

May 24, 2010

Mr. Bruce Wolfe, Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Administrative Civil Liability Complaint No. R2-2009-0017, Settlement Agreement and Stipulation for Order - Wilder Project, Tentative Order

Dear Mr. Wolfe,

The following comments are submitted regarding the tentative order and the settlement of this case. Please refer to my letter of May 30, 2009 to Mr. Keith Lichten regarding the ACL proposed at that time. I continue to feel that this case should have been referred to the State Attorney General pursuant to Section 13387 of the California Water Code. In my opinion the documentation of intentional and negligent actions cited in that complaint and based on my observations and sampling of runoff from the site in 2006 and 2007 fully justified referral under Section 13387 of the California Water Code. It is likely too late in the process for a referral to the Attorney General; however, if for any reason OG the property owners or its successors fail to comply with the "final" ACL then the case should be referred.

There is insufficient explanation for the reduction of the ACL from \$982,350 in the original complaint to \$530,000 in the tentative order. I could find no rationale for this reduction in the tentative order and the public should receive an explanation for this significant reduction especially when the original liability was \$3,097,460.

It is disturbing that that the settlement agreement does not directly provide for environmental mitigation projects that would benefit the waters tributary to San Pablo Reservoir – a terminal domestic water supply reservoir. Surely there are projects that can be implemented in the watershed as suggested in my May 30, 2009 letter or at a minimum support the City of Orinda's program to reduce pollutants in storm water runoff consistent with the recently regional storm water permit .

Sincerely,

Roger B. James
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