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| Permits Committee – Report to BACWA Board | Permits Committee Meetings on: 9/13/16, 10/11/16, 11/8/16Executive Board Meeting Date: 11/18/16Committee Chair: Eric Dunlavey |

**Committee Request for Board Action: None**

**21 attendees, representing 15 member agencies on 9/13**

**9 attendees, representing 7 member agencies on 10/11**

**23 attendees, representing 18 member agencies on 11/8**

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| **Regional Water Board Report-out (September)**Bill Johnson is replacing Lila Tang as NPDES Division Chief. With Marcia Liao’s retirement, there are now two vacancies to fill in the division. |
| **Selenium** On July 15, the EPA published its proposed selenium criteria in the [Federal Register](https://www.regulations.gov/docket?D=EPA-HQ-OW-2015-0392).  The rule proposes to reduce the selenium water quality criteria for the waters of San Francisco Bay and Delta from 5 ppb to 0.2 ppb, and also proposes fish and clam tissue criteria. Most San Francisco Bay Area POTWs would not be able to meet this water concentration without dilution credit. The Lower South Bay dischargers (San Jose, Palo Alto, and Sunnyvale) developed a [Lower South Bay Selenium Fact Sheet](http://bacwa.org/document/lsb-selenium-fact-sheet/) that shows how measured selenium concentrations in the water column, POTW effluent, as well as fish and clam tissue, compare to the proposed criteria. Selenium discharges from North Bay POTWs are governed by the 2015 [North Bay Selenium TMDL](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/seleniumtmdl.shtml), which was approved by the EPA in August 2016, but POTWs in the South Bay could be impacted in the future by the new criteria. BACWA worked with members of the Permits Committee and submitted a [comment letter](http://bacwa.org/document/bacwa-comments-epa-proposed-selenium-criteria-sf-bay-delta-10-28-16/) to EPA recommending that fish tissue criteria supersede the water column criterion where fish tissue data are available, and that Regional Regulators have the discretion to use fish tissue data to determine reasonable potential in dischargers' permits. The Lower South Bay Dischargers and the Water Board submitted letters that made the same recommendations. The Water Board also recommended that the fish tissue criteria be implemented as a mean rather than a single sample-exceedence. BayKeeper submitted a comment letter recommending the strict enforcement of the water column criterion, as well as requesting that the criteria override the North Bay Selenium TMDL. All comment letters are now [posted](https://www.regulations.gov/docketBrowser?rpp=50&so=DESC&sb=postedDate&po=0&dct=PS&D=EPA-HQ-OW-2015-0392) in the Federal Docket. It is unknown when the EPA intends to respond to these comments. |
| **Toxicity** * The State Water Board has circulated a new draft of its Toxicity Plan to Regional Water Board staff, who have provided comments. They have reportedly tried to address the comments of all different stakeholder groups. State Water Board staff have reported that they will conduct focused stakeholder meetings by the end of this year, with a draft out for public comment in early 2017. They will aim for a June 2017 adoption. Regional Water Board staff have stated that they will drop acute toxicity testing for agencies with no reasonable potential, and implement true dilution as the instream waste concentration.
* The Southern California Coastal Water Research Project (SCCWRP), has conducted research that suggests that there are problems with reproducibility in some of the chronic toxicity methods, particularly with the *Ceriodaphnia dubia*test species. These problems will have serious consequences for POTWs since the Toxicity Plan will likely include enforceable limits. As such, the Summit Partners, composed of CASA, CWEA, BACWA, SCAP, and CVCWA, have contacted SCCWRP and the Stormwater Monitoring Coalition (SMC) with a [**proposal**](http://bacwa.org/wp-content/uploads/2016/10/10-26-16-CW-Summit-Ltr-SCCWRP-re-Tox-Testing-Study1-1.pdf) to further evaluate accuracy, and approaches to mitigate and correct inaccuracies, related to the *Ceriodaphnia dubia*reproduction test. For more information on the original study, see SCCWRP’s [abstract](http://ftp.sccwrp.org/pub/download/DOCUMENTS/ConferencePresentations/SETAC_Nov2016_Greenstein.pdf) on their poster for the SETAC conference.
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| **ELAP Update*** + On September 1, 2016, the Environmental Laboratory Accreditation Program (ELAP) informed the Environmental Laboratory Technical Advisory Committee (ELTAC) that ELAP will recommend to the State Water Board the adoption of the 2016 NELAC Institute Standard (TNI 2016). This standard would be used to certify all wastewater labs in California to analyze their regulatory required samples. Adopting TNI standards will pose a formidable challenge since there are more than 1000 individual requirements. Initial costs likely include the need to hire staff to handle TNI-related paperwork; hiring consultants to setup the TNI documentation framework; purchasing Laboratory Information Management System (LIMS) software; and purchasing documents and training material from TNI. Small municipal laboratories may close if they are unable to meet the new standards. Most laboratories in Califronia have fewer than five full time personnel. BACWA, via the Laboratory Committee, submitted a [comment letter](http://bacwa.org/wp-content/uploads/2016/10/BACWA-Comment-Letter-%25E2%2580%2593-ELAP-Regulations-Development-Laboratory-Standard-sent-10-20-16.pdf) that expresses these concerns. ELAP states that it will consider revisions to portions of the standard, and is expected to produce a proposal for public comment in early 2017. The adoption of the new standards are expected in approximately one year, followed by a three-year phase-in period.
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| **Nutrients*** *Optimization/Upgrade Studies –* HDR is continuing to release Facility Reports to the agencies included in Wave 3. Wave 4 will be released after the new year. HDR is also continuing to work on estimates about what treatment and costs would be required to implement no increase in net loading of nutrients in future watershed permit terms
* *Watershed Permit Negotiations –* At the Pardee Technical Seminar, Water Board staff stated that they intend to implement no net loading increase provisions, or load caps, in the next Watershed Permit, in the absence of a better proposal from the BACWA community. They stated that an alternative proposal would include the following elements: 1) Increase in funding for the science plan; 2) timing of the increase in funding (i.e., starting before the next permit takes effect); and 3) studies to follow onto the optimization/upgrade studies. The BACWA Nutrient Science Team will reconvene to discuss how BACWA might respond to this strategy. The Nutrient Science team is made up of representatives from large and small agencies from each subembayment, and is a vehicle to ensure that all BACWA member agencies have a voice in this process.
* *EPA Nutrient Survey -*US EPA [letter](http://bacwa.org/document/epa-nutrient-survey-letter-10-20-16/) regarding draft nutrient survey sent to NPDES permittees nationwide. EPA’s Nutrient study [webpage](https://www.epa.gov/eg/national-study-nutrient-removal-and-secondary-technologies) has more information, and webinars about the study are scheduled for Nov 2 and Nov 10. Comments on the proposed survey are due to EPA due November 18. BACWA will submit a comment letter outlining our Regional Nutrient Management Strategy. The letter will also caution that collecting a small amount of nutrient data from agencies will not give a good indication on their potential for reducing nutrient loads, since site-specific factors are most important for determining alternatives.
* *Group Nutrient Annual Report –* The [Annual Report](http://bacwa.org/wp-content/uploads/2016/09/Group-Annual-Report-2016_Final.pdf) was submitted in compliance with the October 1 deadline. There was a discussion about what level of increase or decrease in nutrient loads is significant. The use of a nutrient data sheet separate from CIWQS was successful and will be repeated next year.
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| **Hg/PCB Watershed Permit*** The Hg/PCB Watershed Permit will be open for renewal in 2017. There is interest in dropping monitoring frequency in exchange for increased support to the Alternative Monitoring Plan. The committee would also like to see the risk reduction requirements dropped. One member requested that the monitoring schedule be harmonized with the plant’s NPDES permit monitoring schedule.
* The recipients of BACWA’s Risk Reduction Grant gave a progress updated for the Regional Water Board on October 25.
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| **Next BACWA Permits Committee Meeting:** Tuesday, December 13, EBMUD. |