

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

STAFF SUMMARY REPORT (Brian Thompson)  
MEETING DATE: October 14, 2015

ITEM: **5B**

SUBJECT: **Enforcement Actions and Priorities for Fiscal Year 2015/2016 - Summary Report**

DISCUSSION: This item provides a summary of penalty enforcement actions for fiscal year (FY) 2014/2015, including the issuance and/or settlement of administrative civil liability (ACL) complaints. It also summarizes efforts by the Board's enforcement section to pursue focused compliance campaigns, public outreach for enforcement, and enforcement priorities for this fiscal year.

**Penalties Imposed**

There were 18 enforcement cases during FY 2014/2015 involving a monetary penalty. The Executive Officer approved penalties for 16 of the cases totaling \$1,269,820 (Tables A1 through A3). The other 2 cases were still in settlement discussions as of the end of the fiscal year (Table A4). Collectively, these actions addressed unauthorized discharges of fill, chlorinated water, and sewage, and violations of discharge limits, stormwater permit prohibitions, reporting requirements, site cleanup requirements, and an ACL order. The penalty assessments, which are summarized below, were consistent with the State Water Board's Enforcement Policy and, as applicable, the State Water Board's Supplemental Environmental Project (SEP) Policy.

▪ **Table A1 – Prior FY ACL Cases Settled in FY 2014/2015**

At the start of FY 2014/2015, there were four unresolved ACL cases with proposed penalties totaling \$15,920. All the cases were settled with ACL orders in the amount of the proposed penalties.

▪ **Table A2 – ACL Cases Initiated and Settled in FY 2014/2015**

We issued five ACL complaints with proposed penalties totaling \$1,362,100. One discharger did not contest the complaint and paid the proposed penalty. The other four cases were settled with ACL orders. Final penalties totaled \$1,037,900, of which \$379,000 went to fund SEPs.

▪ **Table A3 – FY 2014/2015 Mandatory Minimum Penalties**

We issued seven conditional offers to settle NPDES permit violations at the mandatory minimum level of \$3,000 per violation. All dischargers accepted the offers, which totaled \$216,000.

▪ **Table A4 – ACL Complaints in Settlement Discussion**

Two ACL complaints issued in FY 2014/2015 were still in settlement discussions as of June 30, 2015, with proposed penalties totaling \$3,813,700.

## **Focused Compliance Campaigns by the Enforcement Section**

Our enforcement efforts improved compliance at 80 percent of 391 targeted sites. This resulted from three focused compliance campaigns with support from regulatory program staff (summarized below). Of the remaining targeted sites, we resolved approximately 17 percent through update of our records. Our investigations identified businesses that had closed, outdated contact information, database errors, etc.; improving our databases is another positive outcome from these compliance campaigns. As of June 30, 2015, the remaining 3 percent of targeted sites were still under investigation.

### **1. Annual Report Compliance (Industrial Stormwater Program)**

Approximately 81 percent (145) of 179 facilities targeted submitted annual reports in response to notices of noncompliance. We targeted these facilities because they had failed to submit their annual reports required by the statewide industrial stormwater general permit. Annual reports are critical to the self-evaluation structure of the permit and our review of a facility's management practices and compliance efforts. For facilities that did not respond to the notices of noncompliance, we verified that 22 facilities had closed. As of September 2015, we proposed penalties for four facility operators who have all agreed to settle the violation for a \$1,100 penalty. Seven cases are still under investigation.

### **2. Permit Compliance (Construction Stormwater Program)**

Overall compliance was very good at 29 construction sites covered by the statewide construction stormwater general permit that we targeted for compliance inspections. Only 10 sites warranted a notice of violation, and these permittees acted promptly to implement corrective measures. All the inspections occurred during a single storm event and were conducted by teams of our enforcement and stormwater program staff. This coordinated approach allows for a snap-shot of the general state of compliance in the construction industry region-wide, particularly with respect to the adequacy of best management practices. It also allows Board staff to send consistent messages about compliance to multiple permittees.

### **3. Electronic Reporting Compliance (Site Cleanup Program)**

Approximately 78 percent (143) of 183 targeted cleanup sites improved compliance in response to a courtesy reminder about electronic reporting to the GeoTracker database. GeoTracker is a statewide Water Board data management system for sites that have adversely impacted or threaten groundwater, and it is the primary vehicle for providing information about cleanup sites to the public. Our enforcement and site cleanup program staff targeted the sites because there was no designated responsible party for electronic reporting or there had been no report or data uploaded to GeoTracker within the last three years. The sites returned to compliance by updating GeoTracker with required documents and information. The remaining sites were either found to be compliant during our investigation, or we determined no further action was warranted because of the status of the site (e.g., case closure pending).

## **Public Outreach**

Our notification of pending enforcement actions to the regulated community and the public is an integral part of our enforcement program. In addition to providing documents to interested parties and stakeholders by mail and email, anyone can obtain information about our enforcement cases by [subscribing](#) to an email list for enforcement items, checking the current status of [enforcement cases](#) and accessing documents on our website, and following [press releases](#) issued on significant proposed actions through the State Water Board's Office of Public Affairs.

Additional enforcement-related information is also available via the State Water Board's and San Francisco Estuary Partnership's websites. State Water Board's [enforcement page](#) provides access to enforcement reports and the Enforcement Policy and SEP Policy. The San Francisco Estuary Partnership provides a [list](#) of current and completed SEPs (approved as part of a penalty settlement) on its website with the status of pending projects and links to associated documents.

## **Enforcement Priorities**

Our enforcement priorities for FY 2015/2016 will continue to focus first on egregious violations with the highest adverse water quality impacts, followed by violations that threaten the integrity of the Board's requirements. These include discharges that result in fish kills or other acute aquatic impacts; illegal fill of streams and wetlands and violations of permitted stream and wetland projects; violations of site cleanup requirements; and violations of construction, industrial, and municipal stormwater permits. We will also continue to prioritize enforcement of sanitary sewer overflows, particularly from agencies with inadequate infrastructure rehabilitation programs, and to maintain a near zero backlog of mandatory minimum penalties assessments.

RECOMMEN-  
DATION: No action is necessary, as this is an information item.

Appendix A: Tables of FY 2014/2015 Penalty Enforcement Actions

# APPENDIX A

**Table A1 – Prior FY ACL Cases Settled in FY 2014/2015**

Discharger	Location	Violation	Proposed Penalty	Final Penalty
Redwood City Partners, LLC	Redwood City	Concrete Washwater Discharge Construction Stormwater	\$3,460	\$3,460
SMI Holding, LLC	Cupertino	Effluent Limit Violations NPDES Permit	\$3,000	\$3,000
Taylor Morrison CA, LLC	Dublin	Stucco-Laden Stormwater Discharge Construction Stormwater	\$3,460	\$3,460
Santa Clara Valley Water District	San Jose	Effluent Limit Violations NPDES Permit	\$6,000	\$6,000
Total			\$15,920	\$15,920

**Table A2 – ACL Cases Initiated and Settled in FY 2014/2015**

Discharger	Location	Violation	Proposed Penalty	Final Penalty
Contra Costa County Flood Control District	Martinez	Unauthorized Fill of Creek	\$10,000	\$10,000
Kelly Engineer, All Star Service, & Perrin Engineer	Concord	Nonpayment of ACL Order	\$12,500	\$12,500
North Marin Water District <sup>1</sup>	Novato	Chlorinated Water Discharge	\$45,500	\$38,100
BP/ARCO	Oakland	Site Not Mitigated / Remediated	\$561,800	\$245,000
Sonoma Valley County Sanitary District <sup>2</sup>	Sonoma	Delay in Sanitary Sewer Improvements and Sewer Overflows	\$732,300	\$732,300
Total			\$1,362,100	\$1,037,900

<sup>1</sup> The final penalty includes a \$14,000 SEP to restore 130 feet of embankment along Vineyard Creek.

<sup>2</sup> The final penalty includes a \$365,000 SEP to restore 1,000 feet of embankment along Ash Creek and provide grants for customer sewer lateral repair and replacement.

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**Table A3 – FY 2014/2015 Mandatory Minimum Penalties**

<b>Discharger</b>	<b>Location</b>	<b>Violation</b>	<b>Penalty</b>
East Bay Municipal Utility District - Lafayette Water Treatment Plant	Lafayette	Effluent Limit Violations NPDES Permit	\$6,000
Shell Martinez Wastewater Treatment Plant	Martinez	Effluent Limit Violations NPDES Permit	\$6,000
City of Palo Alto Wastewater Treatment Plant	Palo Alto	Effluent Limit Violations NPDES Permit	\$66,000
Napa Garden Apartments	Napa	Effluent Limit Violations and Late Discharge Report, NPDES Permit	\$18,000
CEMEX Sunol Treatment Ponds	Pleasanton	Effluent Limit Violations and Late Discharge Report, NPDES Permit	\$39,000
CEMEX Eliot Treatment Ponds	Pleasanton	Effluent Limit Violations and Late Discharge Report, NPDES Permit	\$21,000
Samsung Groundwater Treatment System	San Jose	Late Discharge Report NPDES Permit	\$60,000
Total			\$216,000

**Table A4 – ACL Complaints in Settlement Discussion**

<b>Discharger</b>	<b>Location</b>	<b>Violation</b>	<b>Proposed Penalty</b>
Cal Water Service Company	San Mateo	Chloraminated Water Discharge	\$3,060,700
OG Property Owners, LLC	Orinda	Sediment-Laden Stormwater Discharge Construction Stormwater	\$753,000
Total			\$3,813,700