# Hot Issues for Administrator Gina McCarthy's Visit to EPA Region IX

## Air Division

**West Oakland Community Issues:** West Oakland is four square miles, with 25,000 residents, largely minority and low income. It is adjacent to the Port of Oakland, until recently the 4th largest U.S. container port. The area is overburdened with air pollutants and toxics, predominantly due to goods movement and diesel pollutants.

**Ongoing Issues:**

AMCO Superfund site:
Listed in 2003, clean-up underway, Technical Advisory Committee well engaged.

Oakland Army Base (OAB):
This is a 400 acre former military site that was transferred to the City of Oakland in 2003.

- An Environmental Impact Statement for the transfer was finalized under the National Environmental Policy Act in 2001, identifying "significant adverse air quality impacts", but not addressing coal transport, handling, and export impacts.
- Reuse for the base was finalized under state environmental review (California Environmental Quality Act) in 2012 for port logistical support (rail, trucks, warehouses), without analysis of coal transport, handling, and export impacts. That study identified "significant unavoidable air quality impacts" despite development of a mitigation plan.
- Several agencies including EPA, California Air Resources Board and others have since engaged the City on improving the mitigation plan. The community threatened Civil Rights Act Title VI actions in 2013/2014 in order to get all parties to table.
- Discussions have been ongoing since 2013. US Departments of Transportation and Homeland Security (DOT and DHS), nationally, are following these issue through the Interagency Working Group Goods Movement committee.

Proposed Coal Export Terminal:
In 2015 a proposal surfaced to build a bulk facility on the OAB to handle, among other products, coal shipped from Utah on its way to Asian markets.

- Key to the project has been the proposed use of $53M funds (managed through US Department of Interior (DOI) under the Mineral Leasing Act, then transferred through State of Utah legislation) to secure a 49% interest in the OAB facility.
- On April 1 the community wrote to DOI Secretary Jewell asking her to investigate potential Title VI implications (benefits in Utah, burdens in Oakland.)
- On April 11 DOT convened national discussions including EPA, DHS, DOI and Department of Justice (DOJ) to discuss DOI's initial reactions to concerns raised in the community's letter.

Lessons from 15 years collaborative involvement in West Oakland:

- A formal structured collaboration such as the West Oakland Toxics Reduction Collaborative can provide a lasting framework for productive multiple stakeholder problem-solving.

- Key elements have been a Partnering agreement, facilitation, and agreed upon goals and roles.
- Interagency governmental coordination is essential, both vertically (Federal, State, and Local) and horizontally (across all levels of government). EPA has key roles to play.
- Non-regulatory EPA roles can be valuable for convening, facilitating, and funding.
- Environmental justice and Title VI have complementary roles. Without the leverage of Title VI the community would have been hampered in gaining progress on its EJ goals.

Contact: Richard Grow, 415.947.4104

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**Enforcement Division**

**San Francisco Combined Sewer System Investigation:** Region IX has been investigating the San Francisco Public Utilities Commission's (SFPUC) combined sewer system to determine compliance with its NPDES permit in response to reports of potential non-compliance: reports of sewage backing up into restaurants and homes, sewage flowing down streets, and general reports of flooding in San Francisco during rain events. EPA Region IX has performed an onsite inspection and issued a request for information requiring the SFPUC to report all sewer releases from the sewer system to public areas, private property, and waterbodies. A citizen's group called Solutions Not Sandbags filed a civil complaint in August 2015, for damages to private residences that have resulted from multiple occurrences of basement backups, overflows, and flooding. Local media has covered this issue and continues to be interested. The SFPUC's combined sewer system has approximately 1,000 miles of combined sewers serving 850,000 residents. Contact: Ken Greenberg, 415.972.3577

**Bay-Delta WaterFix Project:** On October 30, 2015, Region 9 submitted comments on the Draft Supplemental Environmental Impact Statement to the Bureau of Reclamation with respect to the Bay-Delta WaterFix project. Region 9 rated the document a "3" for Inadequate Information. The Bay Delta WaterFix project seeks to: (1) provide a more reliable water supply for municipal and agricultural users; and (2) to protect, restore and enhance the Sacramento and San Joaquin River delta ecosystem. The proposed project includes the construction of new intake facilities and tunnels to convey water from the north delta to the Central Valley Project (CVP) and State Water Project (SWP) pumping facilities in the south delta for export to multiple water users. The Region rated the document a "3" in part because critical information with respect to flow requirements and operational specificity were lacking. At least three separate regulatory processes are underway that could impose terms and conditions on the proposed project, including flow requirements that could modify the proposed WaterFix operations. These include: (1) State Water Board approval of the requested new intake facilities as well as updated water quality standards; 2) Fish and Wildlife Service and National Marine Fisheries Service Section 7 Incidental Take Permits; (3) 404 and 408 permits from the Army Corp of Engineers. All of these processes are progressing. The Final Supplemental DEIS is expected in fall 2016. At that time, Region 9 will review the document and submit a letter to the lead federal agency, the Bureau of Reclamation. Our review will focus on any significant new circumstances or information relevant to areas of significant environmental impact. Contact: Kathleen Johnson, 415.972.3873

# Enforcement/Investigatory / Ex. 7(a)

**Water Division**

**Cargill Redwood City Salt Ponds Jurisdiction, San Francisco Bay:** At Cargill's request, the Corps of Engineers Headquarters had been working to determine the scope of waters covered by the Clean Water Act at Cargill's Redwood City site adjacent to the San Francisco Bay. The 1,478 acre site is a former tidal marsh that was diked off from San Francisco Bay for salt production in the early 1900's. Because of the unique circumstances of the site, EPA notified the Corps and Cargill on March 18, 2015 that the site would be placed on the Special Case list, which leaves the jurisdictional determination to be made by EPA in accordance with a 1989 MOA. We expect to make a final determination by May, 2016. Contact: Tomas Torres, 415.972.3337

**Request for Proposals (RFP) Released for San Francisco Bay Grants:** On April 15th Region 9 released a new RFP for the San Francisco Bay Water Quality Improvement Fund (SFBWQIF) to solicit projects that restore wetlands and water quality in San Francisco Bay and its watersheds. The upcoming RFP makes approximately $4.2 million available to support projects in the range of $800,000 to $2,000,000. Applicants must provide a minimum 50% non-federal match and projects must be within the nine Bay Area counties that drain to San Francisco Bay. Contact: Luisa Valiela, 415.972.3400

**Lawsuit Regarding Changes to California Bay Delta Water Allocations:** On Friday, April 22, 2016, NRDC, Defenders of Wildlife, and the Bay Institute filed a complaint in federal court in San Francisco against Gina McCarthy and Jared Blumenfeld. The complaint alleges that EPA had a mandatory duty to review and approve certain temporary State Water Resources Control Board changes to water rights permits. These changes were requested by major water diverters in the Bay Delta as part of their drought management plan, and had the effect of reducing outflow through the Delta. The State Board did not actually change water quality standards, but instead temporarily changed the water rights diversion permit compliance provisions. **Talking points:** Under the Clean Water Act, EPA reviews changes in water quality standards. EPA does not, however, have any role in a state's water rights permits, even where those permits are used by the state to implement water quality standards. Those implementation decisions are reserved for the states. Contact: Melanie Shepherdson, Office of Regional Counsel, 415.972.3923

**Superfund Division**

**Silicon Valley's Industrial Legacy:** Santa Clara County, the home of Silicon Valley, is also home to 23 National Priorities List Superfund sites, the most of any county in the nation. The sites are generally smaller than other sites in our region, and are predominately former

semiconductor manufacturing and other high-tech facilities. The groundwater contamination is generally from volatile organic compounds, shallow, and doesn't directly impact drinking water supplies, but could pose a vapor intrusion (VI) risk. Because of the Integrated Risk Information System (IRIS) 2011 reassessment of TCE and the subsequent lowering of both short-term and long-term exposure levels to TCE vapors, our region has taken the lead in developing new standards for investigating, analyzing, responding, and mitigating potential risk for vapor intrusion in residential and commercial structures.

EPA has conducted VI investigations at several sites in the Silicon Valley, sampling indoor air in both residential and commercial buildings. We have worked closely with residents, building owners, and building tenants in evaluating potential VI issues in their buildings near the MEW Superfund Study Area. To date we have collected more than 5,000 air samples at more than 140 residences and 120 commercial buildings. Google currently occupies 11 office buildings that overlie the MEW shallow TCE contamination. In 2012, two of those buildings exceeded acceptable indoor air levels for TCE. We worked rapidly with the responsible parties and Google to ensure vapor intrusion mitigation measures were taken to reduce indoor air TCE concentrations to health-protective levels.

At three sites in Sunnyvale (the Philips, AMD and TRW Microwave Sites) we recently completed a year of sampling in four schools and 130 residences (out of approximately 400 homes in the neighborhood). Twenty households (in eight residential buildings) and six school buildings at two of the school campuses had higher than acceptable levels of TCE. Mitigation systems are being designed for the affected buildings and sampling is ongoing to determine if additional mitigation systems would be appropriate to further reduce risk. Additional community outreach is being conducted to register more homes for indoor air sampling. Contact: John Lyons, 415.972.3889

**AMCO Chemical Superfund Site (West Oakland, California):** EPA is actively designing an in-situ thermal treatment remedy at the AMCO Chemical site. Remedy construction will begin this summer (2016), and the thermal remedy is expected to run for approximately eight months. At that point, we anticipate the vast majority of contaminants will have been removed from the site, including any vapor intrusion risk. The community remains actively engaged in cleanup plans; the Community Advisory Group is a valuable partner to EPA in maintaining community support and perspective through the process. This neighborhood was also part of a previous EPA-led cleanup of soils contaminated with lead. EPA developed an innovative, multi-faceted cleanup strategy for the yards, using fish bones as a soil amendment to bind lead to phosphate, reducing the bio-availability of the lead, hired workers trained at our EWDJT grantee in Oakland, and replaced vegetation with native plants, raised beds, and drought-tolerant sod. Contact: John Lyons, 415.972.3889

**Hunters Point Naval Shipyard Superfund Site (San Francisco, CA):** The US Navy is cleaning up the Hunters Point Naval Shipyard for transfer to the City of San Francisco and Lennar Urban to develop for housing, commercial offices, research and development, and open space. In 2012, the Navy discovered its contractor Tetra Tech had falsified radiological samples in its cleanup of storm drains and sewer lines. The Navy required resampling in suspect locations, and EPA reviewed this work. In February 2016, the Nuclear Regulatory Commission (NRC) issued a Notice of Apparent Violation to Tetra Tech. In March 2016, NBC news aired a story about a former worker who alleged that his supervisors ordered him to falsify samples and

improperly dispose of potentially contaminated material onsite. EPA and the Navy are investigating these new allegations to determine potential concerns and appropriate follow-up.

EPA and other agencies participate in the neighborhood EJ Task Force, funded by Cal EPA and led by Bradley Angel and Marie Harrison of Greenaction. They requested technical assistance from Dan Hirsch, UC Santa Cruz, who gave a public presentation on April 21, 2016, stating that the Navy's cleanup criteria do not meet current EPA standards. EPA explained that we review all cleanup reports using the current EPA risk model. As an extra precaution, we also reviewed past cleanup reports and found they are also protective using current standards. Greenaction is also concerned that sea level rise will flood the site, releasing contained contamination. In January 2016, EPA presented designs for revetment walls and sea walls and explained the process for updating cleanup plans as new science and policies emerge on this or any other issue. EPA also explained how the Navy Five-Year Reviews will continue in perpetuity to evaluate the continued protectiveness of the remedies. Contact: John Chesnutt, 415972.3005