

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

MEETING DATE: April 14, 2021

**Item: 4**

**Executive Officer's Report**

## Executive Officer's Report April 7, 2020

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**In-house Training: How to be a Visionary Regulator (Carrie Austin)**

In March, I kicked off the training with a reference to Yoda and how failure can be the best teacher if we take the time to learn from it. We then heard from two powerhouse keynote speakers on factors that support visionary environmental leadership. Meredith Williams, Director of the Department of Toxic Substances Control, is a physicist who worked in Silicon Valley and the private sector before pivoting to the environmental field and public sector. She had always been the person on the team nominated to speak truth to management. Felicia Marcus, former Chair of State Water Board, is an attorney who on behalf of Heal the Bay (Santa Monica) sued the Los Angeles County Department of Public Works. That led to her being recruited and hired to run Public Works where she gained the helpful insight that work is hard on the other side, too. They both spoke to the importance of people skills, especially listening well, and owning the moment when you have sufficient information to make decisions and lead. They reminded us that we can all be leaders and to bring your entire self to the work rather than letting your technical education narrowly define your approach. We will make available to staff links to the many books and TED talks they both referenced.

In the second half of the training, we held breakout sessions with eight of our very own in-house visionary regulators, as follows:

<b>Topic</b>	<b>Speaker</b>	<b>Moderator</b>
Qualities Common to Visionary Leaders	<b>Tamarin Austin</b> Office of Chief Counsel	Celina Hernandez
What's the difference between vision and delusion?	<b>Bill Johnson</b> NPDES Division Chief	Setenay Frucht
Becoming a Performance-Driven and Accomplished Organization OR Getting Better Environmental Outcomes and Happier Employees, Simultaneously	<b>Lisa Horowitz McCann</b> Assistant Executive Officer	Renee Hu
Grapes, dirt, concentrated runoff, and fish – a permit to protect streambed conditions in the Napa River and Sonoma Creek watersheds	<b>Mike Napolitano</b> Planning Division Staff	Joseph Martinez
Innovation driven by crisis management – Saving Tribal Water Systems in a Drought	<b>Mike Montgomery</b> Executive Officer	Alyx Karpowicz
Innovating to advance green stormwater initiatives	<b>Keith Lichten</b> Watershed Division Chief	Elizabeth Wells

Suisun Bay Reserve Ghost Fleet – Regulating stormwater discharges from a scary source	<b>David Elias</b> Groundwater Protection Division Section Leader	Carrie Austin
Innovating to address climate change	<b>Xavier Fernandez</b> Planning Division Chief	Lindsay Whalin

During these breakout sessions staff heard examples of and about best practices for thinking outside the box, taking risks, building coalitions, soliciting and listening to feedback, adaptively managing for innovation and effective new programs, procedures, permits and collaborations aligned with our mission. There were many opportunities throughout the training for staff to practice their moderator skills, as you can see on the above list, plus Tong Yin, Rene Leclerc, and Sami Harper moderated other portions. Tom Mumley, Assistant Executive Officer, closed the training with his toolkit for innovation in our office. Much appreciation to Janet O'Hara and Jim Ponton, Seniors in the Planning Division, for leading this training and to staff members Guy Gutterman and Demir Worthington for their work. In April, our training will address implicit bias.

**Water Quality Impacts of Dairies and Ranches at Point Reyes National Seashore  
(Jan O'Hara and Laurie Taul)**

In the March 10, 2021 Board meeting, members of the public voiced concerns about the water quality impacts of dairy and beef ranches in Point Reyes National Seashore (PRNS). The commenters requested we urge the National Park Service to continue year-to-year leases rather than extending leases for these ranches to 20 years, as proposed in the PRNS General Management Plan Amendment. They also highlighted recent water quality data that indicate high bacteria concentrations in Abbotts Lagoon and nearby creeks.

***Water Quality Information***

The commenters referred to water quality data collected for the Western Watersheds Project in January 2021 following a rain event. These data, which appear to be of good quality, show high bacteria densities in surface water downstream of ranches that have implemented best management practices (BMPs) such as fencing, manure management, wastewater collection systems, off-stream livestock water supply, and other infrastructure. Commenters were rightly concerned that water quality, as characterized in January, is poor despite existing pollution prevention ranch practices.

Other data sets also show elevated bacteria densities in certain creeks that drain into Drake's Estero and the Pacific Ocean. The National Park Service (NPS) evaluated data it collected between 2003 and 2013 in four watersheds with dairies and/or beef cattle grazing. These watersheds include Kehoe creek, Abbotts Lagoon, Drakes Estero and East Schooner Creek. Concurrent with the monitoring, ranch operators, NPS, and others collaborated to implement BMPs across the study area. The study found that bacteria decreased by one or two orders of magnitude where BMPs were implemented. Bacteria still exceeded water quality standards periodically, especially during rain events, when bacteria counts were elevated in all samples. Watersheds with dairies had larger reductions in bacteria than did those with beef cattle operations.

The Western Watersheds Project data provide a snapshot that shows elevated bacteria during a single rain event, and from limited sample locations. This is useful information, but lacks the context given by the NPS study, which included a decade's worth of data. The NPS study found bacteria counts were reduced over time in conjunction with implementation of BMPs that targeted manure management, animal concentration areas, and livestock distribution to reduce fecal inputs to surface waters. However, additional progress is needed to meet water quality standards during every season and in all sample locations.

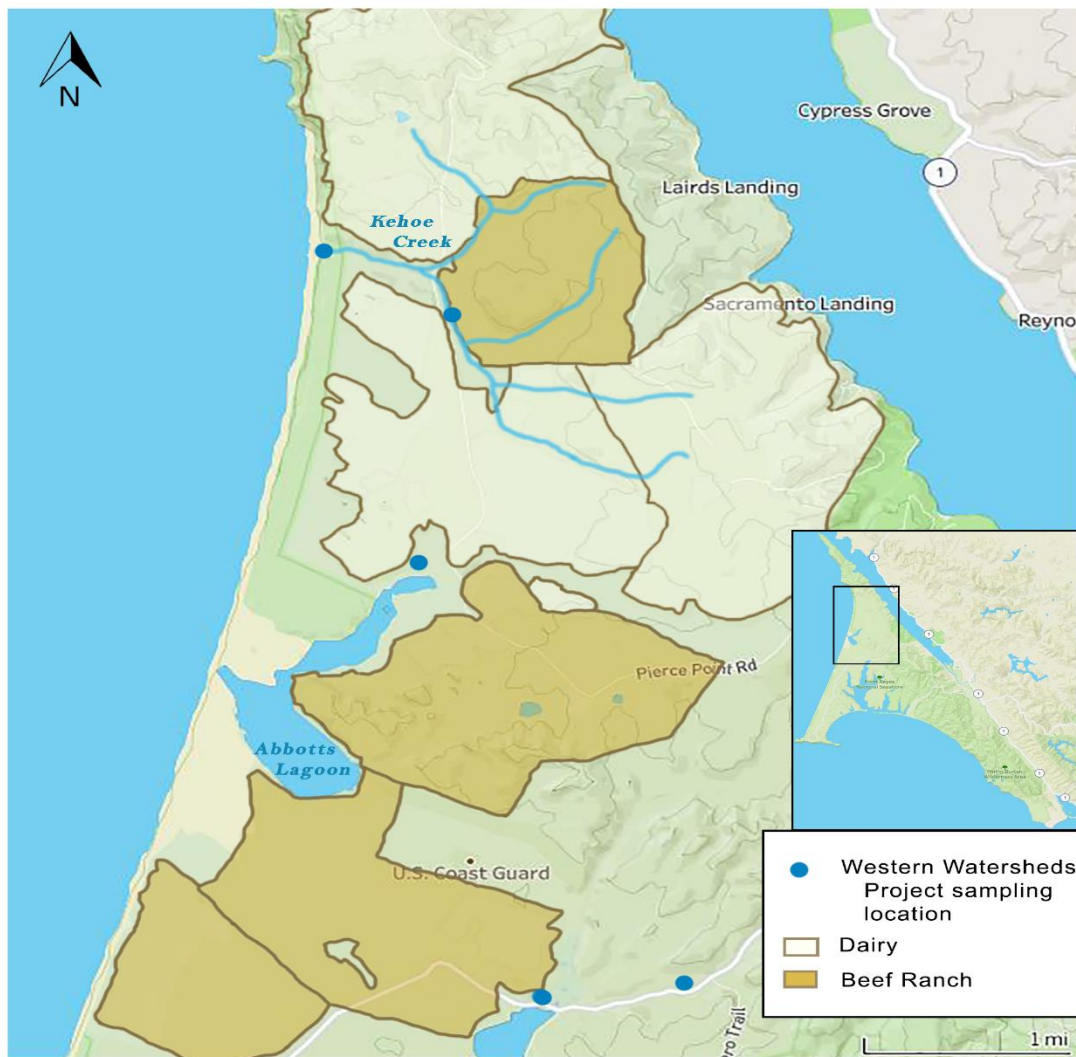


Figure 1: Western Watersheds Project sample points and PRNS land use

### ***Mitigating Water Quality Impacts in Point Reyes National Seashore***

Currently, the NPS is the primary entity overseeing implementation of ranch BMPs within PRNS, and all ranches enter into ranch operating agreements with the NPS. Proposed amendments to the PRNS General Management Plan call for more details, including additional water quality BMPs, to be included in ranch operating agreements. We understand the added details would mirror the requirements of our orders (described below), thus adding NPS oversight to our own oversight of dairy and beef ranch compliance with the orders. The amendment also identifies zones within PRNS where grazing and other operations are prohibited to protect sensitive species.

In addition to implementing additional BMPs, the factors below may also help to mitigate water quality impacts at PRNS:

***Density of animals:*** Dairies at PRNS generally have a lower density of animals per acre than ranches in other parts of California. For example, the average PRNS dairy has 390 head of cattle, compared to 2120 head in Tulare County. Cows also pasture graze for a

larger portion of their food intake and spend less time in concentrated feeding areas in PRNS.

*Organic Certification:* All six PRNS dairies are certified organic. To meet the requirements under the National Organic Program, dairies must prevent runoff of water and wastes to surface water; practice erosion control and protect natural wetlands and riparian areas; put animals to pasture at least 120 days per year with a minimum 30 percent dry matter intake from grazing; and maintain a pasture management plan that ensures pasture of a sufficient quality and quantity is available to graze throughout the grazing season. While not a guarantee, we would expect organic certification would help in protecting water quality from polluted dairy runoff.

*Lease Terms:* The proposed PRNS General Management Plan amendment proposes to extend lease agreements to 20 years. While one commenter at the March Board meeting suggested that keeping single-year leases is the best way to encourage ranchers to improve their BMPs, we suggest that the security of having a 20-year return on investment period is a better way. For example, fencing to keep cattle out of streams is particularly expensive; a rancher concerned about losing the lease is less likely to consider this investment.

### ***Water Board Staff Actions***

Water quality impacts from dairies and grazing operations are a major focus for Water Board staff. We developed and enforce [General Waste Discharge Requirements for Confined Animal Facilities](#) (CAF Order) and several Conditional Waiver Programs for Grazing Operations (Grazing Waiver), including [a Grazing Waiver for the Tomales Bay Watershed](#). Both programs require ranchers to install and maintain best management practices to minimize impacts to water quality. The CAF Order also requires a manure management plan, a pasture management plan, and monitoring of instream receiving water and domestic wells. Monitoring requirements are new, and few valid data have been submitted to date.

The CAF Order covers all six dairies at PRNS. While we maintain authority to enforce the CAF Order, NPS staff are a local presence and have been the primary entity to inspect ranches. Water Board staff intend to work more closely with NPS staff as the PRNS General Management Plan amendment is completed.

Because a portion of PRNS drains to Tomales Bay, ten of its 18 grazing operations (those that drain to Tomales Bay) are covered by the Grazing Waiver. Water Board staff inspect grazing operations in PRNS on a rotational basis. Each year, staff consider all the grazed watersheds in our region and focus inspections based on water quality data, past violations, time since last inspection, and similar factors. We plan to inspect PRNS ranches and dairies at our earliest opportunity.

Last December, Water Board staff commented on the proposed General Management Plan Amendment for PRNS. Our overriding concern was that ranch lease agreements and/or ranch operating plan agreements should require compliance with our CAF Order and Grazing Waiver. We think our comments will be acted upon and see this amendment process as an opportunity to improve our coordination and cooperation with the NPS, and to ultimately improve water quality.

Finally, our staff have been instrumental in helping applicants obtain federal 319(h) grants for water quality improvements in the Tomales Bay Watershed and beyond. One of the dairies adjacent to a Western Watersheds Project sampling site (see above) is currently installing new fencing on the Tomales Bay side of its ranch with 319(h) funding. Our staff have fostered and advocated for regional grant projects, expanded our grazing and CAF programs across the North Bay and San Mateo County and managed all these programs with just 2.5 person-years. To leverage our resources, we work with partners such as NPS, Tomales Bay Watershed Council, local Resource Conservation Districts, U.C. Cooperative Extension, CA Dairy Quality Assurance Program, and the Farm Bureaus to help obtain data and to encourage improved BMPs to protect water quality.



## **Prosperity Cleaners Status Update, Marinwood (Ralph Lambert)**

This is an update regarding the cleanup progress at the former Prosperity dry cleaner site located in the Marinwood Plaza shopping center north of San Rafael in Marin County.

### ***Background***

Releases of tetrachloroethene (PCE) from past dry-cleaning operations impacted soil, soil vapor and groundwater at the site. In September 2020, you adopted Cleanup Order [R2-2020-0025](#) which replaced the prior cleanup orders ([R2-2014-0007](#), [R2-2014-0036](#), and [R2-2018-0035](#)). The Order requires Marinwood Plaza, LLC, and Hoytt Enterprises Inc., to cleanup PCE and its degradation by-products, to monitor remediation effectiveness and specifies start and end dates for the groundwater cleanup (June 2021 and February 2027, respectively).

### ***Groundwater Cleanup***

PCE exceeds the 5 µg/L Maximum Contaminant Level in groundwater in an area that extends from the Source Property to about ½ mile east. Affected properties include the Silveira cattle ranch and land owned by Catholic Charities. The ranch uses groundwater for its operations. While PCE concentrations are below the drinking water standard of 5 µg/l in its wells, Marinwood LLC, provides wellhead treatment to the ranch to ensure the water is safe and useable. Catholic Charities does not use groundwater. Both Silveira and Catholic Charities have been before you expressing concerns about the plume migration onto their properties.

Due to prior delays, the recently issued Order also required a progress report to ensure that startup will occur by June 2021. The progress report deadline of January 15<sup>th</sup> was missed and this was added to the enforcement considerations. Since referral of this matter to enforcement we have received a draft progress report and field work is expected to start the week of April 12. We are working closely with them and their new consultant towards meeting the June 2021 completion date.

### ***Soil Vapor Cleanup***

PCE was also detected in soil vapor at the former dry cleaner in excess of screening levels for commercial use. At this time, the former dry cleaner is not occupied and indoor air concentrations in the neighboring grocery store do not exceed applicable screening levels.

In April 2020, we issued a Notice of Violation (NOV) for failing to submit a completion report for onsite soil vapor remediation and quarterly monitoring reports. We issued an additional NOV in November 2020 for a missed monitoring report.

Due to the reporting and monitoring violations, and delay in implementing soil vapor remediation, the case was referred to our enforcement team following the NOV. The Dischargers have resumed conducting ongoing monitoring of groundwater and soil vapor again, as required by the Order. Regional Water Board staff and the Dischargers

are discussing a path to compliance including modifications to the delayed soil vapor remediation.

### **Benicia Industrial Park Status Update, Benicia (Bill Cook)**

This is an update regarding the cleanup progress at the Benicia Industrial Park located east of Benicia in Solano County. In November 2019, the Regional Water Board adopted cleanup Order [R2-2019-0031](#) to require additional investigations, remediation, and monitoring to reduce impacts to human health and the environment at the site.

In 1999, Caltrans reported chlorinated volatile organic compounds contamination in some wetlands it restored near site, known as the Caltrans Mitigation Area (CMA), but did not identify a specific upgradient source. Subsequent investigations documented the use of trichloroethene (TCE) and poor handling practices at the Benicia Industrial Park. Releases of TCE from past manufacturing operations impacted soil, soil vapor, and groundwater at the Benicia Industrial Park. Investigations continued in an iterative manner until the lateral and vertical extent of the contaminant plume was defined. TCE migrated in groundwater to several downgradient commercial properties and the CMA.

A groundwater plume with TCE concentrations up to 4,800 µg/L exceeds the drinking water maximum contaminant levels of 5 µg/L. This plume extends a half mile to the southeast through a commercial area into the CMA. Since 2004, interim remedial actions were implemented at the Benicia Industrial Park source property. The source property's sub-slab depressurization system is operating to reduce concentrations of soil vapor and indoor air impacted by TCE. In-situ chemical oxidation injection was implemented at the source property between 2006 and 2019 to reduce concentrations of TCE in groundwater.

#### *Soil Vapor and Indoor Air Sampling Results*

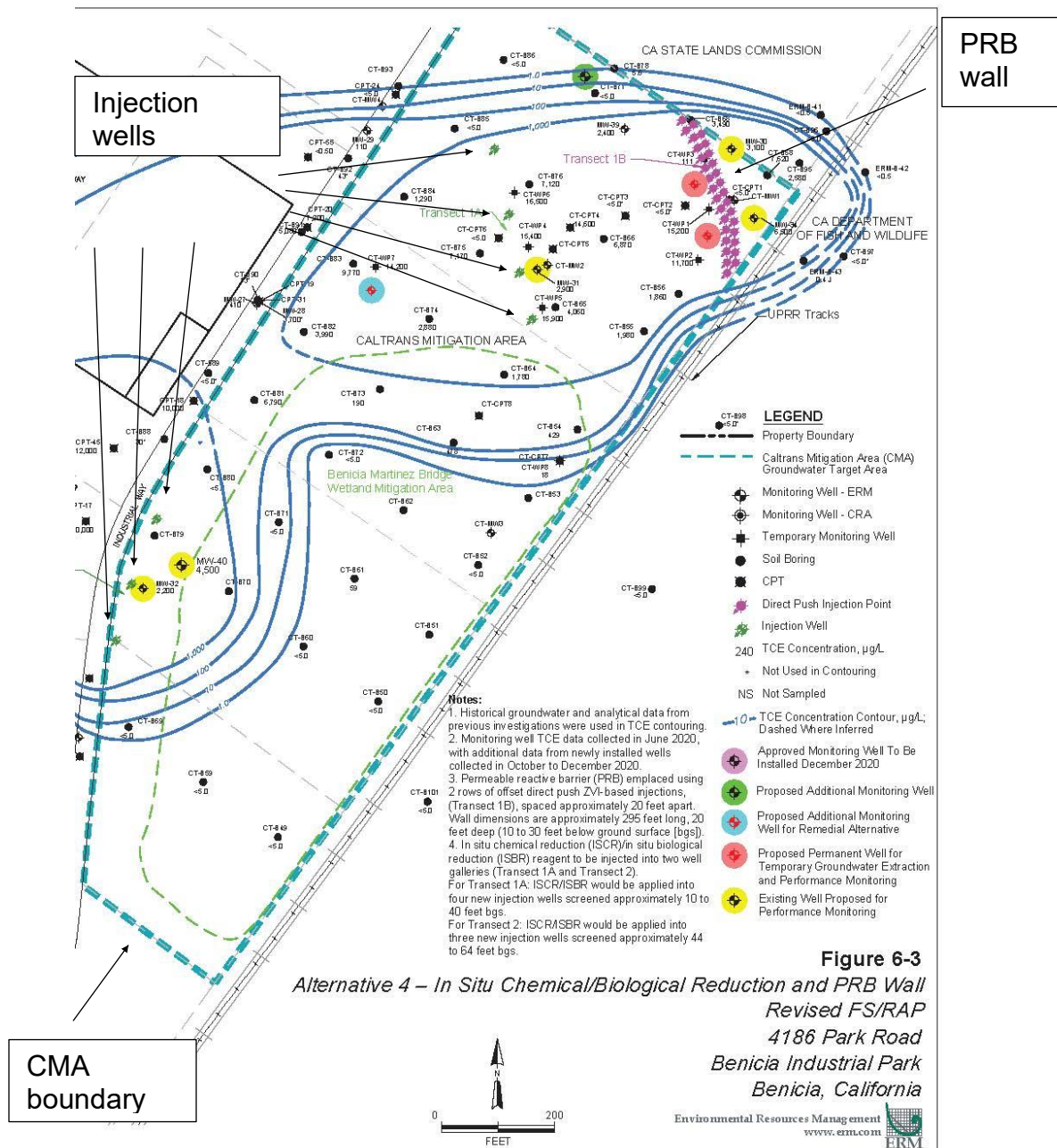
In 2020, pursuant to the Board's order, the dischargers sampled vapor below buildings and indoor air. TCE was found in sub-slab soil vapor samples at concentrations above the commercial/industrial environmental screening level (ESL) under two buildings downgradient of the Benicia Industrial Park. The indoor air results for TCE were below commercial ESLs. Tetrachloroethene (PCE) was detected in indoor air at a concentration exceeding the commercial ESL in one building south of the Benicia Industrial Park. Subsequent results for this building were below the ESL PCE is not the primary contaminant of concern but can be found in indoor air samples due to other potential consumer sources.

#### *Revised Feasibility Study/Remedial Action Plan*

During January 2021, pursuant to the Board's order, the dischargers submitted a Feasibility Study/Remedial Action Plan (Plan), which proposes additional remediation in the CMA to reduce exposure risk to the environment including surface water and wildlife. The proposed remediation includes injection of bacteria degrading TCE and its breakdown products. The Plan also proposes placing a permeable reactive barrier containing powdered inert metallic iron to facilitate the break down of chlorinated volatile organic compounds into carbon dioxide and chloride ions. The proposed placement (see figure below) should reduce the exposure risk of aquatic organisms using the wetland as an ecosystem.

The discharger does not currently propose additional remediation in the area of the commercial buildings downgradient of the Benicia Industrial Park, because

concentrations of chlorinated volatile organic compounds in groundwater are consistently declining over time. Contingency plans for additional remediation in this area were included in the Plan should contamination increases, or additional information indicate that the risk is higher than currently assessed. Wetland access requires securing specific access permits. We are working with the dischargers, property owners and agencies to facilitate the access. This spring, we will be inviting the public to comment on the Plan with the issuance of a factsheet. Following the public comment period, we anticipate responding favorably to the submitted Plan by May 2021. We anticipate onset of the remediation beginning on or about July 1, 2021.



**April 2020 Enforcement Actions (Brian Thompson and Jessica Watkins)**

The following tables shows the proposed and settled enforcement actions since March's report. In addition, enforcement actions are available on our website at [http://www.waterboards.ca.gov/sanfranciscobay/public\\_notices/pending\\_enforcement.shtml](http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml)

**Proposed Settlement**

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

<b>Discharger</b>	<b>Violation(s)</b>	<b>Proposed Penalty</b>	<b>Comment Deadline</b>
Univar USA, Inc.	Discharge limit violation.	\$3,000	April 21, 2021
Treasure Island Development Group	Discharge limit violations.	\$3,000	April 21, 2021
Windy Hill PV Five CM, LLC	Discharge limit violations.	\$3,000	April 21, 2021
SJ Park Almaden LLC	Discharge limit violation.	\$3,000	April 21, 2021
Daly City Serramonte Center, LLC	Discharge limit violations.	\$9,000 <sup>1</sup>	April 26, 2021
S&B Milpitas, LLC	Discharge limit violations.	\$6,000	April 26, 2021
Martinez Refining Company LLC	Discharge limit violations.	\$120,000 <sup>2</sup>	April 26, 2021
Lehigh Southwest Cement Company	Unauthorized chlorinated water discharges.	\$60,000 <sup>3</sup>	April 28, 2021
Republic Services, Inc. and West Contra Costa Sanitary Landfill, Inc.	Failure to comply with waste discharge requirements and industrial stormwater general permit.	\$460,600 <sup>4</sup>	April 30, 2021

<sup>1</sup> Includes \$4,500 to supplement Regional Monitoring Program studies. The Regional Monitoring Program is managed by the San Francisco Estuary Institute to collect water quality information in support of management decisions to restore and protect beneficial uses of the Region's waters.

<sup>2</sup> Includes \$60,000 to supplement Regional Monitoring Program studies.

<sup>3</sup> The Discharger is also responsible for funding and implementing a Selenium Fish Tissue Monitoring Study.

<sup>4</sup> Includes \$223,300 to supplement Regional Monitoring Program studies.

**Settled Actions**

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

<b>Discharger</b>	<b>Violation(s)</b>	<b>Imposed Penalty</b>	<b>Supplemental Environmental Project</b>
City of Sunnyvale	Unauthorized discharge of partially-treated wastewater.	\$187,000 <sup>1</sup>	\$93,500

<sup>1</sup> Includes \$93,500 towards a Supplemental Environmental Project (SEP) for the City of Sunnyvale to integrate green stormwater infrastructure into a planned traffic improvement project.

**401 Water Quality Certification Applications Received (Abigail Smith)**

The table below lists those applications received for Clean Water Act section 401 water quality certification from January 29 through March 10, 2021. A check mark in the right-hand column indicates a project with work that may be in BCDC jurisdiction.

<b>Project Name</b>	<b>City/Location</b>	<b>County</b>	<b>May have BCDC Jurisdiction</b>
Estuary Dock Repair at 2841 Marina Drive	Alameda	Alameda	✓
MLK Regional Shoreline Bay Trail and Improvement	Oakland	Alameda	✓
Moraga Creek Flood and Erosion Control	Moraga	Contra Costa	
Install pipe liner in existing 48 diameter stormdrain pipe crossing Ivy Dr	Orinda	Contra Costa	
Sycamore Avenue Trunk Sewer Replacement	Pinole	Contra Costa	✓
Black Point Bridge Fender Repair	Novato	Marin	✓
Bear Canyon Creek Fish Passage Maintenance	Napa	Napa	
Vineyard Development at 3580 Monticello Rd	Napa	Napa	
Stratford Bay Homeowners Association Rip-Rap Replacement	Redwood City	San Mateo	✓
The Shore at California Bayside Rip-Rap Replacement	Redwood City	San Mateo	✓
Oyster Cove Marina Maintenance Dredging	San Mateo	San Mateo	✓
Sailing Lake Access Road Improvement	Mountain View	Santa Clara	✓
Residential Development at Dobe Lane	Fairfield	Solano	
Vallejo Ferry Dredging	Vallejo	Solano	✓