

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**TENTATIVE ORDER
ORDER NO. R2-2020-XXXX**

**IMPOSING ADMINISTRATIVE CIVIL LIABILITY FOR:
PARAM AND AMANDEEP DHILLON
2225 RALMAR AVENUE
EAST PALO ALTO, CALIFORNIA 94303**

The California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), finds, with respect to Param and Amandeep Dhillon (jointly, the Dischargers), that:

1. According to a deed dated June 20, 2019, and recorded on June 25, 2019, the Dischargers are the current owners of the real property identified as Solano County Assessor's Parcel Number 0052-160-090 in the City of Vallejo, Solano County (Property).
2. The Property contains the East Lagoon, which is part of the White Slough. In 1990, the State of California adopted the *White Slough Protection and Development Act* (AB 719), which protects tidal wetlands and tidally influenced areas, adjacent wetlands, and upland habitats of the White Slough. In 1996 (and as amended in 2010), Solano County and the City of Vallejo produced the *White Slough Specific Area Plan*, which protects the East Lagoon at the Property. In 1999, the City of Vallejo rezoned the Property from "retail use" to "resource conservation" to provide maximum protection of wetland habitat and allow for natural open-space use.
3. In or around October 2019, the Dischargers conducted construction activities at the Property that included disking, grading, and placing fill into wetlands or in areas that threatened waters of the state and United States. The Dischargers did not seek authorization to carry out these activities through the Construction Stormwater General Permit¹ or through a report of waste discharge or waste discharge requirements.
4. On November 18, 2019, Regional Water Board staff issued a notice of violation to the Dischargers, alleging violations of the federal Clean Water Act, the California Water Code (Water Code), and the San Francisco Bay Basin Water Quality Control Plan, for their unauthorized activities.

¹ General Permit for Storm Water Discharges Associated with Construction Activities (Stormwater Construction General Permit), NPDES No. CAS000002, Order 2009-0009-DWQ amended by 2010-0014-DWQ and 2012-0006-DWQ.

5. On February 7, 2020, the Regional Water Board issued to the Dischargers a “Notice of Violation and 13267 Directive to Submit Technical Reports” (13267 Order). The 13267 Order required the Dischargers to submit technical reports to describe the unauthorized activities, due on February 21, 2020, and to delineate the extent of jurisdictional wetlands at the Property, due on May 8, 2020. These reports were needed to inform regulatory decisions regarding permitting and corrective actions to restore wetlands.
6. On April 30, 2020, Regional Water Board staff issued a “Notice of Ongoing Violations and Pending Deadlines to Submit Reports” to the Dischargers, as a result of their failure to submit the first technical report (Violation 1) describing unauthorized activities by February 21, 2020.
7. The Dischargers failed to submit the second technical report (Violation 2) delineating the extent of jurisdictional wetlands, which was due by May 8, 2020.
8. On June 17, 2020, Regional Water Board staff requested access to inspect the Property, document the nature and extent of grading and fill activities, and assess wetland impacts. The Dischargers denied access.
9. On August 28, 2020, the Assistant Executive Officer of the Regional Water Board, as head of the prosecution team, issued Administrative Civil Liability Complaint No. R2-2020-1028 (Complaint), alleging that the Dischargers had failed to submit two required reports in violation of Water Code section 13267. The Complaint proposed an administrative civil liability of \$81,700. The Complaint was noticed for 30 days.
10. Any person who fails or refuses to furnish technical reports as required under Water Code section 13267 may be civilly liable under Water Code sections 13323 and 13268. The Regional Water Board may impose administrative civil liability not to exceed \$1,000 per day of violation pursuant to Water Code section 13268(b)(1).
11. The Regional Water Board held a duly noticed public hearing on the Complaint on November 18, 2020. After hearing all the testimony and reviewing the evidence in the record, the Regional Water Board determines that the Dischargers are subject to civil liability for failing to submit the required technical reports (Violations 1 and 2) under the 13267 Order.
12. In determining the amount of civil liability to be assessed to the Dischargers, the Regional Water Board has taken into consideration the following factors to be considered under Water Code section 13327: the nature, circumstance, extent, and gravity of the violation or violations; whether the discharge is susceptible to cleanup or abatement; the degree of toxicity of the discharge; and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require. The Regional Water Board has taken into consideration the discussion of these factors in Exhibit A of the Complaint (attached), as amended by the Regional Water Board prosecution team to correct (a) the number of days of violation and (b) the calculated days of violation when adjusting multiple day violations under the Water

Quality Enforcement Policy.² The Regional Water Board concurs with Exhibit A, as amended.

13. Civil liability in the amount of \$80,100 is appropriate based on the considerations in Finding 12.
14. This is an action to enforce the laws and regulations administered by the Regional Water Board and is exempt from the provisions of the California Environmental Quality Act, Public Resources Code section 21000 et seq., in accordance with California Code of Regulations, title 14, section 15321, subdivision (a)(2).
15. Any person aggrieved by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 et seq. The State Water Resources Control Board must receive the petition by 5:00 p.m., thirty days after the Regional Water Board's action, such as the adoption of this Order, except that if the thirtieth day following the action falls on a Saturday, Sunday, or State holiday, the petition must be received by the State Water Resources Control Board by 5:00 p.m. on the next business day. Instructions for filing petitions are available on the internet at the following link: [Instructions for Water Quality Filing Petitions](#).³

IT IS HEREBY ORDERED pursuant to California Water Code sections 13323 and 13268 that:

1. Param and Amandeep Dhillon are civilly liable for Violations 1 and 2 and shall pay an administrative civil liability in the amount of **\$80,100**.
2. Param and Amandeep Dhillon shall pay this sum in full to the State Water Resources Control Board Cleanup and Abatement Fund no later than **30 days** following the issuance of this Order.

² Specifically, the prosecution team changed the days of violations from 182 to 190 for Violation 1 and from 105 to 113 for Violation 2 to account for the delay between when the Complaint was signed and issued. In addition, in the Complaint, the total days for each violation were reduced using a discretionary adjustment for "multiple day violations" in the Water Quality Enforcement Policy. Since issuance of the Complaint, the prosecution team corrected the reduced days from 41 to 40 and from 38 to 37 for Violations 1 and 2, respectively, based on the proper application of the allowed adjustment. These adjustments changed the total liability under the penalty methodology from \$81,763 to \$80,158 (rounded to \$80,100).

³ https://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml

Administrative Civil Liability Tentative Order No. R2-2020-XXXX
Param and Amandeep Dhillon

I, Michael Montgomery, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order issued by the Regional Water Board on November 18, 2020.

Michael Montgomery
Executive Officer

Attachment: Administrative Civil Liability Complaint No. R2-2020-1028