/2013	Dioxin TEQ, copper, mercury, mass and daily limits, dilution	<b>Maintain</b> This permit is up for review soon and may have similar issues in the renewal.

<sup>1</sup> A recommendation of dismissal includes contacting the discharger to confirm dismissal is acceptable to them, and drafting a letter to the State Board explaining reasons for dismissal and stating that this is not a waiver of these issues in the future should they arise again.

<b>Central Contra Costa Sanitation District</b> [R2-2007-0008]	A-1399(a) A-1829(a)	7/20/2001 2/22/2007 (previous 2 permits)	02/22/2013	Dioxin TEQ, mass limits, copper, mercury, toxicity, dilution credits	<b>Dismiss</b>  - New permit adopted in February 2012 that can be appealed by March 9 <sup>th</sup> if needed
<b>Contra Costa Dt. No. 5</b> [R2-2008-0005]	A-1905	2/29/08 (current permit)	2/28/2013	Mercury; daily limits, compliance schedules of same	<b>Dismiss</b>  - All mercury related and resolved by Order No. R2-2007-0077 (unless BK petition still pending) <sup>2</sup>
<b>Delta Diablo</b> [R2-2009-0018]	A-2007	4/9/2009 (current permit)	4/9/2013	Dioxin TEQ; daily limits, compliance schedules of same	<b>Dismiss</b>  - All dioxin related issues presumably resolved by Order No. R2-2010-0054
<b>Fairfield-Suisun Sewer District (BACWA)</b> [R2-2009-0039]	A-2013(a)	5/7/2009 (current permit)	5/7/2013	Dioxin TEQ; daily limits, compliance schedules of same	<b>Dismiss</b>  - All dioxin related issues presumably resolved by Order No. R2-2010-0054
<b>Marin (SASM)</b> [R2-2007-0056]	A-1398 A-1878	7/1/01 9/9/2007 (current permit)	8/23/2013	Dioxin TEQ, mercury, cyanide, PMP, RP for ammonia, mass limits for mercury, compliance schedules	<b>Maintain</b>  This permit is up for review soon and may have similar issues in the renewal.

<sup>2</sup> Because SF Baykeeper appealed the Mercury Watershed Permit, BACWA continued to appeal mercury requirements in individual permits.



<b>Marin Co. Sanitary Districts - No. 5 [R2-2008-0057]</b>	A-1939	8/6/2008 (current permit)	8/6/2012	Dioxin TEQ, daily limits, compliance schedules, and blending	<b>Maintain</b>  - New permit adopted for other plant (Paradise Cove) in April 2011, not appealed, but appears blending was addressed. May maintain this until new Tiburon permit adopted.
<b>Millbrae [R2-2008-0071]</b>	A-1950	9/9/2008 (current permit)	8/6/2012	Dioxin TEQ; daily limits, compliance schedules for same	<b>Dismiss</b>  - All dioxin related issues presumably resolved by Order No. R2-2010-0054
<b>City of Palo Alto [R2-2009-0032]</b>	A-2014	5/7/2009 (current permit)	5/7/2013	Dioxin TEQ; daily limits, compliance schedules for same	<b>Dismiss</b>  - All dioxin related issues presumably resolved by Order No. R2-2010-0054
<b>Pinole [R2-2007-0024]</b>	A1835(a)	4/13/2007 (current permit)	04/13/2013	Dioxin TEQ, copper, mercury, daily and mass limits, dilution, blending	<b>Maintain</b>  This permit is up for review soon and may have similar issues in the renewal.
<b>Rodeo [R2-2006-0062]</b>	A-1424	10/18/2001 (current 2006 permit not appealed)	10/24/2013	Mercury, cyanide, dilution, improper limits, PMP, offsets, blending, Prohib. A.5, CEQA	<b>Maintain or Dismiss</b>  This permit is up for review soon and may have similar issues in the renewal. Policy decision.

<b>San Francisco (City &amp; County/ S.F.I.A.)</b> <b>[R2-2002-0045, R2- 2007-0060]</b>	A-1473 A-1877	<i>Joint Petition</i> 4/19/2002 9/9/2007 (current permit)	4/19/2013 9/7/2013	Dioxin TEQ, mercury, mass, daily, Copper, 4,4- DDE, dieldrin, other pesticides, PPP, CEQA, compliance schedules	<b>Maintain</b> This permit is up for review soon and may have similar issues in the renewal.
<b>San Francisco (South East &amp; Bayside)</b> <b>[R2-2008-0007]</b>	A-1493	<i>Joint Petition</i> 07/19/02 (current 2008 permit not appealed)	10/4/2013	Dioxin TEQ, mass, daily, mercury, 44- DDE, dieldrin, PPP, CEQA	<b>Dismiss</b> - All dioxin related issues presumably resolved by Order No. R2-2010-0054 - All mercury related and resolved by Order No. R2- 2007-0077 (unless BK petition still pending) – Other limits appear to have been removed
<b>San Jose/Santa Clara</b> <b>[R2-2009-0038]</b>	A-2015	5/7/2009 (current permit)	5/7/2013	Dioxin TEQ; daily limits, compliance schedules for same	<b>Dismiss</b> - All dioxin related issues presumably resolved by Order No. R2-2010-0054
<b>San Mateo</b> <b>[R2-2007-0075]</b>	A-1397 A-1898	7/1/2001 11/30/2007 (current permit)	11/30/2013	Dioxin TEQ, mercury, daily limits, compliance schedules, blending	<b>Maintain</b> This permit is up for review soon and may have similar issues in the renewal.



<b>Sausalito – Marin [R2-2007-0054]</b>	A-1879(a)	9/9/2007 (current permit)	9/7/2013	Dioxin TEQ, blending, other limits for cyanide, mercury, selenium, chlordane, RP for ammonia, CDO, compliance schedules, PMP	<b>Maintain</b>  This permit is up for review soon and may have similar issues in the renewal.
<b>So. San Francisco/ San Bruno (North Bayside System) [R2-2008-0094]</b>	A-1548	2/21/03 (current 2008 permit not appealed)	02/21/2013	Dioxin TEQ, compliance schedules, blending	<b>Maintain or Dismiss</b>  This permit is up for review soon and may have similar issues in the renewal. Policy decision.
<b>South Bayside System Authority [R2-2007-0006]</b>	A-1826(b)	2/22/2007 (current permit)	2/22/2013	Dioxin TEQ, copper, mercury	<b>Maintain</b>  This permit is up for review soon and may have similar issues in the renewal.
<b>Sunnyvale [R2-2009-0061]</b>	A-2042	9/8/2009 (current permit)	9/8/2013	Dioxin TEQ; daily limits, compliance schedules of same	<b>Dismiss</b>  - All dioxin related issues presumably resolved by Order No. R2-2010-0054
<b>West County Agency/Richmond [R2-2008-0003]</b>	A-1906	2/29/2008 (current permit)	02/28/2013	Dioxin TEQ, mercury, cyanide, CDO, selenium, heptachlor, 4,4,- DDD, daily limits, compliance schedules, blending	<b>Maintain</b>  This permit is up for review soon and may have similar issues in the renewal.

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## BACWA EXECUTIVE BOARD ACTION REQUEST

AGENDA NO.: 14

FILE NO.: NA

MEETING DATE: March 22, 2012

**TITLE: Regulatory Updates: Watershed Permit, Whole Effluent Toxicity, Basin Plan Triennial Review**

☐ MOTION      ☐ RESOLUTION      ☒ DISCUSSION

### RECOMMENDED ACTION

Discuss three regulatory issues on which BACWA action will be required in the upcoming months and decide on next steps.

### SUMMARY

Significant developments on three regulatory issues relevant to BACWA member agencies are expected within the next few months. The purpose of this agenda item is to provide the BACWA Executive Board with an overview of these issues to facilitate a discussion of next steps. Issue summaries are attached to provide background and context.

### FISCAL IMPACT

None, this is a discussion item only.

### ALTERNATIVES

This action does not require consideration of any alternatives.

### ATTACHMENTS

1. Mercury/PCBs Watershed Permit Issue Summary
2. Whole Effluent Toxicity Issue Summary
3. Basin Plan Triennial Review Issue Summary

## Mercury/PCBs Watershed Permit

### Issue Summary

March 16, 2012

#### A. BACKGROUND

In 2007, the Regional Water Board issued the Mercury Watershed permit to all Bay Area municipal and industrial wastewater dischargers. The permit adopted a novel approach to mercury limits, establishing individual limits for individual dischargers, and a mass limit for the entire group of POTWs. In 2009, the Regional Water Board amended the permit to include individual concentration limits on PCBs. This permit expires on December 31, 2012.

This document is intended to provide a summary of the current permit provisions, anticipated changes upon permit reissuance, and to highlight areas that require further discussion/clarification.

#### B. MONITORING

Parameter	Discharger	Frequency
<b>Mercury</b> (compliance)	Major	Monthly
	Minor	Quarterly
<b>Methylmercury</b> (informational)	Mass limit $\geq 0.08$ kg/yr	Quarterly
	Mass limit between 0.08 and 0.04 kg/yr	Semi-Annually
	Mass limit $\leq 0.04$ kg/yr	Annually
<b>PCBs 608</b> (compliance)	Major	Semi-Annually
	Minor	Annually
<b>PCBs 1668</b> (informational)	Major, Design Flow > 5 MGD	Quarterly
	Major, Design Flow $\leq 5$ MGD	Semi-Annually
	Minor	Annually

#### C. EFFLUENT LIMITS & TRIGGERS

	Avg. Monthly ( $\mu\text{g/L}$ )		Avg. Weekly ( $\mu\text{g/L}$ )		Max Daily ( $\mu\text{g/L}$ )		Annual (kg/y)
	Secondary	Advanced	Secondary	Advanced	Secondary	Advanced	
<b>Mercury</b>	0.066	0.025	0.072	0.027	NA	NA	17
<b>PCBs</b>	0.012	0.00039	NA	NA	0.017	0.00049	NA

To date POTWs have been in compliance with all mercury limits. The estimated mercury mass loading from all POTWs has also been substantially below the current (17 kg/yr) and future (11 kg/yr) mass limits. The estimated kg/year from all POTWs was 4.5, 4.6, 3.9, and 2.9 in 2008, 2009, 2012, and 2011, respectively.

It is believed that all POTWs are also in compliance with their PCB effluent limits.

#### **D. REPORTING**

*Mercury:* Dischargers are required to report any mercury data in their regular monthly or quarterly Self-Monitoring Reports (currently being uploaded to CIWQS's e-SMR module), and in their Annual Reports. The Annual Reporting requirement is waived if the discharger participates in group Annual Reporting. Every year, BACWA retains a consultant to prepare the group Annual Report on behalf of all POTWs. The estimated cost of this reporting, to BACWA, is \$20,000.

*PCBs:* Dischargers are also required to report PCBs data in their Self-Monitoring Reports. Method 1668C data, however, are reported via a pdf attachment, to the CIWQS e-SMR module.

#### **E. RISK REDUCTION**

The mercury and PCB TMDLs codify the Regional Water Board's intent to require NPDES permittees to develop and implement "risk reduction" programs. Accordingly, the Watershed Permit requires agencies to "develop and implement or participate in effective programs to reduce mercury-related risks to humans and quantify the resulting risk reductions from these activities." BACWA coordinated with the San Francisco Estuary Institute/Aquatic Science Center (SFEI/ASC), the California Department of Public Health (CDPH), the Regional Water Board, the Western States Petroleum Association (WSPA), and the Bay Area Stormwater Management Agencies (BASMAA) to develop a program – led by CDPH – that involves working with stakeholder groups to develop and distribute risk communication materials, and to fund local organizations to implement exposure reduction programs. BACWA contributed \$100,000 to this project and many hours of Executive Director and agency staff time. BASMAA contributed \$100,000; WSPA contributed \$50,000; and other industrial dischargers contributed approximately \$30,000.

#### **F. FUTURE PERMIT PROVISIONS**

BACWA and Regional Water Board staff have begun discussing the permit reissuance process. The issues preliminarily resolved include:

- Maintaining the watershed permit format.
- Continued use of Method 608 for PCBs compliance, and the unapproved Method 1668c for wasteload refinement.
- Group mass mercury and PCB loading reported once per permit cycle (currently mercury is reported annually, and PCBs not reported at all).
- No continuation of regional dental amalgam program requirements.
- No need to submit a report of waste discharge (ROWD).

Some key issues that need to be resolved prior to permit reissuance include:

- How to report PCBs 1668 results to CIWQS (pdf or via PET Tool).
- Level of effort required for future risk reduction activities.
- Pollution prevention requirements for PCBs.



**G. POTENTIAL NEXT STEPS**

1. Discuss & resolve outstanding issues with the Regional Water Board.
2. Determine whether consultant assistance is required for drafting 2013 Permit.

## Whole Effluent Toxicity

### Issue Summary

March 16, 2012

#### A. BACKGROUND

In late 2010 the State Water Resources Control Board issued a draft Whole Effluent Toxicity Policy intended to standardize the regulation of toxicity across the state of California. The draft policy included substantial changes to how toxicity is regulated for POTWs. Most notably, it proposed to establish a numeric Water Quality Objective (WQO) for chronic toxicity that would be implemented via numeric effluent limits in POTW permits. The draft policy also requires that agencies use the Test of Significant Toxicity (TST) in place of EC<sub>25</sub>/IC<sub>25</sub> (used in the San Francisco Bay Region) and the No Observed Effects Concentration (NOEC) (used in other Regions). Imposing numeric limits greatly concerns POTWs who find it unacceptable to be penalized for brief and episodic toxicity. Compounding this concern is the understanding that the TST has at least an average 5% rate of false identification of toxicity, and is a statistical method not approved by USEPA or used in permits in other parts of the country.

In January of this year, BACWA - along with CASA, SCAP, and CVCWA - submitted comments objecting to the proposed policy and generated a template comment letter for member agencies to use. BACWA also attended a State Board workshop on the draft policy this past summer, has held several meetings with State Board staff and members to discuss our Region's concerns, and is very active in the CASA/Tri-TAC workgroup. This workgroup recently developed an alternative to the draft policy and presented it to State Board. The alternative was intended to mitigate the effects of the TST on compliance and ensure that the policy is targeted at penalizing primarily persistent – rather than episodic – toxicity. A revised version of the policy has not yet been made available to the public, although a revised flowchart for POTW implementation has been provided to Tri-TAC (attached). The revised draft policy is expected to undergo peer review shortly and to be publicly noticed this summer, with a target adoption date in August.

Concurrently the BACWA Permits and Laboratory Committees have held two workgroup meetings on toxicity testing in the region, with a third to be held in April or May. These meetings have focused on discussing, and learning from, agencies' experiences conducting toxicity testing and toxicity reduction evaluations. The workgroup expects to shift focus to regional implementation issues once the draft policy is released.

#### B. KEY ISSUE SUMMARY

##### 1. Establishment of numeric water WQOs.

The original draft policy establishes numeric WQOs for both acute and chronic toxicity:

*Acute Toxicity:* H<sub>0</sub>; Mean response (IWC) < or = 0.80 mean response (control)

*Chronic Toxicity:* H<sub>0</sub>; Mean response (IWC) < or = 0.75 mean response (control)

The POTW community prefers that WQOs be narrative to allow for greater flexibility in making 303(d) listing and other regulatory decisions. The State's goal of statewide consistency in permits can be achieved through a combination of narrative WQOs and more specificity in terms of how the WQOs

should be implemented in permits. It is unclear what changes have been made to the revised policy to address this issue.

2. Statistical Method for Toxicity Data Analysis.

The original draft policy requires the use of the TST to analyze whether test data indicate that a sample is toxic. This method has not been approved by EPA, is not being used to determine permit compliance in any other part of the country, and raises substantial concerns about the likelihood of a false identification of toxicity. BACWA's position is that, at a minimum, the policy should allow for the continued use of EC<sub>25</sub>/IC<sub>25</sub>, a method which is preferred by EPA over the NOEC and has received much more scientific vetting than the TST. The most current information available indicates that the State Board still intends to require exclusive use of the TST.

3. Permit Violations & Accelerated Monitoring.

In the original draft policy, a single test result that "fails" the TST at the discharger's Instream Waste Concentration (IWC) would be considered an exceedence of effluent limitations and triggers accelerated monitoring, consisting of a minimum of six five-concentration tests at two week intervals over three months. A test result indicating a "fail" at the IWC during accelerated monitoring would be considered a Class II violation, triggering a Toxicity Reduction Evaluation. This enforcement regime has been modified somewhat by the State Board in response to CASA/Tri-TAC comments; see the attached flowchart for details.

4. Acute Toxicity.

The original draft policy specified a WQO for acute toxicity, but gave the Regional Boards discretion as to whether to include acute effluent limitations in permits and whether to allow dilution in determining compliance. Our Regional Water Board has expressed a desire to continue requiring the use of acute limits and to disallow dilution. The original draft policy also required that marine test methods be used by dischargers with a receiving water salinity of  $\geq 1000$  mg/L. It is our understanding that the revised policy will allow discretion regarding whether marine or freshwater organisms will be used for acute testing.

5. 303(d) Listing Decisions.

The original draft policy did not specify how the TST would be used in the context of 303(d) listing decisions. The POTW community is concerned that, under the State's current listing policy, only two out of 24 samples would need to fail the TST to trigger a listing requirement. When the potential rate of the TST's false identification of toxicity is considered, this raises concerns that, eventually, all receiving waters would be listed. It is unclear whether the draft policy has been revised to address this issue.

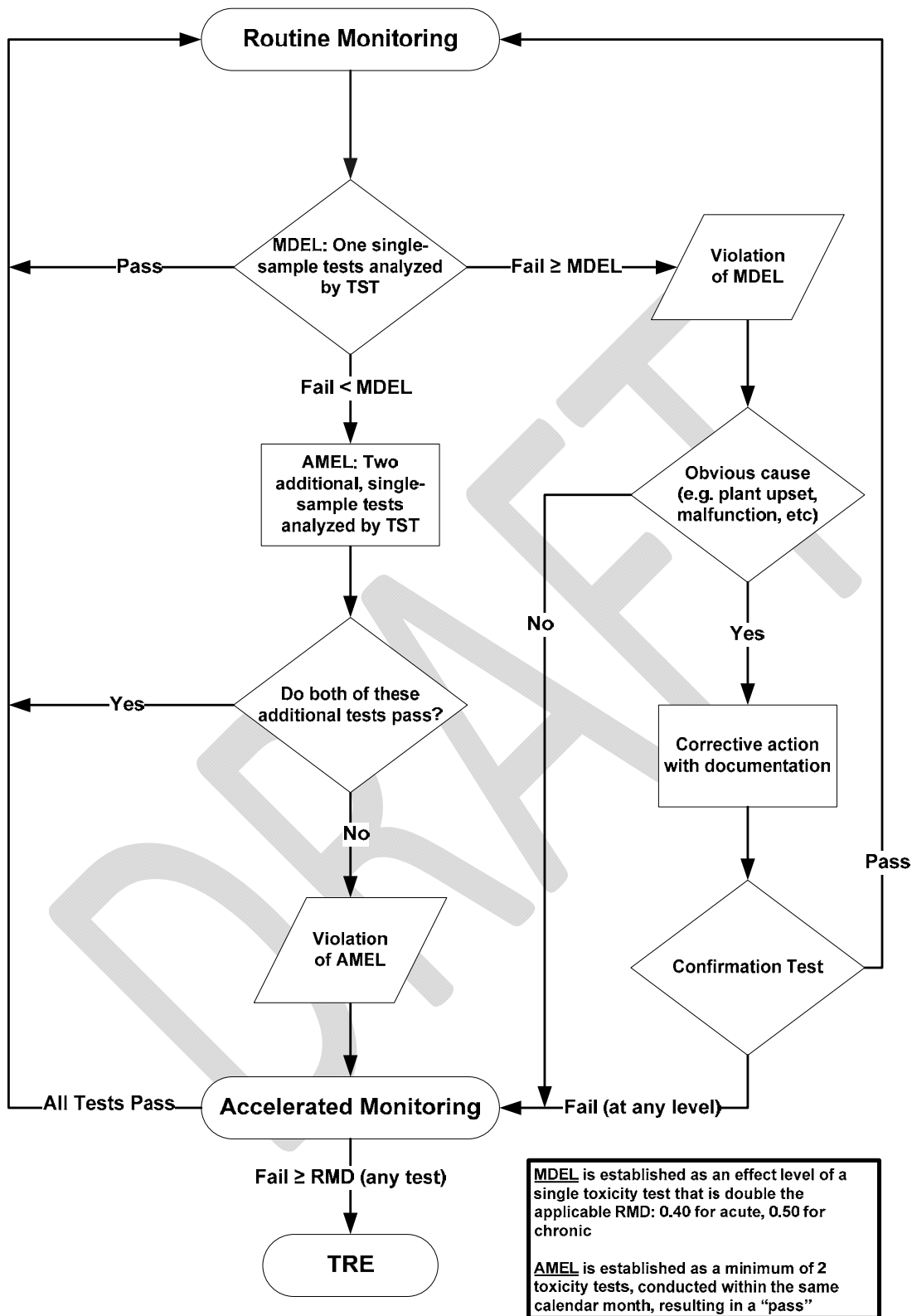
**C. POTENTIAL NEXT STEPS**

1. Designate a BACWA representative to participate in the Tri-TAC/CASA workgroup that is developing comments.
2. Once revised draft policy is issued, develop BACWA-specific comment letter and template for member agencies.
3. Once the policy is adopted, work with Permits & Laboratory workgroups and the Regional Water Board to determine regional implementation next steps, including improvements to regional testing efforts as discussed at Pardee 2011.

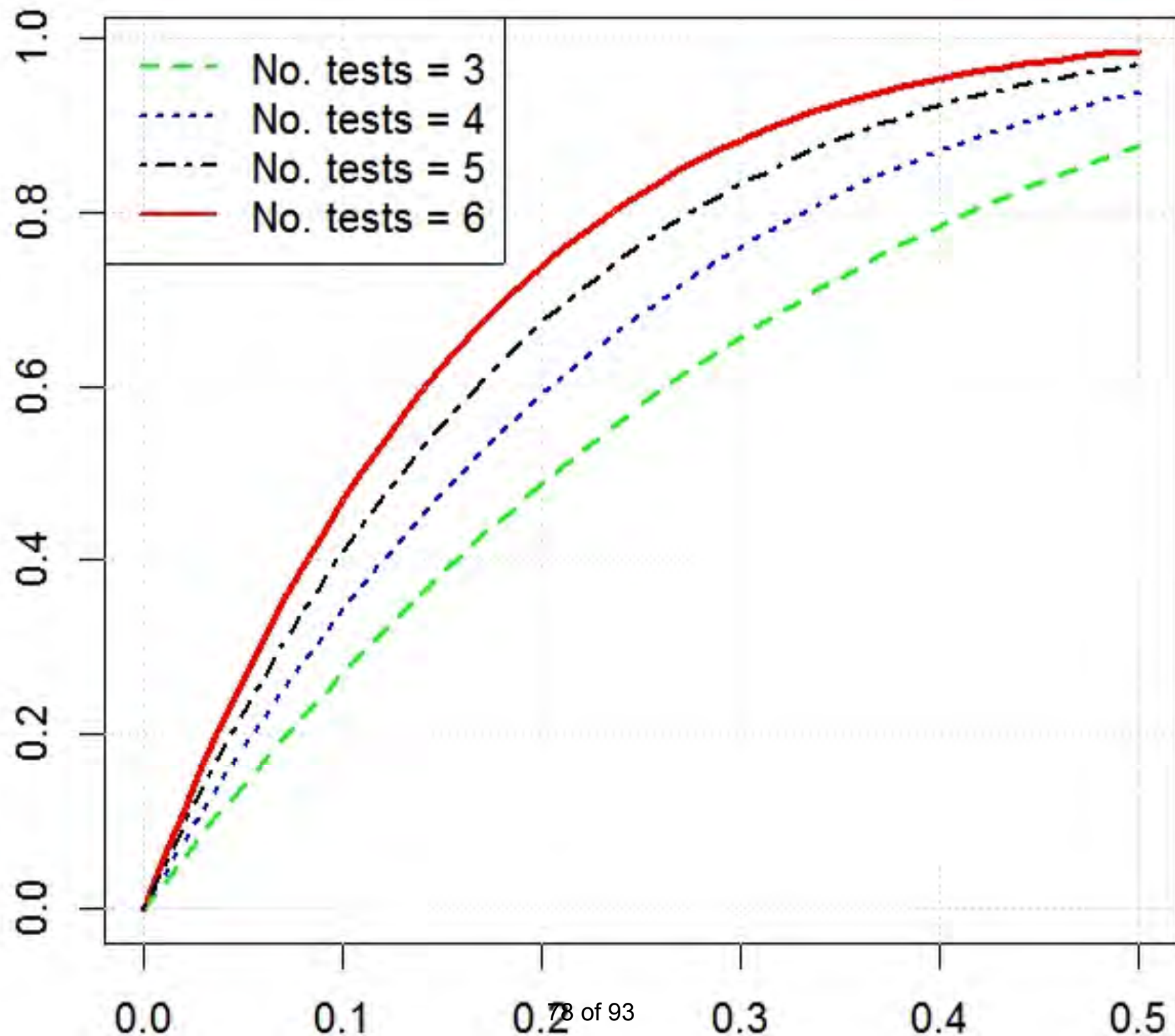
**Draft Policy for Toxicity Assessment and Control**  
**Proposed Revisions**

The following flow chart comes from the current draft of the Policy for Toxicity Assessment and Control and reflects several revisions made to the previous incarnation that was released in November 2010. *Please note that these revisions have not gone through management review and, are tentative and subject to change.*

DRAFT



Probability of Failing Accelerated Testing



**Triennial Review**  
**Issue Summary**  
**March 16, 2012**

**A. BACKGROUND**

On March 27 – from 1:00 p.m. until 3:00 p.m. – the Regional Water Board will hold a workshop on the 2012 Triennial Review of the Basin Plan. This review is required by the federal Clean Water Act, and typically results in a list of priority Basin Plan amendments that will be undertaken in the coming years. Brief descriptions of amendments proposed for the 2012 Review are attached. The public may submit comments on the Review until April 17, 2012.

Topics from the previous, 2009, Review that resulted in Basin Plan amendments included the following:

Addition of Unnamed Water Bodies & Beneficial Uses

This Basin Plan amendment was adopted by the Water Board on July 14, 2010. The Amendment adds nearly 275 surface water bodies to Table 2-1 of the Basin Plan. It also designates beneficial uses for the newly added and for some existing water bodies. The objective of this Basin Plan amendment is to provide clarity and transparency about what uses we are protecting water quality for in surface waters in the Region.

Refinement of Beneficial Uses of Hayward Marsh

This Basin Plan amendment was adopted by the Water Board on September 14, 2011. The Amendment refines the beneficial uses of Hayward Marsh, which was created in 1988 for the purpose of reclaiming treated wastewater to create brackish marsh habitat. This amendment removes water contact recreation as a beneficial use; adds preservation of rare and endangered species; and clarifies the bacterial water quality objectives that apply to wastewater discharges into Hayward Marsh. Other designated beneficial uses, estuarine habitat, fish spawning, wildlife habitat, and noncontact water recreation, would remain the same.

**B. POTENTIAL NEXT STEPS**

1. Develop a list of priority amendments from BACWA's perspective.
2. Select and engage a consultant to prepare comments in advance of the April deadline.



**Brief Issue Descriptions**  
for the  
**2012 Triennial Review**  
of the  
**San Francisco Bay Basin**  
**Water Quality Control Plan**  
**(Basin Plan)**

**March 2012**

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## 1 INTRODUCTION

The San Francisco Bay Regional Water Quality Control Board (Water Board) is conducting the 2012 triennial review of the water quality standards in its Water Quality Control Plan (Basin Plan, [http://www.waterboards.ca.gov/sanfranciscobay/basin\\_planning.shtml](http://www.waterboards.ca.gov/sanfranciscobay/basin_planning.shtml)). The last triennial review was completed in fall 2009. The Water Board's triennial review will identify those issues that are considered a priority to address through Basin Plan amendment projects. Based on previous stakeholder comments, coordination with the statewide Basin Plan roundtable and a review of regulatory program needs, Water Board staff has identified the following issues within the Basin Plan for consideration in the upcoming triennial review. The projects are presented in categories of project type: beneficial uses, water quality objectives, implementation plans, other plans and policies, and editorial updates. Their order within these categories does not reflect their priority – which will be established through the triennial review public process. We prepared this list to inform the public and inspire interested parties to generate ideas to share with us to assist in our efforts to identify and prioritize Basin Plan amendment projects that will best address the water quality planning needs of our region.

## 2 UPDATE BENEFICIAL USES

State policy for water quality control in California is directed toward achieving the highest water quality consistent with maximum benefit to the people of the State. The beneficial uses described in Chapter 2 of the Basin Plan define the resources, services, and qualities of the State's aquatic systems. The Water Board is charged with protecting all these beneficial uses from pollution and nuisance that may occur as a result of waste discharges in the Region. Beneficial uses of surface water bodies, groundwater aquifers, and wetlands presented here serve as a basis for establishing water quality objectives and discharge prohibitions to attain this goal.

### *2.1 Modify Groundwater Recharge Beneficial Use*

This project would explore modifying and expanding the groundwater recharge beneficial use definition to support storage of drinking water in groundwater aquifers. The Basin Plan designates all groundwater basins as potential or existing drinking water sources. The State faces global climate change and associated hydrological changes, so groundwater storage will become an increasingly important water management tool to help the State meet its future water needs. Enhancing groundwater storage may be necessary to help the Region cope with climate change impacts.

### *2.2 Evaluate the Beneficial Use for Municipal Supply for Groundwater Aquifers along the Bay Fringe*

The goal of this project would be to create a consistent and transparent process to determine when the municipal supply beneficial use applies to a given groundwater aquifer and to memorialize these use determinations through the Basin Plan. The project would entail developing a regional policy for groundwater along the Bay fringe and underlying fill areas. The Water Board's "Sources of Drinking Water" Policy (Water Board Resolution 89-039) states that all surface and groundwaters in the state are suitable or potentially suitable for municipal and domestic water supply. This project would explore where exceptions to this policy might be granted – for example when the groundwater has elevated total dissolved solids concentrations or

the area suffers from low well yield. Developing this policy would provide regulatory certainty as to whether the domestic or municipal supply beneficial uses apply to a given Bay fringe site, and ensure that appropriate cleanup levels are applied for Bay fringe sites for which the domestic or municipal beneficial use does not apply.

### ***2.3 Evaluate the Shellfish Harvesting Beneficial Use for the San Francisco Bay Region***

Most segments of San Francisco Bay are currently designated as suitable for commercial and recreational shellfish harvesting beneficial uses (SHELL). There are currently no commercial shellfish beds in San Francisco Bay. Commercial shellfish beds in the region are in Tomales Bay and along the coast at Point Reyes National Seashore. All coastal areas in the region are also designated as having the SHELL beneficial use. The Basin Plan identifies water quality objectives for shellfishing using a bacterial indicator, measured as fecal coliforms, and these objectives are based on protection of commercial shellfish beds for human health consumption. These objectives are more than ten times lower than the recreational water contact objectives.

The State Water Board has been working on an amendment to the Ocean Plan to update bacterial indicator objectives protective of shellfishing. One aspect of this project under consideration is refining the shellfish harvesting beneficial use definition to distinguish between commercial and recreational shellfishing. Data have also been collected and evaluated to support an implementation option for the SHELL beneficial use as it would apply to recreational shellfishing – referred to as the “reference system approach.” In the “reference system approach, we determine how frequently bacterial water quality objectives are exceeded in areas downstream of relatively undeveloped watersheds. Then, the exceedance frequencies for other areas are compared to the reference exceedance frequency for the purpose of determining protection of beneficial uses. Data collected thus far however indicate that even reference areas exceed the SHELL water quality objectives 40% of the time. Currently we are participating with other Regional Boards and the State Water Board in the development of the statewide project related to this beneficial use. At a minimum, this project would revise the beneficial uses to be consistent statewide and to distinguish between recreational and commercial shellfishing. An approach is needed in the region to address the applicability of the shellfish water quality objective.

### ***2.4 Complete the Stream and Wetland Systems Protection Policy***

This project is to complete the Stream and Wetland Policy currently under development. The resulting Basin Plan amendment would protect stream and wetland systems, which include stream channels, wetlands, floodplains, and riparian areas. The amendment is expected to help protect and restore the physical characteristics of these systems, including their connectivity and natural hydrologic regimes, in order to protect beneficial uses. The proposed stream protection amendment would designate two beneficial uses of streams and wetlands: water quality enhancement and flood peak attenuation/flood water storage. These beneficial uses explicitly recognize that physical characteristics of water bodies contribute to better water quality, and need to be protected in the Board’s permitting programs in order to achieve the Board’s mission of protecting all beneficial uses of the Region’s water bodies.

The proposed amendment would also include new water quality objectives and an implementation plan that sets forth actions needed to attain the new water quality standards. The implementation plan would provide flexibility to account for a wide range of watershed conditions (e.g., degree of urbanization, watershed size, and surrounding land uses) and would establish a general framework for how to assess achievement of the water quality objectives associated with the new beneficial uses.

### **3 UPDATE WATER QUALITY OBJECTIVES**

The overarching purpose of water quality regulation is to protect and maintain thriving aquatic ecosystems and the resources those systems provide to society and to accomplish this in an economically and socially sound manner. California's regulatory framework uses water quality objectives both to define appropriate levels of environmental quality and to control activities that can adversely affect aquatic systems. The following candidate projects provide specific examples of water quality objectives we are considering updating.

#### ***3.1 Develop Site-Specific Objectives for Dissolved Oxygen in San Francisco Bay***

The Basin Plan includes a minimum water quality objective of 5.0 mg/L for dissolved oxygen in all tidal waters downstream of the Carquinez Bridge. This objective was adopted in the 1975 Basin Plan and has remained unchanged. Recent advances in scientific knowledge regarding the dissolved oxygen tolerance of estuarine and marine organisms, as well as new methods for setting protective limits, may provide the technical basis for improved and more consistent objectives to protect beneficial uses. As part of the nutrient numeric endpoint project for coastal estuaries underway at the Southern California Coastal Water Research Project (SCCWRP), an evaluation of the scientific basis for dissolved oxygen objectives for estuaries and enclosed bays in California has been conducted. This work may inform an update of dissolved oxygen objectives for San Francisco Bay.

Updating the dissolved oxygen objectives is especially important in view of the dramatic increase in opportunities for restoration of unique habitats around the Bay margins. These unique habitats include extensive tidal wetlands and slough networks as well as pans and other ponded areas. However, dissolved oxygen concentrations in shallow water habitats such as tidal wetlands and slough networks vary much more than in the main water mass of San Francisco Bay and frequently exhibit concentrations less than 5.0 mg/L. Because restoration efforts of habitats around Bay margins cannot consistently demonstrate compliance with permit conditions derived from the Basin Plan's dissolved oxygen objective of 5.0 mg/L, it is appropriate to explore the possibility of developing new dissolved oxygen objectives or possibly, site-specific dissolved oxygen objectives in tidal wetlands, slough channels, managed ponds, and other shoreline habitats. In addition, the State Board began development of a nutrient assessment framework for San Francisco Bay and dissolved oxygen is proposed as a primary indicator. As such, the existing dissolved oxygen objectives should be evaluated for various habitats in San Francisco Bay.

### ***3.2 Update the Basin Plan's Toxicity Testing Requirements***

The State Water Board is developing an amendment to the Toxicity Control Provisions of the Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. That amendment would update procedures for assessing the potential for chemicals to cause toxicity to aquatic life in surface waters.

Currently, there are inconsistencies between different State and Regional Water Boards' toxicity testing requirements that result in uneven protections for aquatic life and an unequal playing field for waste dischargers. By adopting numeric toxicity objectives, the State Water Board would establish a clear, consistent definition of toxicity. By contrast, existing narrative toxicity objectives can be subject to a vast range of interpretations.

The draft State Water Board policy would require a new statistical approach, endorsed by U.S. EPA, to be applied consistently throughout California. The new approach, called the Test of Significant Toxicity (TST), incorporates the latest statistical approach and benefits from extensive peer review. This policy would supersede the Basin Plan's current toxicity policy, so Water Board staff would need to edit the Basin Plan sections on toxicity (3.3.18 and 4.5.5.3) to ensure consistency.

### ***3.3 Refine Alameda Creek Watershed Total Dissolved Solids (TDS) and Chloride Water Quality Objectives***

The current surface water quality objectives for TDS and chloride in the Alameda Creek Watershed above Niles (Basin Plan Table 3-7) were adopted in the 1975 Basin Plan. These objectives were established to protect groundwater used for drinking water. Specifically, they were intended to minimize salt buildup in the Livermore-Amador groundwater basin by limiting treated municipal wastewater discharges to the Alameda Creek watershed upstream of Niles, as surface waters recharge the Livermore-Amador groundwater basin. The objectives were based on historic South Bay Aqueduct (SBA) water quality and thus limited surface water discharges to salt concentrations no higher than those in SBA imports. The adoption of these objectives led to the cessation of all publicly-owned treatment works (POTW, i.e., sewage treatment plant) discharges to the Livermore-Amador groundwater basin by 1980.

Other wastewater dischargers (e.g., aggregate mining operations) use Livermore-Amador groundwater in their operations and discharge salt from this groundwater into Alameda Creek and its tributaries. These discharges do not necessarily lead to salt buildup in the Livermore-Amador groundwater. However, the discharged water must meet the water quality objectives in Table 3-7.

With municipal wastewater discharges eliminated, the Table 3-7 objectives may no longer be applicable. In reconsidering the objectives, potential impacts to the Niles Cone groundwater basin (recharged by the Alameda Creek watershed downstream of Niles) must be considered. The surface water quality objectives would be reviewed and refined to reflect salt transport throughout the Alameda Creek system and conditions that best protect water supplies and other beneficial uses.

### ***3.4 Revise Cadmium Water Quality Objectives***

In 2000, U.S. EPA promulgated the California Toxics Rule (CTR), which established acute and chronic dissolved freshwater criteria for cadmium as 4.3 micrograms per liter (µg/L) and 2.2 µg/L, respectively. The CTR also established acute and chronic dissolved saltwater criteria for cadmium of 42 µg/L and 9.3 µg/L, respectively. The U.S. Fish and Wildlife Service (FWS) found that the CTR freshwater and saltwater cadmium criteria are not protective of threatened and endangered species. In response to this FWS finding, U.S. EPA developed revised, recommended cadmium criteria in 2001 that are protective. The State Water Board staff are proposing to adopt hardness-based equations for freshwater cadmium objectives (derived by the United States Geological Survey) and U.S. EPA's revised, recommended saltwater cadmium criteria for inland surface waters, enclosed bays, and estuaries.

Once State Board adopts these new equations, the Water Board could undertake a project to prepare a Basin Plan amendment incorporating these hardness-based relationships.

### ***3.5 Revise Pentachlorophenol (PCP) Water Quality Objectives***

PCP criteria were included in the California Toxics Rule (CTR) of 2000. Subsequently, the US Fish and Wildlife Service and the National Marine Fisheries Service issued a Biological Opinion concluding that the U.S. EPA's CTR water quality criteria for PCP are not protective of the early life stages of salmonids under conditions of low dissolved oxygen and high temperatures. As a result, the U.S. EPA calculated criteria that are protective. The U.S. EPA has asked the State and this Water Board as part of the last triennial review to identify where these aquatic conditions occur and to adopt the revised (lower) PCP water quality criteria.

This project would develop a basin plan amendment to adopt the proposed more restrictive objectives for PCP and create a plan to implement the objectives where applicable to protect the early life stages of salmonids that may be present under conditions of low dissolved oxygen and high temperatures in the San Francisco Bay Region. Information is not available at this time to indicate where aquatic conditions occur in the Region that might pose a risk to salmonids.

### ***3.6 Develop Trash Water Quality Objectives***

Land-based sources of trash and debris are negatively affecting beneficial uses of the Bay and its tributaries. Once transported to coastal and open oceans, the trash, in the form of marine debris, affects beneficial uses there, as well. The State's current regulatory framework is not consistent across all regions (some regions have narrative objectives only and others have narrative objectives and prohibitions). Moreover, the Basin Plan lacks implementation provisions that explicitly protect against significant impacts to the Bay and ocean beneficial uses that may result from the transport of land-based trash.

In order to minimize development of time and resource-intensive trash TMDLs around the State, the State Water Board is developing a trash policy both to address the problem of trash and remedy the inconsistent regulatory framework. The draft policy currently contains three elements:

- A water quality policy that would define trash as well as performance standards for cleanup and removal of trash from the storm drain system;
- Trash water quality objectives; and

- Implementation provisions designed to achieve the objectives.

Adoption of this policy by the State Water Board would require changes to the Basin Plan in Chapters three, four, and five to ensure consistency with the policy.

### ***3.7 Develop Nutrient Water Quality Objectives***

The Basin Plan does not currently include numeric water quality objectives protective of nutrient-related impairments, such as excessive algae growth, unnatural foam, odor, and other impacts associated with excessive nitrogen and phosphorous. The major focus of this project would be to develop an assessment framework for nutrients for San Francisco Bay, but it would also include evaluating statewide efforts to address nutrients for freshwater and coastal estuaries for their applicability in the region. This project would build on the State Board's efforts to develop an approach to address nutrients statewide.

The State Water Board is in the process of developing a freshwater nutrient policy that includes narrative nutrient objectives along with numeric guidance to translate the narrative objectives into numeric water quality objectives. The approach is based on the Nutrient Numeric Endpoint (NNE) framework, which establishes numeric endpoints based on the response (e.g. algal biomass, dissolved oxygen, etc.) of a water body to excessive nutrient concentrations. The State Water Board held a public scoping meeting in October 2011 and is also initiating peer review of the policy's technical foundation. Water Board staff would track this effort and evaluate the policy's application for fresh waters in the Region. After NNE policy is adopted by the State Board, we would also need to make corresponding changes to the portions of the Basin Plan involving nutrient objectives and implementation thereof.

In addition, a State Regional Technical Advisory Group has been established by the State Water Board to support application of the framework to California estuaries. The State Water Board has contracted with the Southern California Coastal Water Research Project to develop an estuarine classification system, review candidate nutrient-related indicators for all estuaries, explore revision of dissolved oxygen objectives, and review studies supporting a numeric endpoint for macroalgae on estuarine tidal flats.

For San Francisco Bay, Water Board staff are currently actively involved in the process of developing the SF Bay-specific NNE framework, which will be the foundation both for assessing the Bay's impairment status relative to nutrients, eutrophication and for developing a nutrient monitoring, modeling and management strategy for SF Bay. Staff are also working collaboratively with stakeholders to develop the regional nutrient strategy.

### ***3.8 Development and Implementation of Biological Objectives***

Biological assessments provide direct measures of the cumulative response of the biological community to all sources of stress; they measure the condition of the aquatic resource to be protected. Biological objectives set the biological quality goal, or target, to which water quality can be managed, rather than the maximum allowable level of a stressor (pollutant or other water quality condition) that affects the aquatic life in that water body. Therefore, biological objectives are more integrative and environmentally relevant goals for the protection of aquatic life than the objectives based on stressors that are currently in the Basin Plan. U.S. EPA is encouraging states to adopt biological objectives, and several states, such as Ohio and Florida, have already done so.



In California, the Surface Water Ambient Monitoring Program (SWAMP) has been collecting the information needed to develop biological objectives. In the San Francisco Bay region, SWAMP has collected bioassessment data by monitoring watersheds in the Region and is currently collaborating with other watershed monitoring programs to develop Bay Area specific indices of biotic integrity, referred to as an IBI, for both perennial and non-perennial streams. The State Water Board is in the process of developing statewide biological objectives for perennial streams and rivers.

Data from stormwater programs, Region 2 SWAMP, Perennial Streams Assessment Program, and Reference Condition Management Program are available to develop San Francisco Bay-specific biological objectives for perennial and non-perennial streams and the associated implementation plans. Such a project might also include the development of a tiered aquatic life beneficial use (TALU) framework or similar conceptual framework, which recognizes the maximum biological potential based on a stream's natural condition and ambient stressors. The biological objectives framework relies on a combination of biological, physical, and chemical monitoring to account for natural variation through water body classification and relies on bioassessment data to measure aquatic life directly. Biological objectives are coupled with numeric biological standards (e.g., IBI scores) that provide a direct measure of the beneficial use being protected.

### ***3.9 Incorporate Revised U.S. EPA Recreational Water Quality Criteria for Bacteria***

In December, 2011, the U.S. EPA published and invited comment on its draft recreational water quality criteria for bacteria in both fresh and marine waters. There are not substantial changes to the geometric mean criteria, but U.S. EPA introduced a new concept, Statistical Threshold Value (STV), as a clarification and replacement for the term 'single sample maximum'. Also, the draft criteria document no longer recommends different criteria values for beaches based on intensity of use. EPA has also developed a quantitative polymerase chain reaction method to detect and quantify enterococci more rapidly than the culture method.

For calculating the geometric mean and associated STV, EPA recommends a duration between 30 days and 90 days. EPA recommends a frequency of zero exceedances of the GM and less than 25 percent exceedance of the STV, during the recreation duration specified. The duration of the averaging period and the frequency of exceedance are both components of a water quality criterion, and as such, would need to be explicitly included in State's water quality standards.

Once the new criteria have been adopted by U.S. EPA, California would need to make corresponding changes in State plans and policies. Part of this work would involve making decisions on averaging periods as well as harmonizing the recommended exceedance frequencies with the State policy for impaired waters.

## **4 UPDATE IMPLEMENTATION PLANS**

The Water Board's overall mission is to protect the beneficial uses supported by the quality of the Region's surface water and groundwater. Together, the beneficial uses described in detail in Chapter 2 define the resources, services, and qualities of aquatic ecosystems that are the ultimate goals of protecting and achieving water quality. The objectives presented in Chapter 3 present a framework for determining whether water quality is indeed supporting these beneficial uses. This

chapter describes in detail the Water Board's regulatory programs and specific plans of action for meeting water quality objectives and protecting beneficial uses. The following are specific implementation plan sections we have identified as candidates for updating.

#### ***4.1 Environmental Screening Levels (ESLs) for Groundwater Cleanups***

Staff would update the Basin Plan with a description of the tiered decision process used to determine relevant exposure pathways and appropriate site cleanup levels using environmental screening levels (ESLs). ESLs are conservative contaminant concentrations in a particular media (soil, soil gas, or groundwater) below which the contaminant can be assumed not to pose a significant, long-term (chronic) threat to human health and the environment. The decision process expands the existing protection of groundwater beneficial uses to include potential risk to human health from indoor air exposure and protection of aquatic receptors.

Accomplishing this project would both promote consistency and optimal resource allocation in groundwater cleanup projects because, by memorializing these screening levels in the Basin Plan, other regulatory agencies would more likely use the ESLs as appropriate cleanup levels. This update would not incorporate the current ESL criteria as fixed numbers, but rather memorialize the approach for deriving and applying ESLs to cleanup sites. This would document our current process for screening sites using a multiple pathway conceptual model, which includes groundwater and surface water interactions. This project was included in the prioritized list in the last Triennial Review and some initial work, supported by the Toxics Division, has already been conducted.

#### ***4.2 Amend Wet Weather Overflows Implementation***

The Basin Plan contains a conceptual approach for evaluating wet weather discharge conditions where polluted stormwater or process wastewater bypasses normal treatment. This approach uses three levels of treatment corresponding to the three types of beneficial uses commonly affected by wet weather overflows (water contact recreation, non-contact water recreation, and shellfish harvesting).

In 2007, the State Water Board found the wet weather permit and time schedule order (TSO) issued to the East Bay Municipal Utility District to be inconsistent with the Clean Water Act mandate that POTWs achieve secondary treatment, at a minimum. State Water Board Order 2007-0004 remanded the permit and TSO back to the Water Board for revision and directed the Water Board to amend the Basin Plan to delete language that conflicts with the Clean Water Act. The Water Board adopted a revised permit and a stipulated order that no longer allow discharges from wet weather facilities to the Bay. This project would amend Section 4.9.2 and Table 4-4 of the Basin Plan to update the relevant language there.

#### ***4.3 Low-Threat Site Closure Requirements***

Staff would develop a regional policy to address closure for low-threat contaminant sites as a complement to the forthcoming State Water Board policy for Low Threat Closure of Petroleum Underground Storage Tank (UST) sites. The proposed State Board policy establishes criteria under which certain types of UST sites that present a low threat to human health, safety, and the environment can be closed, that is no longer subject to investigation and cleanup requirements. There are two possible scopes for this project. The first (narrow) option is to limit the policy's

scope to solvent-impacted sites, thereby avoiding any overlap with the pending State Water Board policy. The second (broader) option is to craft a policy that addresses both petroleum-UST and solvent-impacted sites, in case the State Water Board's policy is not adopted. This policy would benefit staff in that they could focus their attention on sites that pose the most threat to human health and the environment. The policy would also improve consistency in decision-making by providing guidance to Water Board staff, responsible parties, consultants, and other stakeholders, on clarifying future requirements for these sites. For example, some sites may require no further action (i.e., site closure); others may require only monitoring but no further active remediation; other sites may require additional work (e.g., a higher degree of site characterization and/or remediation).

#### ***4.4 Salt and Nutrient Management Plans***

The State Water Board adopted a Recycled Water Policy in February 2009. The purpose of the Policy is to increase the use of recycled water in a manner consistent with state and federal water quality laws. The Recycled Water Policy requires that Salt and Nutrient Management Plans be completed to facilitate basin-wide management of salts and nutrients from all sources in a manner that optimizes recycled water use while ensuring protection of groundwater supply and beneficial uses, agricultural beneficial uses, and human health.

The Recycled Water Policy requires stakeholders to develop implementation plans to meet these management goals for salts and nutrients. All groundwater basins in the region will eventually be required to adopt salt and nutrient management plans. Board staff have identified three priority groundwater basins – Sonoma, Livermore-Amador Valley and Santa Clara. San Francisco Bay Region stakeholders are in the process of developing management plans for these three priority groundwater basins. These management plans will assess sources, identify linkages to water quality objectives and establish a plan to achieve and maintain water quality objectives.

These implementation plans will eventually be adopted into the Basin Plan. In order for Basin Plan adoption to be a smooth process, the Water Board will provide regulatory and technical guidance during the stakeholder-led development of these plans.

#### ***4.5 On-Site Wastewater Treatment System Implementation Plan***

The State Water Board has drafted a new policy for septic systems to ensure that surface waters and ground waters are not contaminated by the pathogenic bacteria and soluble inorganic materials such as nitrogen compounds that these systems can release.

The draft OWTS Policy includes:

- a) Minimum operating requirements that may include siting, construction, and performance requirements,
- b) Requirements for OWTS adjacent to impaired waters,
- c) Requirements authorizing local agency implementation,
- d) Corrective action requirements,
- e) Minimum monitoring requirements,
- f) Exemption criteria, and

g) Requirements for determining when an existing OWTS is subject to major repair.

State Water Board staff conducted a series of public workshops around the state in late Fall 2011 to introduce the policy and answer questions. The State Water Board will likely act on this policy in 2012, and, after adoption, we will need to amend Section 4.18 of the Basin Plan to ensure consistency with the new policy, as necessary.

## 5 UPDATE PLANS AND POLICIES

In addition to the Basin Plan, many other plans and policies direct the Water Board's actions or clarify the Water Board's intent. Chapter 5 describes numerous State Water Board plans and policies and Water Board policies. The following are specific examples of policies we are considering updating.

### 5.1 *The California Water Plan*

The California Department of Water Resources (DWR) is preparing the California Water Plan Update 2013, utilizing a variety of venues and outreach to partner with other State agencies, federal agencies, tribal governments, statewide and local agencies, organizations, technical experts, and the public. The 2013 Water Plan will, for the first time, contain a finance plan that will identify critical priorities for State investment in integrated water management activities and recommend equitable and fiscally responsible financial strategies and revenue sources should funding gaps be identified as part of the water plan's development. The Water Plan will also emphasize enhanced content related to water quality, to highlight regional and statewide water quality challenges and recommend strategies to protect and improve water quality and water supply reliability.

Water Board staff would have two roles in this project. First, staff would contribute material for the Water Quality Section of the San Francisco Bay Regional Report. Second, staff would evaluate potential updates to the Basin Plan to integrate the recommendations of the Water Plan. We anticipate that the Water Plan will focus on regional water issues with statewide impacts, data availability, lessons learned, best management practices and management strategies, with a strong emphasis on integrated regional water management and planning.

### 5.2 *Priority Ranking for TMDL Development*

The Water Board is working on a range of TMDL projects throughout the region. TMDLs often include water quality standards issues, and most will be adopted as Basin Plan amendments. For these reasons, we include our TMDL priorities in the Triennial Review.

The current list of impaired waters for California is available on the State Board website ([http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml)). We present here, for stakeholder review and comment, the list of TMDLs that are of higher priority for development and completion as Basin Plan amendments over the next three years:

- Butano and Pescadero Creeks Sediment
- Lagunitas Creek Sediment
- Mission Creek Toxic Hot Spot
- Napa River Nutrients
- North San Francisco Bay Selenium

- Permanente Creek Selenium
- Petaluma River Nutrients and Pathogens
- San Francisco Bay Beaches (pathogens)
- San Gregorio Creek Sediment
- San Mateo Coast, Pacifica/San Pedro Creek pathogens
- Sonoma Creek Nutrients
- Suisun Marsh Dissolved Oxygen, Mercury and Nutrients

### *5.3 Develop Policy for Managing Mercury in Restored Wetlands*

Wetlands pose a dilemma for resource managers and regulators because these environments provide badly-needed habitat for a wide variety of wildlife, but their chemical and biological features can increase exposure to certain types of contaminants, notably mercury. Wetlands are complex systems, especially with respect to contaminant cycling in wetland food webs. In the face of this complexity, regulators must balance the need to protect wildlife and people from hazardous exposure to contaminants against the myriad environmental benefits and ecological services provided by wetlands. The Water Board does not currently have a comprehensive policy providing unambiguous direction to wetland restorers and managers about how to manage in the face of this complexity. The San Francisco Bay Mercury TMDL requires wetland restoration projects to include pre- and post-restoration monitoring to demonstrate that they have been designed and are operated to minimize methylmercury production and biological uptake, and result in no net increase in mercury or methylmercury loads to the Bay.

In this candidate project, the Water Board would develop policy to help provide regulatory certainty in the challenging context of managing mercury in wetlands. The policy would likely include elements to provide restoration project proponents with greater certainty about required monitoring (e.g., over what duration, time of year, spatial coverage, which media or species/biosentinels) and the regulatory consequences of the monitoring results. We would also try to address the challenges of using dredged material for wetland restoration — how to use the material responsibly while minimizing the risk of exposure of biota to contaminants in the material. Last, we would include elements explicitly addressing how to balance the potential increased risks to wildlife from contaminant exposure as wetlands are restored with the ecological benefits provided by restored wetlands.

This project would ultimately result in policy incorporated into the Basin Plan.

## **6 EDITORIAL REVISIONS, MINOR CLARIFICATIONS or CORRECTIONS**

This category of project involves making editorial non-regulatory changes that clarify or update some of the program descriptions to be consistent with new laws, plans and regulations or to correct minor errors. These changes are sometimes needed for clarity and to ensure that the public is informed about the latest requirements to protect water quality. These changes would be non-regulatory. That is, they would not impose new requirements on permittees, but rather clarify existing regulatory requirements or program descriptions. For example, Chapter 7 was created in the Basin Plan to include Water Quality Attainment Strategies, such as Total

Maximum Daily Loads (TMDLs). Chapters 4 and 7 need to be aligned to account for already adopted TMDLs and future TMDL Basin Plan amendments.

### 6.1 Clarify Turbidity Water Quality Objective

The Basin Plan's turbidity water quality objective is difficult to interpret:

*Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU*

This language can be improved for clarity as well as consistency with turbidity objectives found in the Basin Plans from other regions. Because improving this language would require only minor changes, this project could be accomplished as part of another Basin Planning project.

### 6.2 Miscellaneous Editorial Changes

Suggestions were also made during the public workshop from the 2009 Triennial Review as to possible changes to the Basin Plan that could be considered non-regulatory. These include:

- Update sections on toxicity to reflect current U.S. EPA requirements and references.
- Update footnotes to Tables 3.3 and 3-4 to reflect U.S. EPA's final tributyltin criteria adopted in 2003. Currently the draft criteria are reflected in the footnotes.
- Chapter 1, Introduction: Consider adding more detail.

For more information about these candidate basin planning projects or the triennial review process itself, please contact:

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