



If you don't want to receive emails from BPC please reply to this email and asked to be removed from our member mailing list.

Ebriefs

May 5, 2004

BPC Member News

BPC Meeting Dates – and other events of interest

BPC Work Program

- *Member Alerts*
- *Navigation & Dredging Committee*
- *Student Involvement Program*

Agency News

Workshops/Conferences

BPC MEMBER NEWS

Weston Solutions and MEC Analytical Systems

Two BPC members have combined their ports' and water resources' capabilities. **Weston Solutions, Inc.** headquartered in West Chester, Pa., announced recently that it has completed its purchase of **MEC Analytical Systems, Inc.**, a multi-disciplinary water resources consulting firm, headquartered in Carlsbad, Ca. MEC, founded in 1975, has had a successful history providing environmental and toxicological services. Weston is a leading environment and redevelopment firm and is well known for its services in the areas of environmental remediation, redevelopment and management and compliance. For more information, visit their web sites at www.westonsolutions.com and www.mecanalytical.com.

John Glover, Deputy Executive Director, Port of Oakland - Retires

John Glover retires after 34 years of service to the Port of Oakland. Executive Director Ellen Johnck was proud to give a testimonial at the April 30 celebration on behalf of BPC for his years of service, creativity and as a recruiter of heroes to the port.

Bay Area Council – New CEO

Jim Wunderman is the new President and CEO of the **Bay Area Council**. He succeeds Sunne Wright McPeak, who has been appointed by Governor Schwarzenegger to the post of Secretary of the Business, Transportation and Housing Agency. Jim has had a wide range of experience with both the private and public sectors including Senior Vice President of Corporate Affairs for Provident Financial Corporation, Deputy Mayor to Mayor Frank Jordan, and he most recently assisted Secretary Kevin Shelley in managing the recent gubernatorial recall election. The Bay Area Council was a founding member of the Bay Planning Coalition under the then CEO, Angelo Siracusa.

BPC MEETING DATES and other events of interest

Thursday, May 20, 2004 5:30 - 7:30 p.m.

Home Builders Association of Northern California (HBANC) reception for prospective BPC members at HBANC offices

Wednesday, May 26, 2004

BPC Work Program Committee meetings: Water Quality & Supply, Transportation, Wetlands & Wildlife and Dredging & Navigation

12:00 – 4:00 p.m.

Port of Oakland, 7th Floor Conference Room

530 Water Street, Oakland

Thursday, June 3, 2004

BPC Marine Construction Seminar – The use and permitting of treated wood (ACZA) in the San Francisco Estuary.

Time: 9:00 – 4:00 p.m.

Location: URS Corporation

1330 Broadway, Suite 800, Oakland

Registration - \$75 BPC members, \$100 non-members

Contact BPC to register

Wednesday, May 12-13

California Maritime Transportation Month Celebration

State Capitol, Sacramento

Contact: Norman.Fassler-Katz@asm.ca.gov

Of the Assembly Select Committee on California Ports

Friday, May 21

National Maritime Day

Sponsored by the Propeller Club

11:30 a.m.

World Trade Club, San Francisco

Contact: Marine Exchange website

June 16, 2004 - S. F. Bay Regional Water Quality Control Board Public Hearing for a Proposed Amendment to the San Francisco Bay Basin Plan incorporating a Total Maximum Daily Load (TMDL) for mercury in S. F. Bay and an implementation plan to achieve the TMDL targets and allocation. Second hearing and vote scheduled for September 15, 2004. 1515 Clay Street, Oakland.
www.swrcb.ca.gov/rwqcb2/sfbaymercurytmdl.html.

June 17, 2004 - S. F. Bay Conservation and Development Commission Public Hearing on the proposal to increase permit application fees to generate approximately 20% of its total regulatory program.
www.bcdc.ca.gov.

July 22, 2004 Change of Command for outgoing U. S. Army Corps of Engineers' San Francisco District Engineer, Lt. Colonel Michael McCormick and incoming S. F. District Engineer, Colonel Tom Feir.

BPC WORK PROGRAM
MEMBER ALERTS

BCDC (www.bcdc.ca.gov) announces a public hearing on June 17, 2004 to consider increasing permit application fees. BCDC proposes to increase fees to generate approximately 20% of its total regulatory program costs and thereafter, adjust the fees annually as need to achieve the 20% goal. The proposed regulation includes a formula for the annual adjustment. BPC testified at the state legislative hearing on the subject of fees that an evaluation should be conducted of BCDC's organization aimed at reducing duplication and inefficiencies in its regulatory program before a specific percentage such as 20% is approved. BPC will coordinate testimony at the hearing. Member comments are welcome.

SB 1568 - (Sher) S. F. Bay Conservation and Development Commission, Enforcement: The Senate Judiciary Committee voted April 20 to approve SB 1568 amending it at the request of BPC and members, Western States Petroleum Association (WSPA) and the California Building Industry Association (CBIA). The amendment extends the time period from 30 to 90 days in which an aggrieved party may challenge and, thereafter, lose all right to challenge the validity or reasonableness of a Cease and Desist order. However this amendment is only a partial solution to the continuing problem with the bill which establishes an unfair situation for a citizen by restricting the type of issues that can be introduced in any judicial proceeding in which a cease and desist order is challenged. BPC will continue to work with Senator Sher to resolve this issue and seek another amendment to the bill in order for BPC and its members to remove their opposition. The bill has been amended substantially since it was initiated in 2003 with BPC, CBIA and the Homebuilders Association of Northern California, the ports and WSPA's extensive involvement.

SB 1477- (Sher) State Water Quality Control Board Wetland Authority: BPC and 20 other statewide organizations continue to oppose this bill which would create another duplicative and overlapping system of wetlands regulation despite existing state regulatory protections in place. Senator Sher has indicated that this is

his biggest bill for the year. The bill's purpose is to protect wetlands that may be disclaimed and eliminated from the jurisdiction of the U. S. Army Corps of Engineers as a result of the *2001 U. S. Supreme Court Solid Waste Agency of Northern Cook County v. U. S. Army Corps of Engineers* (SWANCC) decision. However, while the ruling may have resulted in a limited amount of wetlands being taken out of the Army Corps' jurisdiction under the federal Clean Water Act, most of these sites continue to be protected under several federal, state and local laws. The BPC position is that the legislature should not enact a new wetlands regulatory program until there is a thorough inter-agency review by the Administration of all state laws, regulations and programs used to protect wetlands.

BPC members are urged to send a letter of opposition. Contact BPC for an analysis of the bill prepared by BPC member, Robert Uram and also the 20-member organizations' letter(s) of opposition. The bill was approved by the Senate Environmental Quality Committee (6-1 vote) on April 19 and it is next to be heard by the Senate Appropriations Committee the second week in May.

SWRCB's WDR's- The State Water Resources Control Board has adopted a new General Waste Discharge Requirement (WDR) for dredged and filled discharges to waters deemed by the U. S. Army Corps of Engineers to be outside of federal jurisdiction. This is the parallel agency track to SB 1477 in a somewhat modified manner. Since notice of the proposed new WDR was first published at the end of December, 2003, BPC has been working closely with a dozen statewide organizations seeking amendments. We requested that the WDR be put aside until the new Administration decides how to best protect isolated waters over which the Corps has declined jurisdiction consistent with streamlined permitting and avoiding regulatory redundancy. However, we were unable to convince the Board of this wisdom.

So the upshot is that for the land where the U. S. Army Corps of Engineers has disclaimed wetland regulatory jurisdiction, property owners must now file for a WDR permit from the Board. However, the SWRCB did agree with our statewide coalition's request in three areas: the National Academy of Sciences "riparian area" definition was deleted; normal farming activities are exempted consistent with the Clean Water Act; and an applicant will not have to file for both a stormwater permit and a General WDR. Only one permit will be issued for both activities if the areas overlap. We will write a summary and an analysis of the impacts of the new WDR and email our analysis to BPC members shortly.

...more on wetlands... Thanks to our good friend, Virginia Albrecht with Hunton & Williams in Washington, D. C., we have more details on the three Clean Water Act section 404 cases that challenged the Corps of Engineers' jurisdictional claims over roadside ditches. The U. S. Supreme Court denied certiorari in *Deaton v. United States, No. 03-701, Rapanos v. United States, No. 03-929, and Newdunn Associates v. U. S. Army Corps of Engineers, No. 03-637* and let the lower court decisions, all in favor of the Corps, stand. In these three cases, the separate appeals courts affirmed the authority of the Corps of Engineers to regulate discharges of soil to drainage ditches. In her Dear Colleague letter, Virginia Albrecht, discusses the cases and indicates that this does not necessarily mean that every ditch is a navigable water. Following the Supreme Court decision, in the USACE regional area covering Oregon and Washington region, a settlement was reached resolving a legal challenge by an environmental group that irrigation canals and drainage ditches should be covered by the Clean Water Act. For more information and a copy of the letter, contact BPC staff.

Dredging and Navigation Committee

Alternatives Analysis

BPC, in collaboration with its partners, C-MANC, the Bay Dredging Action Coalition and its industry stakeholders have made progress to reduce the lengthy bureaucratic and costly dredged material disposal alternative analysis requirement and work out feasible federal Clean Water Act Section 404(b) (1) compliance strategies. The dredging permit agencies are working more closely with the dredging community to streamline this process and bring more alternative disposal sites on-line. Actions to date:

- **Programmatic Alternative Analysis** – Agencies are working with dredging project sponsors to develop programmatic analyses that apply to the full term of the dredging permit for three general classifications of dredgers: the large dredgers, such as the ports; the medium-size dredgers, such as the refineries; and the small dredgers, such as the marinas. In the case of "Small Dredgers" (as defined in the LTMS as those that dredge <50,000 yd³ annually at a depth of 12 ft or less), BPC and the agencies are developing a generic template to be included in their applications allowing for in-bay disposal. The Small Dredger template is to be completed by July, 2004.

- **LTMS Agency Workshops** – BPC and its members requested that the LTMS agencies convene a series of workshops to discuss feasible disposal options as we work on specific language in the alternative analyses for Section 404 (b)(1) compliance:

Workshop # 1: Alternative Disposal Sites Review – March 5, 2004

Discussion of the practicability of currently available alternative disposal sites. LTMS agencies agreed to publish a list of available sites and include their respective costs, testing guidelines, capacity, logistics, etc. BPC will distribute this list upon publication.

Workshop #2: Hamilton Wetland Restoration and In-Bay Rehandling Basin – April 23, 2004

The Hamilton Wetlands Restoration Project's environmental documents call for the use of off-loading equipment to transfer dredged material to the site (1,000 acres of wetland restoration requiring 10.6 million yd³ of dredged material; and if WRDA approved, a total of 2600 acres requiring 24.5 million yd³ of material including the addition of Bel Marin Keys). Due to cost, efficiency and logistic hurdles associated with the current offloader plan, USACE is conducting preliminary investigations on the use of rehandling facilities to temporarily store dredged material in-bay, enabling a more efficient and flexible delivery of material to the restoration site.

Proposed in-bay rehandling sites are co-located or near SF-9 and SF-10. It is presumed at this time (per agency feedback at the meeting), that normal in-bay disposal would continue concurrent with the rehandling site and not be included in the LTMS accounting of in-bay disposal as it would ultimately be used for beneficial re-use. USACE is currently seeking stakeholder input with an Aquatic Transfer Facility Feasibility Assessment Report due August 2004.

Contact Peter Mull, Project Manager, USACE
pmull@spd.usace.army.mil

Workshop #3, to be convened by the LTMS Management Agencies in July, 2004 (date and location TBA)

Dredged Material Management Office (DMMO) Annual Meeting – April 23, 2004. The DMMO presented its 2003 Annual Projects Summary, concluding that the S.F. Bay dredging community met the first step-down current target of 3.05 million yd³ of in-bay disposal as scheduled in the LTMS 40%-upland; 40%-ocean; and 20% in-Bay disposal plan. The DMMO agency representatives emphasized, however, **the importance of the timely submittal of the project post-dredge survey as part of dredger permit requirements**. Also presented were a series of tools and/or procedures that permit applicants can utilize to aid in the permitting process (e.g. Master Sampling and Analysis Plans, Gantt Charts, Informal Consultation Preparation packet etc.). Contact BPC for further information.

BPC would like to know how/if the DMMO process, as a 'one-stop permit shop' is working for you. BPC's goal for the DMMO is to have a streamlined and straightforward permitting process. Please inform us of your successes and difficulties.

BPC's Student Involvement Program

Cash awards will be presented to the top four essay winners from the Young Community Developers (YCD) of San Francisco at a luncheon May 6 at the Delancey Street Foundation Restaurant. Eleven students from the YCD received scholarships to attend the BPC's 2003 Decisionmakers Conference. Based on the Conference topics and knowledge gained about the Bay's economy and the environment, students wrote essays on the topic "Who am I in 2023". YCD was established 28 years ago and provides job development, training and placement for low income and hard to serve minorities in San Francisco. BPC thanks BPC members and sponsors, **Phil Lebednik of LFR Levine Fricke, Carol Bach of the Port of San Francisco, and Jack Krystal**

AGENCY NEWS

U. S. Army Corps of Engineers: Roger Golden is the new Deputy Executive Engineer replacing Major Murray Starkel who is now stationed in Iraq. Al Paniccia (977-8468) is the new LTMS Program Manager, replacing Roger.

Rob Lawrence has returned to the S. F. District's Regulatory Branch from San Diego.

NOAA Fisheries: New additions in the Santa Rosa office are Joe Dillon, Water Quality Specialist in the Habitat Conservation Division (707) 575-6093 handling treated wood issues as well as others; and Steve Edmondson the new manager of the S. F. Bay Restoration Program.

BPC's colleague in the news

Tom Wakeman is on loan from the Port of New York to the U. S. State Department and has been appointed as the new port director in Iraq at Umm Qasr.

WORKSHOPS/CONFERENCES

May 6, 2004, California Ocean Summit, at the offices of Cal/EPA at 1001 I Street, Sacramento, Ca. - 9:00 - 4:00 p.m. Convened by Secretaries Terry Tamminen of Cal/EPA and Mike Chrisman, of the Resources Agency. Speakers are Leon Panetta and William Ruckelhaus.<http://resources.ca.gov/ocean/Summit04/>

May 23-26, ASCE/PIANC, Ports 2004, Houston, Texas

Executive Director, Ellen Johnck is moderator of the panel on Dredged Sediment Management with BPC member, Dilip Trivedi of Moffat & Nichol presenting in addition to the U. S. Army Corps of Engineers' Los Angeles represented by BPC member, Tom Wang of Anchor Environmental, and USACE's Great Lakes District manager, Phillip Ross.

June 9-10, 2004, U. S. Army Corps of Engineers' National Dredging Meeting in Ft. Belvoir, Va. The Corps, dredging industry, ports and stakeholders meet to discuss the current and future state of navigation programs, future challenges and issues and 2012 integration. For more information, contact BPC for the agenda and Michael White, Chief, Operations Division, Directorate of Civil Works, USACE headquarters. Michael.B.White@usace.army.mil.

Bay Planning Coalition
10 Lombard St.,#408
San Francisco, CA 94111
tel 415-397-2293
fax 415-986-0694
www.bayplanningcoalition.org