

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: November 14, 2012

ITEM: **5F**

SUBJECT: **Penalty Enforcement Actions and Priorities for This Year - Fiscal Year 2011/2012 Summary Report**

DISCUSSION: This item provides a summary of penalty enforcement actions for fiscal year (FY) 2011/12, 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.

The Executive Officer approved penalties totaling \$983,753 in 44 of the 50 active enforcement cases involving penalty assessments during FY 2011/12. These actions addressed a variety of violations including violations of NPDES permit effluent limits, violations of stormwater (industrial, construction, and municipal) NPDES permit requirements, violations of pollution cleanup requirements, and unauthorized discharges of sediment-laden water and chlorinated water. The penalties assessed were based on the State Water Board's Enforcement Policy and are shown in Appendix A's Tables A1 through A5:

- **Table A1 – Previous ACL Cases Resolved in FY 2011/12**

At the start of FY 2011/12, there were six unresolved ACL cases with proposed penalties totaling \$690,909. Four of the cases were resolved and ACL orders issued based on settlement agreements with the dischargers. Final penalties totaled \$184,300. The two remaining cases are pending resolution as noted in Table A5.

- **Table A2 – ACL Cases Initiated and Resolved in FY 2011/12**

We pursued three ACL complaints totaling \$540,507 in proposed penalties. The cases were resolved and ACL orders issued based on settlement agreements with the dischargers. Final penalties totaled \$529,453.

- **Table A3 – FY 2011/12 Penalties Assessed for Late Reports**

We issued conditional offers to settle with dischargers who did not submit required industrial stormwater permit annual reports on time. Seventeen dischargers accepted the offers and agreed to pay the associated penalties, which totaled \$27,000. See the related discussion below.

- **Table A4 – FY 2011/12 Mandatory Minimum Penalties Assessed**

We issued conditional offers to settle NPDES permit effluent limit violations at the mandatory minimum level of \$3,000 per violation. Twenty dischargers accepted the offers and agreed to pay the associated penalties, which totaled \$243,000.

- **Table A5 – ACLs Cases in Settlement Discussion**

As of the end of FY 2011/2012 on June 30, 2012, the Board's prosecution team was engaged in settlement discussions with dischargers for six ACL cases with proposed penalties totaling \$672,068. Since then, two of these cases have had ACL orders issued based on settlement agreements with the dischargers, totaling \$521,526.

We 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 doing the following:

- 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 and San Francisco Estuary Partnership websites. The State Water Board [enforcement page](#) provides access to enforcement reports and the [Enforcement Policy](#). Supplemental environmental projects are occasionally approved as part of settlement penalty actions. The San Francisco Estuary Partnership provides a list of current and completed projects on its [website](#) with the status of pending projects and links to associated documents.

Our enforcement priorities for FY 2012/13 will continue to focus first on the most egregious violations with the highest water quality impacts, followed by prosecution of violations that threaten the integrity of the Board's requirements. These include discharges that result in fish kills or other acute aquatic impacts; large or frequent sanitary sewer overflows; NPDES permit violations subject to mandatory minimum penalties; illegal fill of wetlands and violations of permitted wetland fill requirements; violations of site cleanup requirements; and violations of construction, industrial, and municipal stormwater permits. Regarding the latter, since we have observed improved compliance with industrial stormwater permit annual report requirements, we will focus enforcement efforts towards industrial facilities that discharge stormwater without a permit and facilities that are not implementing effective pollution prevention actions.

We anticipate expanding use of settlement offers in situations where a number of dischargers have violated the same requirement and the penalties would be relatively low. Compared to issuance of individual complaints, this approach is proving to be an efficient way to send the broader message to the regulated community about the ramifications of noncompliance and the importance of staying in compliance. Details of this approach and its successes will be provided in a future report to the Board.

**RECOMMEN-
DATION:**

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

Appendix A: Tables of FY 2011/12 Penalty-Related Enforcement Cases

APPENDIX A

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Table A1 - Previous ACL Cases Resolved in FY 2011/12

Discharger	Location	Allegation	Proposed Penalty	Final Penalty
Alameda County	Alameda County	Permit Violations, Municipal Stormwater	\$522,429	\$67,300
Alameda County	Castro Valley	Sediment Discharges, Construction Stormwater	\$81,880	\$35,000
East Bay Municipal Utility District	Oakland and Lafayette	Unauthorized Discharges, Chlorinated and Sediment-laden Water	\$76,600	\$72,000
Lehigh Southwest Cement Company	Cupertino	Unauthorized Discharge, Industrial Stormwater	\$10,000	\$10,000
Total			\$690,909	\$184,300

Table A2 - ACL Cases Initiated and Resolved in FY 2011/12

Discharger	Location	Violation	Proposed Penalty	Final Penalty
Union Oil Company & Atlantic Richfield Company	Oakland	Late Remedial Action Plan	\$154,307	\$143,253
C&H Sugar	Crockett	Effluent Limit Violations, NPDES Permit	\$379,200	\$379,200
Trash TalkFCM	San Francisco	Unauthorized Discharge of Balloons	\$7,000	\$7,000
Total			\$540,507	\$529,453

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Table A3 - FY 2011/12 Penalties Assessed for Late Reports

Discharger	Location	Violation	Penalty
Pacific Auto Parts, Inc.	San Jose	Late Annual Report, Industrial Stormwater	\$1,000
Garden City Sanitation, Inc.	Santa Clara	Late Annual Report, Industrial Stormwater	\$1,000
Conklin & Conklin, Inc.	Union City	Late Annual Report, Industrial Stormwater	\$1,000
East Bay Resources	Oakland	Late Annual Report, Industrial Stormwater	\$1,000
U-Tech Media USA, LLC	Milpitas	Late Annual Report, Industrial Stormwater	\$1,000
Andrade Trucking	San Jose	Late Annual Report, Industrial Stormwater	\$1,000
Golden Gate Petroleum	Martinez	Late Annual Report, Industrial Stormwater	\$2,000
Eckman Industries, Inc.	Richmond	Late Annual Report, Industrial Stormwater	\$2,500
Bodycote Thermal Processing	Fremont	Late Annual Report, Industrial Stormwater	\$1,000
ABS Seafood Co., Inc.	San Francisco	Late Annual Report, Industrial Stormwater	\$1,000
Preston Pipelines, Inc.	Milpitas	Late Annual Report, Industrial Stormwater	\$1,000
Pressure Cast	Oakland	Late Annual Report, Industrial Stormwater	\$1,000
Discovery Foods	Hayward	Late Annual Report, Industrial Stormwater	\$1,000
Niles Machine & Tool Works, Inc.	Livermore	Late Annual Report, Industrial Stormwater	\$2,500
Garda	Oakland	Late Annual Report, Industrial Stormwater	\$2,500
Blommer Chocolate	Union City	Late Annual Report, Industrial Stormwater	\$4,000
Uni Tile & Marble	Hayward	Late Annual Report, Industrial Stormwater	\$2,500
Total			\$27,000

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Table A4 - FY 2011/12 Mandatory Minimum Penalties Assessed

Discharger	Location	Violation	Penalty
West County Agency/City of Richmond	Richmond	Effluent Limit Violations, NPDES Permit	\$24,000
Chevron	San Jose	Effluent Limit Violations, NPDES Permit	\$18,000
City of Calistoga	Calistoga	Effluent Limit Violations, NPDES Permit	\$3,000
San Francisco Public Utilities Commission	San Francisco	Effluent Limit Violations, NPDES Permit	\$6,000
City of Pacifica	Pacifica	Effluent Limit Violations, NPDES Permit	\$18,000
East Bay Municipal Utility District	Oakland	Effluent Limit Violations, NPDES Permit	\$21,000
Vulcan Materials Company	Pleasanton	Effluent Limit Violations, NPDES Permit	\$9,000
University of California, Berkeley	Berkeley	Effluent Limit Violations, NPDES Permit	\$3,000
South Bayside System Authority	Redwood City	Effluent Limit Violations, NPDES Permit	\$3,000
C&H Sugar	Crockett	Effluent Limit Violations, NPDES Permit	\$9,000
Atlantic Richfield Company	San Jose	Effluent Limit Violations, NPDES Permit	\$18,000
Rodeo Sanitary District	Rodeo	Effluent Limit Violations, NPDES Permit	\$3,000
Raytheon/Locus Technologies	Mountain View	Effluent Limit Violations, NPDES Permit	\$6,000
TRC Companies, Inc.	San Jose	Effluent Limit Violations, NPDES Permit	\$12,000
BP West Coast Products, LLC	San Jose	Effluent Limit Violations, NPDES Permit	\$6,000
Hanson Aggregates/Lehigh	Oakland	Effluent Limit Violations, NPDES Permit	\$21,000
West County Agency/City of Richmond	Richmond	Effluent Limit Violations, NPDES Permit	\$15,000
City of Redwood City	Redwood City	Effluent Limit Violations, NPDES Permit	\$3,000
City of Napa	St. Helena	Effluent Limit Violations, NPDES Permit	\$33,000
Sonoma Valley County Sanitation District	Sonoma	Effluent Limit Violations, NPDES Permit	\$12,000
Total			\$243,000

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Table A5 - ACL Cases in Settlement Discussion

Discharger	Location	Violation	Proposed Penalty
Novato Sanitary District ¹	Novato	Sanitary Sewer Overflows	\$354,241 ²
Friendly Cab Company ¹	Oakland	Permit Violations, Industrial Stormwater	\$100,400
California Department of Transportation	Woodside	Unauthorized Discharges, Chlorinated Water	\$13,200
City of Napa	Napa	Permit Violation, Construction Stormwater	\$20,000
Mayhew Center, LLC	Pleasant Hill	Late Technical Report	\$16,942
Guadalupe Rubbish Disposal Company, Inc.	San Jose	Unauthorized Discharge, Landfill Gas Condensate	\$167,285 ²
Total			\$672,068

¹ Case carried over from FY2010/11

² Settlement reached and ACL order adopted in FY 2012/13