

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: September 14, 2011

ITEM: 6C

SUBJECT: **Highlights of the Enforcement Program - Fiscal Year 2010/11 Accomplishments**

DISCUSSION: This item provides a summary of penalty enforcement for fiscal year (FY) 2010/11, including the issuance and/or settlement of administrative civil liability (ACL) complaints. We also call attention to our public outreach efforts for enforcement cases and describe our enforcement program priorities for the current year.

There were a total of 46 enforcement cases involving penalty assessments during FY 2010/11 (Appendix A; Tables A1 through A5). Final penalties in 40 of the enforcement cases totaled \$6,653,621. Another \$1,099,529 in penalties is proposed in six enforcement cases currently in settlement discussions. Penalty enforcement actions addressed a variety of violations including violations of individual and general NPDES permits; sanitary sewer overflows; unauthorized discharges of sediment-laden water, petroleum, industrial process water, and chlorinated water; and the illegal fill of a wetland. Penalties assessments were based on criteria in the California Water Code, the State Water Board's Water Quality Enforcement Policy and, as applicable, the State Water Board's Supplemental Environmental Projects (SEPs) Policy.

▪ **Table A1 – FY 2009/10 ACL Complaints Resolved in FY 2010/11**

At the start of FY 2010/11, there were six unresolved ACL complaints with proposed penalties totaling \$3,757,220. The cases were resolved and ACL orders issued based on settlement agreements between the dischargers and the Board's prosecution team. Final penalties totaled \$3,235,120, of which \$1,430,550 was designated for funding SEPs and \$100,000 was designated for an enhanced compliance project.

▪ **Table A2 – ACL Complaints Issued and Resolved in FY 2010/11**

The Board's prosecution team issued seven ACL complaints during FY 2010/11 with a total of \$3,455,251 in proposed penalties. One discharger did not contest an ACL complaint and paid the proposed penalty. ACL orders were issued in the other cases based on settlement agreements between the dischargers and the Board's prosecution team. Final penalties for these cases totaled \$3,206,901, of which \$183,250 was designated for funding an SEP.

▪ **Table A3 – FY 2010/11 Late Report Penalties**

The Board's prosecution team issued conditional offers that were accepted by nine dischargers in FY 2010/11 to settle industrial stormwater permit annual report violations for \$1000. Similarly, another discharger accepted a settlement offer of \$1,600 for late submittal of a Water Code Section 13267 order report.

- **Table A4 – FY 2010/11 Mandatory Minimum Penalties**
The Board’s prosecution team issued conditional offers to 17 dischargers in FY 2010/11 to settle NPDES permit violations at the mandatory minimum level of \$3000 per violation. The dischargers accepted the offers and agreed to pay the associated penalties, which totaled \$201,000.
- **Table A5 – FY 2010/11 ACL Complaints Pending Resolution**
Six ACL complaints with proposed penalties totaling \$1,078,809 are pending resolution. The Board’s prosecution team is engaged in on-going settlement discussions with the dischargers including consideration of SEPs and enhanced compliance projects.

We continue to notify the regulated community and the public about pending enforcement actions as an integral part of our enforcement program. In addition to providing documents to interested parties 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](#); or
- Following press releases issued through the State Water Board’s Office of Public Affairs.

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

Our enforcement priorities for the 2011/12 fiscal year include addressing large or frequent sanitary sewer overflows; spills of highly chlorinated water; NPDES permit violations subject to mandatory minimum penalties; violations of acute toxicity limits and recurring violations of other effluent limits in NPDES permits; violations of construction, industrial, and municipal stormwater permits; illegal fill of wetlands and violations of permitted wetland fill requirements; and violations of site cleanup requirements.

RECOMMEN-
DATION:

No action is necessary, as this is an information item.

Appendix A:

Tables of FY 2010/11 Penalty-Related Enforcement Cases

APPENDIX A

Table A1 –FY 2009/10 ACL Complaints Resolved in FY 2010/11

Discharger	Location	Allegation	Proposed Penalty	Final Penalty
ConocoPhillips	Rodeo	Effluent Limit Violations, NPDES Permit	\$490,000	\$600,000 ¹
City of Pacifica	Pacifica	Sanitary Sewer Overflows	\$2,300,000	\$1,700,000 ²
City of Oakland	Oakland	Sanitary Sewer Overflows	\$299,600	\$280,000 ³
City of San Bruno	San Bruno	Sanitary Sewer Overflows	\$633,600	\$621,100 ⁴
Transbay Container Terminal I	Oakland	Late Annual Report, Industrial Stormwater	\$13,300	\$13,300
Alameda County, Fairview Project	Alameda County	Sediment Discharges, Construction Stormwater	\$20,720	\$20,720
Total			\$3,757,220	\$3,235,120

¹ Includes \$190,000 SEP to restore the upper reaches of Pinole Creek for steelhead trout access and a \$100,000 enhanced compliance project for additional upgrades to ConocoPhillips' wastewater treatment plant to improve effluent water quality.

² Includes \$820,000 SEP for a private sewer lateral grant program with an option to also fund a restoration project along Rockaway Creek.

³ Includes \$125,000 SEP for stormwater improvements (biotreatment projects) at firehouse facilities.

⁴ Includes \$295,550 SEP for a private sewer lateral program (\$199,622) and for the Marine Mammal Center (\$95,928).

Table A2 – ACL Complaints Issued and Resolved in FY 2010/11

Discharger	Location	Violation	Proposed Penalty	Final Penalty
California Department of Transportation, Sunol/Fremont Construction	Alameda County	Permit Violations, Construction Stormwater	\$664,400	\$381,450
Sonoma Valley County Sanitation District	Sonoma County	Sanitary Sewer Overflows	\$348,400	\$383,000 ¹
East Bay Municipal Utility District	Alameda and Contra Costa Counties	NPDES Permit Violations and Sanitary Sewer Overflows	\$209,851	\$209,851
C&H Sugar	Crockett	NPDES Permit Violations	\$200,000	\$200,000
City of Redwood City	Redwood City	Sanitary Sewer Overflows	\$95,600	\$95,600
AT&T, Pacific Bell Telephone	San Jose	Petroleum Spill	\$10,000	\$10,000
Palmaz et al	Napa County	Wetland Fill	\$1,927,000	\$1,927,000
Total			\$3,455,251	\$3,206,901

¹ Includes \$183,250 SEP for a Fryer Creek Habitat Enhancement Project

Table A3 – FY 2010/11 Late Report Penalties

Discharger	Location	Violation	Penalty
Olson Steel	San Leandro	Late Annual Report, Industrial Stormwater	\$1,000
PWP Manufacturing	Santa Clara	Late Annual Report, Industrial Stormwater	\$1,000
Silicon Microstructures	Milpitas	Late Annual Report, Industrial Stormwater	\$1,000
Alviso Rock	Fremont	Late Annual Report, Industrial Stormwater	\$1,000
Kunde Enterprises	Kenwood	Late Annual Report, Industrial Stormwater	\$1,000
Baxter Healthcare Corporation	Hayward	Late Annual Report, Industrial Stormwater	\$1,000
San Lorenzo Unified School District	San Lorenzo	Late Annual Report, Industrial Stormwater	\$1,000
Hammon Plating	Palo Alto	Late Annual Report, Industrial Stormwater	\$1,000
Cordova Printed Circuits	Milpitas	Late Annual Report, Industrial Stormwater	\$1,000
Indian Springs Resort & Spa	Calistoga	Late Report, 13267 Order	\$1,600
Total			\$10,600

Table A4 – FY 2010/11 Mandatory Minimum Penalties

Discharger	Location	Violation	Penalty
City of Fairfield	Fairfield	Effluent Limit Violations NPDES Permit	\$9,000
San Francisco Public Utilities Commission	San Bruno	Effluent Limit Violations, NPDES Permit	\$3,000
3D Investments LLC	Napa	Late Report, NPDES Permit	\$3,000
Vishay Siliconix	Santa Clara	Effluent Limit Violations, NPDES Permit	\$6,000
Peery / Arrillaga	Mountain View	Effluent Limit Violations, NPDES Permit	\$3,000
Tri Convenience Store	Martinez	Effluent Limit Violations, NPDES Permit	\$3,000
Lehigh Hanson West Region	Oakland	Effluent Limit Violations, NPDES Permit	\$9,000
South Bayside System Authority	Redwood City	Effluent Limit Violations, NPDES Permit	\$3,000
City of Petaluma	Petaluma	Effluent Limit Violations, NPDES Permit	\$3,000
Sonoma County Water Agency	Sonoma County	Effluent Limit Violations, NPDES Permit	\$9,000
Martinez Refining Co.	Martinez	Effluent Limit Violations, NPDES Permit	\$9,000
EBMUD Bayside Groundwater Project	San Lorenzo	Effluent Limit Violations, NPDES Permit	\$9,000
Lehigh Hanson West Region	San Francisco	Effluent Limit Violations, NPDES Permit	\$42,000
California Water Service Company	San Mateo	Effluent Limit Violations, NPDES Permit	\$15,000
Sausalito/Marin	Sausalito	Effluent Limit Violations, NPDES Permit	\$3,000
City of Novato	Novato	Effluent Limit Violations, NPDES Permit	\$60,000
City of Sunnyvale	Sunnyvale	Effluent Limit Violations, NPDES Permit	\$12,000
Total			\$201,000

Table A5 – FY 2010/11 ACL Complaints Pending Resolution

Discharger	Location	Violation	Proposed Penalty
Alameda County	Alameda County	Permit Violations, Municipal Stormwater	\$522,429
Alameda County - CV Library Project	Alameda County	Sediment Discharges, Construction Stormwater	\$102,600
Novato Sanitary District	Novato	Sanitary Sewer Overflows	\$287,500
East Bay Municipal Utility District	Oakland and Lafayette	Unauthorized Discharges, Chlorinated and Sediment-laden Water	\$76,600
Lehigh Southwest Cement Company	Cupertino	Unauthorized Discharge, Industrial Stormwater	\$10,000
Friendly Cab Company	Oakland	Permit Violations, Industrial Stormwater	\$100,400
Total			\$1,099,529