

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 5, 2009**

Prepared on January 14, 2009

**ITEM NUMBER: 20**

**SUBJECT: Executive Officer's Report to the Board**

This item presents a brief discussion of issues that may interest the Board. Upon request, staff can provide more detailed information about any particular item.

**WATER QUALITY CERTIFICATIONS**

[Matt Thompson 805/549-3159]

In general, staff recommends "Standard Certification" when the applicant proposes adequate mitigation. Measures included in the application must ensure that beneficial uses will be protected, and water quality standards will be met.

Conditional Certification is appropriate when a project may adversely impact surface water quality. Conditions allow the project to proceed under an Army Corps permit, while upholding water quality standards.

Staff will recommend "No Action" when no discharge or adverse impacts are expected. Generally, a project must provide beneficial use and habitat enhancement for no action to be taken by the Regional Board. A chart on the following pages lists applications received from November 1, 2008 to December 15, 2008.

**WATER QUALITY CERTIFICATION APPLICATIONS RECEIVED FROM NOVEMBER 1, 2008 THROUGH DECEMBER 15, 2008**

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage <sup>1</sup>	Status as of Jan. 9, 2009
Santa Barbara County Flood Control District	Carpinteria Salt Marsh Enhancement Plan	Improve flood control and restore degraded areas within Carpinteria Salt Marsh.	Carpinteria	Santa Barbara	Carpinteria Salt Marsh, Franklin Creek	0.25	Santa Barbara County has withdrawn application due to county staff furlough
John Grether-- Grether Farming Co.	Casitas Ranch French Drain Restoration	Restore a French drain used to irrigate revegetated area and install a new rock weir for grade control.	Near Ojai	Ventura	Casitas Creek	0.01	Amendment approved December 18, 2008
Kenneth Hord	Hord Valley Road Driveway	Construction of a new driveway with an apron and associated 36-inch 100-linear foot HDPE pipe under the driveway.	San Luis Obispo	San Luis Obispo	Huer Huero Creek	0.0207	Awaiting CEQA compliance
Carl Steinberg-- Coastal Management Resources	Jalama Creek Restoration	Restoring approximately 7.8 acres of riparian and upland habitat with hydro-seeding, willow stakes, and erosion control.	Jalama Ranch	Santa Barbara	Jalama Creek	0.06	To be determined
Monterey County Water Resources Agency	2008-2009 Salinas and Arroyo Seco Rivers Emergency Channel Maintenance	Response to Basin Complex and Indian fires. Preemptive clearing of the main river channels in the Salinas and Arroyo Seco Rivers to maximize debris/sediment transport along the main stem of the Salinas River during the wet season.	Arroyo Seco River and Salinas River, downstream to Highway 1, approx. 35 miles total	Monterey	Arroyo Seco River and Salinas River	1485 acres	Supplemental information to be requested of applicant week of Jan. 12, 2009

<sup>1</sup> Total Acreage includes both temporary and permanent impacts to riparian, streambed, and/or wetland environments within federal jurisdiction.

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage <sup>1</sup>	Status as of Jan. 9, 2009
Rachel Lather-- Santa Cruz County Sanitation District	Aptos Transmission Main Relocation	Replacing 4.13 miles of sewer lines will require directional drilling under Aptos Creek, which will result in a 10-foot by 10-foot disturbance area at the entrance and exit of the bore.	Capitola	Santa Cruz	Aptos Creek	0.004	Application withdrawn until CEQA is finalized in February
Tony Chavez	Nipomo Creek Water Intake Gallery	Construction of a collection basin, requiring 0.0008 ac channel habitat impact, permanent fill in 0.017 acres of wetlands for intake galleries, 0.012 acres of fill in wetlands for a transmission pipe.	Nipomo	San Luis Obispo	Nipomo Creek	0.0318	Public notice period completed Dec. 15, 2008
Jeff Salt-- Goleta Sanitary District	Goleta Sanitary District Creek Crossing Repair	Repairing five sites where sewer pipes are exposed in creeks. Four sites will require 45 cubic yards of riprap downstream of the sewer lines. At the fifth site, soil deposited by a landslide will be moved to stabilize a bank.	Various sites around Goleta	Santa Barbara	Cieneguitas Creek, Las Vegas Creek	0.07	Public notice period completed Jan. 1, 2009
Matt Roberts-- City of Carpinteria	The Palm to Linden Trail	Improving and enlarging an existing drainage by the removal of invasive non-native weeds and establishing native plants.	Carpinteria	Santa Barbara	Drainage Ditch on APN 004-105-014	0.2	To be determined
Mike Boisvert-- Chevron	Chevron Casmalia Tompkins Lease Restoration	Excavating an estimated 2,800 cubic yards of hydrocarbon-impacted soils from one site and 2,400 cubic yards from a second site. Sites will be backfilled with clean soil and restored following excavation.	Casmalia	Santa Barbara	Shuman Creek	1.18	To be determined

## STATUS REPORT

### Goodwin Residence, Santa Barbara County – Update on Waiver of WDRs for Onsite System [Ryan Lodge 805/549-3506]

During its July 11, 2008 meeting, the Central Coast Water Board requested that staff prepare a status report on the Goodwin Residence onsite treatment and disposal system project. The property is within the City of Santa Barbara, but the City determined that the sewer is not available to the site because it does not abut the property. The Discharger was also unable to obtain an easement from neighbors to connect to the sanitary sewer collection system. The Water Board approved a waiver of waste discharge requirements in July 2008. In August 2008, two neighbors filed petitions with the State Water Resources Control Board requesting review of the waiver approval. On December 8, 2008, the State Water Board dismissed both petitions indicating that the petitions failed to raise substantial issues that are appropriate for review by the State Water Board. Regional Water Board staff contacted Mr. Goodwin on December 11, 2008, to discuss further project developments. Mr. Goodwin indicated that he has not been in contact with the neighbors since the waiver was granted and is currently working with the City of Santa Barbara to obtain building permits.

### Central Coast Low Impact Development Center Status Report [Michael Thomas 805/542-4623]

In February 2008 the Water Board allocated funds to establish and support the Central Coast Low Impact Development Center. The LID Center of Maryland agreed to open a branch office in San Luis Obispo, and hired Dr. Darla Inglis as office Director. In Water Board staff's view, the LID Center is performing well. Dr. Inglis has significantly advanced staff's practical knowledge of LID and hydromodification controls, and is playing a key role in helping municipalities develop approaches to create their own criteria, including coordination of grant funding efforts.

The LID Center budget is on track to support Dr. Inglis' work through July 2009. Water Board staff and Dr. Inglis are working on several additional funding efforts to support the LID Center beyond July 2009.

Our current measures of success for the LID Center are based on providing technical support services and coordination of grant efforts. Eventually, the measures of success will be based on municipalities adopting and implementing effective LID and hydromodification requirements, and the design and building of projects and infrastructure that meet the new requirements.

In February 2008, the Water Board allocated \$2.25 million to establish and support a Central Coast Low Impact Development Center (LID Center). These funds consist of a \$2 million endowment where only the interest earned or market gain is used, and \$250,000 in flexible funds to be used as needed to support the LID Center. In July 2008, the Water Board redirected an additional \$101,775 from previously approved LID project funds to support the LID Center, making the total flexible allocation \$351,775. Staff established the LID Center funding accounts with the Bay Foundation of Morro Bay.

Following the February 2008 Board meeting where the Water Board allocated initial funding, staff worked with Neil Weinstein, Director of the LID Center of Maryland, to establish a branch office in San Luis Obispo and recruit a Director for the office. Mr. Weinstein hired Dr. Darla Inglis, formerly with the City of Seattle, as the office Director. Dr. Inglis has been working full time for the LID Center since September 2008 (and worked part time prior to September during transition).

The budgeted tasks for the first 15 months (May 2008 through July 2009) include initial LID services by LID Center of Maryland staff prior to hiring Dr. Inglis (such as review of the Salinas

Design Standards Plan.). One of Dr. Inglis' initial tasks was to draft a work plan describing the types of LID services she would provide to Water Board staff, consultants, and municipalities, and these services are the vast majority of charges to date.

The current balance for the endowment fund is \$1,892,315 (less than the original \$2 million due to market loss). Fortunately, the \$2 million endowment was not fully invested just prior to the large market declines in the second half of 2008. However, the endowment has lost 5.38% since inception. Therefore, there was no interest earned or market gain that could be used to support the LID Center. The current balance of the flexible funds is approximately \$215,165 (from the original \$351,775).

The remaining flexible funds budget of \$215,165 will support Dr. Inglis' work through July 2009, as currently budgeted (a total of 15 months of operation, averaging about \$24,000 per month). Staff and Dr. Inglis will stretch this funding beyond July 2009 if possible, depending on other potential funding sources and reductions in Dr. Inglis' billable hours due to time spent on other projects outside our Region for the LID Center of Maryland.

Other potential funding sources are Proposition 84 Stormwater grants, and the State Board's Cleanup and Abatement Account. Realistically, the dire financial situation in California and the ever-increasing demand for any available funds makes these other fund sources extremely competitive. Nevertheless, Water Board staff and Dr. Inglis are pursuing these possibilities:

- December 2008 proposal to the State Water Board for \$120,000 to fund development of a methodology for municipalities to create long-term, locally-specific hydromodification control criteria. The idea for this proposal came from the State Board, and was to support the State Board's new Stormwater Permit for MS4 municipalities. This work would directly benefit Region 3 municipalities.
- January 2009 proposal to the State Water Board for \$200,000 to help fund the Central Coast LID Center and Dr. Inglis' ongoing work in our Region.
- January 2009 proposal to the State Water Board for up to \$150,000 to fund Phase I of a major statewide LID education program. Dr. Inglis would participate in this program as it relates to our Region. UC Davis is also submitting a much larger grant proposal (about \$3 million) to the State Board to fund the overall program via a Proposition 84 Stormwater grant.
- Water Board staff and Dr. Inglis have been working with municipalities to help them develop grant proposals for Proposition 84 grants. Several municipalities are interested in applying for grants to do specific LID projects. If these proposals are successful, they could mean significant funded work for the LID Center.
- In the coming months staff may also propose that the Water Board allocate additional Guadalupe settlement funds to support the LID Center, or allow spending down of the original \$2 million endowment, depending in part on how the above proposals work out, and on the LID Center's ongoing performance.

In addition, President-elect Obama has proposed the concept of an economic stimulus effort that would include billions of dollars for our national infrastructure. It is unknown how this will unfold in California, but the LID Center is tracking this opportunity and is poised to offer technical LID services that would benefit infrastructure projects in our Region.

**Attachment 1** is a brief write-up from Dr. Inglis summarizing the LID Center's ongoing work. As Dr. Inglis states in Attachment 1, one of our ongoing efforts is to establish performance measures for the LID Center. We are very pleased to see that Dr. Inglis is focused on performance measures and is regularly conferring with Water Board staff on whether we are satisfied with the LID Center's work. Water Board staff's view is that the Center is greatly improving our understanding of the practical aspects of implementing LID, hydromodification controls, and watershed protection efforts. Indications of these improvements are the changes staff made to the Salinas' development standards and the Water Board's adoption of staff's recommendation in December 2008. Dr. Inglis spent considerable time with staff to help us understand the principles and application of hydromodification controls, which resulted in staff proposing significant changes in our requirements.

Also, several municipalities stated they were determined to petition the type of hydromodification requirements the Water Board adopted for the City of Lompoc. The City of Santa Maria was particularly vocal in their opposition to the Water Board's requirements. However, Dr. Inglis helped Water Board staff and Santa Maria staff come to an agreement on language that is "equivalent to" the Board's hydromodification requirements while allowing Santa Maria the flexibility to develop its own hydromodification criteria. Water Board staff's challenge is to allow flexibility, while still ensuring the long-term protection of water quality and watersheds. Dr. Inglis helped us bridge this gap, and Santa Maria has agreed to the final language and will not petition the Board's requirements or request a Water Board hearing. We hope Santa Maria's efforts will lead the way for other municipalities to accept the same hydromodification requirements. To promote wider acceptance, Dr. Inglis is working to align various efforts to create hydromodification criteria with the upcoming Proposition 84 Stormwater grants. The Water Board's requirements, combined with the Proposition 84 grant opportunities and Dr. Inglis' effort to coordinate grant proposals for municipalities, are a major opportunity to advance watershed protection in our Region. Several municipalities have expressed interest in Dr. Inglis' grant coordination effort.

In addition, municipalities and consultants are increasingly contacting Dr. Inglis for help with specific projects, and the challenges of implementing LID and hydromodification controls. All of the above was the outcome we strived for when we proposed that the Water Board establish and fund the LID Center. Ultimately, our goal is that the LID Center plays a key role in helping municipalities create the long-term capacity to implement LID and hydromodification controls to protect healthy watersheds. From staff's view, these initial results are very promising, and we consider ongoing support for the LID Center to be a top priority.

From Water Board staff's view, the LID Center is performing well. Dr. Inglis has significantly advanced staff's practical knowledge of LID and hydromodification controls, and is playing a key role in helping municipalities develop approaches to create their own criteria.

The LID Center budget is on track to support Dr. Inglis' work through July 2009. Water Board staff and Dr. Inglis will extend the budget as much as possible, depending on other potential fund sources, and may request additional Guadalupe funds from the Water Board or the ability to spend down the \$2 million endowment to support the LID Center.

Eventually, the measure of success for Water Board staff and the LID Center will be based on municipalities adopting and implementing effective LID and hydromodification requirements, ordinances, etc., and the design and building projects and infrastructure that meet the new requirements.

## **IRRIGATED AGRICULTURE REPORT**

Irrigated Agricultural Order Renewal [Michael Thomas 805/542-4623]

### **Irrigated Agricultural Order Renewal**

Staff plans to present a draft Irrigated Agriculture Order (Irrigated Ag Order) to the Water Board in July 2009. The draft Order will directly address and resolve (over time) the major water quality issues associated with irrigated agriculture in our Region. Accordingly, the Irrigated Ag Order renewal is a major undertaking that will include revised language and new requirements, including a description of the water quality problems that must be resolved, schedules for achieving compliance, milestones to measure progress, and a tiered monitoring program to verify compliance. We are currently doing outreach to several interest groups. Our approach is based on accountability and achieving tangible results per a defined schedule, and is similar to

the approach the Water Board has directed on our other programs, such as Timber Harvesting, Stormwater, Core Regulatory Permitting, and Total Maximum Daily Loads.

The draft Irrigated Ag Order will clarify how growers and property owners will comply with existing requirements, and will include new requirements where necessary to achieve and demonstrate compliance with the following:

- Eliminate waste discharges to surface waters (soil, pesticides, nutrients, etc.) that degrade beneficial uses.
- Eliminate waste discharges to groundwater (nutrients, pesticides, etc.) that degrade beneficial uses.
- Protect aquatic habitat (riparian areas and wetlands) and their buffer zones

### **Summary of Water Quality Issues Associated with Irrigated Agriculture**

The draft Irrigated Ag order will include requirements to address each of the issues below.

#### *Pesticide Toxicity*

The Cooperative Monitoring Program (CMP) has found the pesticides chlorpyrifos and diazinon at concentrations that exceed water quality objectives and at concentrations known to cause toxicity, and these data and data from several other researchers indicate that these two chemicals are responsible for much of the widespread surface water toxicity found in watersheds where agriculture is the dominant land use. In addition, the CMP has documented widespread sediment toxicity at many of its sites in our Region. Although the CMP has yet to follow up on this toxicity problem with additional chemical monitoring, related research in the area indicates that pyrethroid and chlorpyrifos pesticides are a significant cause of sediment toxicity. The data show high toxicity in surface waters and sediment, and concurrent impacts on benthic macroinvertebrate communities. The Central Coast Water Quality Control Plan (Basin Plan) specifically prohibits discharges of waste containing substances that cause or contribute to toxicity or which produce detrimental physiological effects in aquatic life.

#### *Nutrients/Nitrate*

Groundwater and surface water salt and nitrate pollution is prevalent in many agricultural areas within our region. In addition, constituents such as orthophosphate consistently exceed recommended levels in some areas. The Basin Plan prohibits discharges that could result in groundwater or surface water nitrate concentrations above 45 milligrams per liter (mg/L) as nitrate, or 10 mg/L as nitrogen. Thirty out of the 50 CMP surface water sites throughout the Region consistently exceed water quality standards for nitrate. These data understate the severity of the problem because the nitrate limits necessary to protect aquatic life in surface water are more than an order of magnitude less than the drinking water standard (based on U.S. EPA Ambient Water Quality Criteria Recommendations, 2000, which are not yet adopted in California).

Nutrient discharges cause chronic water quality degradation, and also contribute to algal blooms in both fresh and saltwater environments. These nutrient induced algal blooms are a major impact to aquatic life over large geographic areas, and are becoming more intense and more prevalent in some areas.

The groundwater nitrate problem in our Region is widespread and severe. **Attachment 2** is a graph showing nitrate contamination in groundwater wells throughout the Region, from 1979 to 2000. **Attachment 3** is a map showing the location of groundwater wells that exceed the drinking water standard for nitrate. This groundwater contamination problem is so large that a typical "cleanup" approach is not feasible. For reference, the Olin Corporation's perchlorate plume in Morgan Hill is about ten miles long and a half mile wide, and will cost approximately \$250 million to clean up over many years. The physical size of the groundwater nitrate problem in our Region is larger than the Olin plume by orders of magnitude, and municipalities and water districts are faced with the cost of removing nitrate from groundwater or finding alternative water supplies. Groundwater contamination on this scale requires a solution on the same scale. Irrigated agriculture is the solution because it is a potential large-scale "pump and treat" system. To deal with this groundwater problem, growers must implement management practices that reduce the concentration of nitrate in groundwater. This means using the nitrogen already in groundwater to reduce the amount of fertilizer applied, so that the groundwater contaminant trend shown on **Attachment 2** is reversed over time.

#### *Sediment*

Sediment eroding off bare ditch banks and farm fields contributes directly to water quality impairment, through the sediment itself and by carrying attached pesticides and other chemicals. Minimizing sediment movement from farm fields and ditches is a critical requirement for protecting water quality.

#### *Habitat Degradation*

Land use management activities have significantly degraded aquatic habitat (riparian areas and wetlands) throughout the Central Coast and California. For example, over 90% of wetlands have been lost in California over the past 100 years. Healthy riparian habitat and wetlands, including buffer zones, are critical to protect the beneficial uses of our waters and to maintain the biological and physical integrity of our watersheds. They help to reduce flood impacts by helping to attenuate peak flood flows, recharge groundwater, stabilize stream banks, provide critical habitat for a wide diversity of wildlife, and filter nutrients and pathogens, among many other benefits. The Basin Plan requires the protection of riparian habitat and the maintenance of adequate buffer zones. The food safety issue has resulted in some growers removing riparian habitat and buffer zones on and around irrigated agricultural fields, which is a direct violation of the Basin Plan.

#### **The Draft irrigated Ag Order**

The draft Irrigated Ag Order will address each of the water quality and aquatic habitat issues above, as required by law, the Basin Plan, and the State and Regional Boards' 2004 *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program*. This Policy requires that the Irrigated Ag Order include several key elements (page 11), as follows:

- Achieve and maintain water quality objectives and beneficial uses, and comply with anti-degradation requirements
- Define management practices necessary to meet requirements, the process to select the management practices, and the process to verify proper implementation



- Where time is needed to comply, define specific schedules and corresponding quantifiable milestones to measure progress toward reaching the requirements.
- Include feedback mechanisms (e.g., reporting, inspection, monitoring, etc.) so that the Regional Board, dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional or different management practices or other actions are required.
- Define enforcement consequences for non-compliance.

The 2004 *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* can be reviewed at:

[http://www.waterboards.ca.gov/water\\_issues/programs/nps/docs/oalfinalcopy052604.doc](http://www.waterboards.ca.gov/water_issues/programs/nps/docs/oalfinalcopy052604.doc)

### Public Outreach

As during the development of the existing Irrigated Ag Order, staff has convened an advisory panel to draft recommendations to the staff and the Water Board. The Agricultural Advisory Panel includes representatives from agricultural organizations and environmental groups from across the region. **Attachment 4** lists the Ag Advisory panel members.

In addition, staff is sending letters to other interested parties and organizations, such as municipalities, water districts, other agencies, environmental groups, and environmental justice organizations.

We recently received this comment from a municipality:

"In this area (and probably many others), agriculture continues to implement land use practices that have a far more profound affect on water quality than urbanized areas. Hydromodification, sediment loads, nutrients and agrichemicals in runoff from farm properties dwarf the impacts from urbanized areas. Even if the cities were removed from the watershed, I suspect that 90% of the problems would remain."

We have heard similar comments from other municipalities as they implement the Water Board's stormwater requirements. While we have data indicating significant problems with urban runoff in many areas, these types of comments remind us of other perspectives in the watersheds. While we are requiring our municipalities to cleanup their runoff, some municipalities receive surface water discharges from ag areas, and both municipalities and water districts have to deal directly with the groundwater pollution problem, and the associated liability and costs. Several of our watersheds are significantly affected by discharges from both agriculture and urban runoff, and the most effective methods to solve these problems will include some cooperation. For example, with the City of Salinas stormwater monitoring program, we designated monitoring points in cooperation with the ag monitoring program so that these two programs complement one another.

We also need to address environmental justice issues. Small communities and rural homes that use groundwater wells contaminated with nitrate are not typically represented or heard, and their health threats and impacts are typically not addressed. Wells with very few connections (as well as some wells that have bootlegged connections to more residences) are not regulated or protected by any agency. Also, people who catch and consume fish from places like Oso Flaco Lake and the lower Salinas watershed areas are exposed to health risks due to the accumulation of agricultural pollutants in those areas and their migration up the food chain. We

are seeking out environmental justice organizations in our Region to inform them of the Irrigated Ag Order renewal process and how they can participate. We are also providing the same information to county environmental health directors and the Department of Public Health. We are explaining the Irrigated Ag Order renewal process and how they can participate.

### **Costs**

The Water Board is required to consider a number of factors, including economics. Our evaluation may include the following types of costs:

1. Costs to growers for meeting the Water Board's requirements.
2. Costs to municipalities and water districts to deal with groundwater pollution and treatment.
3. Costs to municipalities to deal with surface water pollution.
4. Costs to society for providing irrigated agricultural grant funds.
5. Costs to society for lost or degraded natural resources, such as riparian habitat, wetlands, groundwater as a drinking water source, etc.

### **Conclusion**

The water quality and aquatic habitat issues associated with irrigated agriculture are some of the most significant problems we face in the Central Coast Region. The Irrigated Ag Order is the primary mechanism for the Water Board to address and resolve these issues. Staff will periodically update the Water Board on our progress for bringing a draft Irrigated Ag order to the Board in July 2009.

## **ADMINISTRATIVE REPORTS**

### Presentations and Training [Roger Briggs 805/549-3140]

On January 16, 2009, Groundwater Section Manager John Robertson, an Engineering Geologist, provided the 2nd grade class at Los Ranchos Elementary School in San Luis Obispo a talk on geology. Multiple Water Board staff geologists allowed Mr. Robertson to use their personal rock and mineral collection specimens for the class.

### Budget Status [Roger Briggs 805/549-3140]

The current economic crisis has significantly affected California's General Fund and the State's overall cash flow. As a result, the Water Boards and other state agencies have had budget cuts of 10% of their General Fund (GF). Fortunately, the State Water Boards have many other fund sources (e.g., fuel as mentioned below, tobacco, permit fees, federal, etc.), and rely on the GF for only about 20% of our budget. However, we may very well have an additional significant cut in our GF before this economic downturn changes direction.

The Central Coast Water Board management team is drawing up plans for staffing assignment adjustments based on cuts already received coupled with various scenarios of additional GF cuts, as well as the across the board cut the Governor has ordered via furloughs. Staff is ordered to begin two days of furlough per month on the first and third Fridays each month. Offices will be closed on those days and pay will be cut by approximately 9.5%. For our office, this cut represents about 6.3 personnel years reduced work time. The furlough program will

start in February unless the Governor changes his order (e.g., due to agreement with the legislature or due to a court order as a result of pending lawsuits).

We will use our existing priorities, our Vision, and Measurable Goals to determine how to best reallocate tasks among staff under various scenarios to be prepared for whatever budget changes we receive, and we will continue to provide updates as this story unfolds.

We have some special funding areas that are unique. For example, landfill tipping fees are down significantly, not necessarily related to the economic downturn, but more due to the success of recycling.. This tipping fee is one of our non-GF sources of funding, but it too is reduced and decreases our budget by a percentage yet to be determined. Also, we manage grants for projects throughout the region and we oversee cleanups at fuel leak sites. These programs are significantly affected by the state's money woes, and we provide updates below.

### **Grants Program Budget Impacts**

On December 18, 2008, the Department of Finance issued Budget Letter 08-33, directing all state entities to freeze/suspend all bond funded invoices and new bond commitments. As a result, the Water Board placed an immediate suspension on all grant projects funded by Propositions 13, 40, 50, and 84. In addition, the Water Board placed an immediate hold on all invoices and new commitments for bond funded grant projects. Federally funded 319(h) grant projects and Clean Water State Revolving Fund Program projects are not affected.

Currently, the Central Coast Region has 19 active grant projects funded by Propositions 13, 40, and 50, totaling approximately \$21 Million. We are hopeful that bond funded grant projects will continue to be viable once the Legislature and the Governor make budget adjustments. However, any grant costs incurred during the suspended period are at the grantees' risk. Once the budget crisis is resolved, staff will work with grantees to assess the need for relevant grant agreement modifications, including time extensions.

The related impacts to the Water Board and our staff workload are insignificant in the short term. In the long term, impacts to the Water Board are likely to be significant due to the unanticipated staff workload caused by the delays discussed above. Staff will have to analyze whether projects are still viable, modify project/grant agreements, extend project time lines, approve project re-mobilization activities, and consider terminating projects prematurely. Budget Letter 88-33 is available on-line at:

[http://www.dof.ca.gov/budgeting/budget\\_letters/documents/BL08-33.pdf](http://www.dof.ca.gov/budgeting/budget_letters/documents/BL08-33.pdf).

### **Underground Storage Tank Cleanup Fund**

**Background:** Federal and state laws require every owner and operator of a petroleum UST to maintain financial responsibility to pay for any damages arising from their tank operations. The Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 was created by the California legislature to provide a means for petroleum UST owners and operators to meet the federal and state requirements and pay for the cleanup of contaminated soil and groundwater when a leak is discovered. Storage tank owners access funding by submitting an application to the State Water Board Cleanup Fund (Fund). Once the Fund deems a tank owner eligible, the tank owner is placed on a priority list based on the size of the business and the business' income. The prioritization is as follows:

- Class A applies to residential tank owners,
- Class B applies to small California businesses, governmental agencies and nonprofit organizations with gross receipts and/or number of employees below a specified maximum;

- Class C applies to California businesses, governmental agencies and nonprofit organizations having fewer than 500 employees and gross receipts above a specified maximum;
- Class D applies to all other claimants.

The Fund has about 4,200 active claims in the four different priority classes. The Fund acknowledges a tank owner's eligibility for fund reimbursement through a Letter of Commitment.

**Recent Action by the Fund:** As a result of the recent downturn in the economy, gasoline sales have decreased significantly, resulting in a corresponding decrease in revenue to the Fund; the Fund is financed through a portion of the state gas sales tax. In response to this decrease in revenue, Fund staff at the State Water Board have suspended the Letters of Commitment for some Priority Class C and D claimants, as described below:

#### Suspended Priority Class C Letters of Commitment

- First Group: A letter dated November 7, 2008 suspended 612 Letters of Commitment
- Second Group: A letter dated January 7, 2009 suspended an additional 617 Letters of Commitment

#### Suspended Priority Class D Letters of Commitment

- A letter dated January 5, 2009 suspended 127 Letters of Commitment

**Central Coast Region Impact and Actions:** The Fund's action will delay reimbursement to affected parties for several months at a minimum. A total of 71 of the affected claims are in the Central Coast Region. Of those 71, 23 are Central Coast Water Board-lead cases. Water Board staff considers nine of those 23 cases to be high priority cases, based on a prioritization of Central Coast Region UST cases completed in early 2008. Seven of those nine are in remediation and will continue their remedial activities. Non-Water Board lead cases are those cases that are overseen by our Local Oversight Programs and Local Implementing Agencies (Counties). This constitutes about half of our approximately 600 total UST cases. We have not received any comments at this point from the Counties regarding the suspension of funding. All of the affected responsible parties have expressed concern about future funding and reimbursement and Central Coast Water Board staff expects some delays in assessment and cleanup activities. Because the Fund is a reimbursement program, we have experienced caution from all parties (including Class A and Class B) and a more step-wise approach to remediation. For example, a responsible party might choose to break a remediation plan into a series of smaller steps to avoid a large capital outlay that may not be readily reimbursed. In some lower priority cases in the region, we have deemed it prudent to reduce monitoring frequency to channel funds towards remediation. Reducing monitoring frequency on lower priority cases also allows us to focus both Central Coast Water Board staff and Fund resources towards higher priority cases; those cases that pose a greater threat based on a variety of criteria. In other cases where remedial actions have reduced contaminants to near our water quality goals, we have and will continue to recommend site closure, as appropriate. Central Coast Water Board staff has reiterated to all responsible parties that they are ultimately responsible for cleanup of their sites regardless of supplemental funding. Our staff will continue working with all responsible parties to ensure that cleanups are as efficient and cost-effective as possible.

This current funding situation is leading to a reduction in our staff workload due to some reduced monitoring and longer time frames for tasks, but is causing some increase in workload simply due to managing cases through many changes. The net result is roughly a wash at this point, but that situation could very well change with additional fund changes and with reduced work time due to furloughs.

**ATTACHMENTS**

1. Summary of LID Center work to date and future tasks (includes Attachments 1a and 1b).
2. Graph of Ag Nitrate Groundwater Contamination in Wells
3. Map of Groundwater Nitrate Exceedances
4. Agricultural Advisory Panel Contact Information

H/ALLMYDOCS/EORreport/2009/EOrptFEB09/carol