

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

STAFF SUMMARY REPORT
(Christine Boschen and Brian Thompson)
MEETING DATE: February 13, 2013

ITEM: **5C**

SUBJECT: **Watershed and Enforcement Staff Collaboration: Catching Noncompliance with a Net instead of a Rod** – Information Item

DISCUSSION: Collaboration between the divisions that house the Board's stormwater and enforcement programs has resulted in more staff efficiency, better discharger compliance, and improved penalty assessments. There are approximately 2200 dischargers in this region covered by the State Water Board's industrial and construction stormwater general permits. To effectively address noncompliance with the stormwater general permits, we have merged stormwater and enforcement resources from the Watershed Management and NPDES Permit divisions, doubling staff's efforts, and taken a broad approach to enforcement akin to "fishing" with a net instead of a "rod." This enforcement approach is discussed below and illustrated in Appendix A. We plan to continue using this successful approach and expand its application to other requirements of the stormwater general permits in 2013.

Our Enforcement Approach

Our approach to enforcement addresses the most basic compliance requirement of the industrial stormwater general permit: submittal of an annual stormwater discharge report (or annual report). Submission of annual reports is critical to maintaining the integrity of the stormwater program because of the "self-policing" structure of the general permit (i.e., water quality is protected as long as dischargers self-evaluate compliance and use the annual report to self-report facility discharges and changes to facility management that improve their stormwater protection). Further, we have regularly found that those dischargers recalcitrant in submitting or completing their annual reports are less likely to have installed effective stormwater runoff control "best management practices."

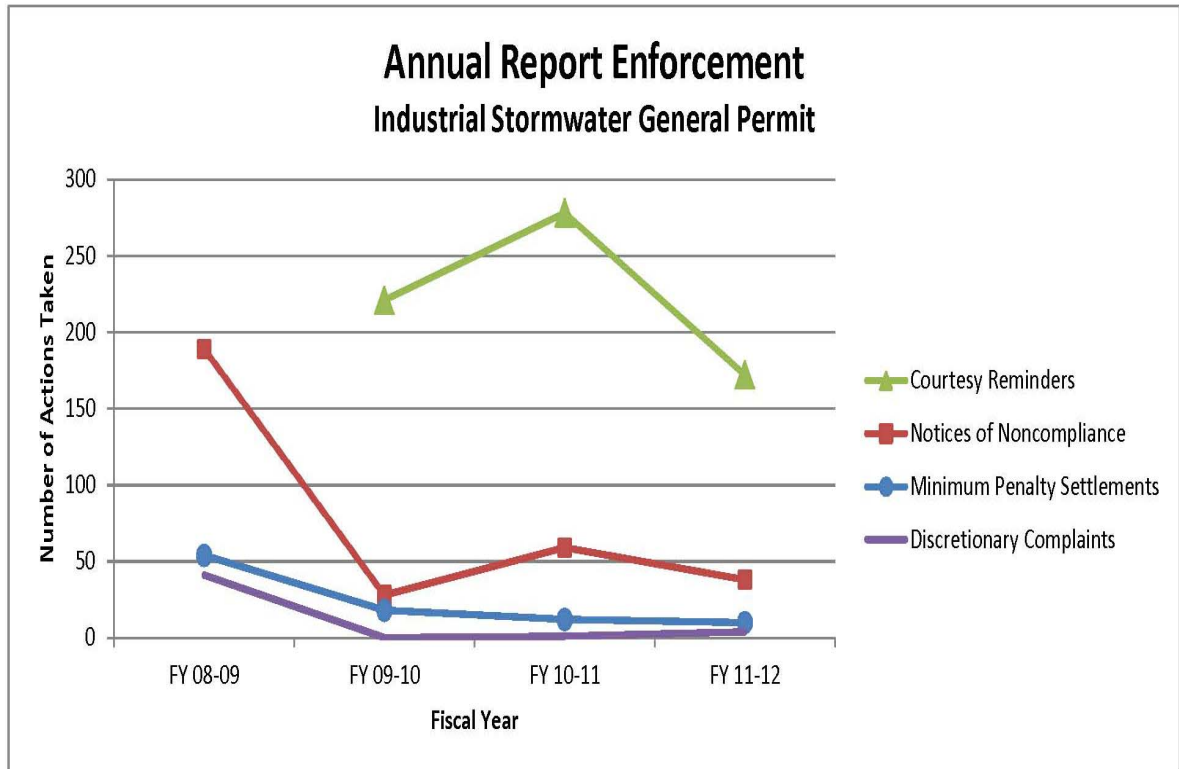
Over the last few years, we have pioneered and honed an approach to enforcing the requirement to submit an industrial annual report that maximizes the efficiency of our staff resources, ensures a strong customer service element, and provides an enforcement response that is commensurate with discharger recalcitrance and water quality threat. The approach is summarized below and illustrated in Appendix A:

- Dischargers receive a courtesy reminder if they miss the annual report submittal deadline and have an opportunity to submit the report late and avoid enforcement.
- Dischargers who do not respond to the courtesy reminder have another opportunity to submit the annual report and resolve the violation for a minimum penalty of \$1,000 or more. Penalties increase when dischargers have past annual report violations and when additional staff time is expended to obtain the annual report.

- We pursue higher penalties through a discretionary administrative civil liability complaint when the discharger is recalcitrant (e.g., the annual report is not submitted or the discharger refuses to pay the same settlement liability other dischargers have paid) or when we find evidence of water quality concerns at the discharger’s facility (e.g., there are unacceptable best management practices in place to control stormwater pollution). Penalties under this approach have been as high as \$100,400 for a single facility and \$131,000 against a discharger operating three facilities.

Compliance Improvement and Benefits

Compliance has improved as a result of our approach towards enforcing the annual reporting requirement of the industrial stormwater general permit. The chart below shows how the number of actions taken to address compliance with the annual reporting requirement has declined, even as the number of active permittees covered under the general permit has increased by about ten percent over the same period.



There are other benefits, too. Addressing a large group of noncompliant dischargers together sends a broad message within the regulated community about the consequences of noncompliance and shows that there is fair and consistent enforcement. It also provides us with more opportunities to engage in discussions with dischargers about permit requirements. Through more outreach, we have improved our record keeping by identifying facilities that no longer operate or require general permit coverage. We have seen “on-the-ground” improvements to best management practices

through phone discussions about compliance expectations and responses to field inspections.

Continued Teamwork and Expansion of the Enforcement Approach

It is the “behind the scenes” work shared by staff in the stormwater program housed in the Watershed Management Division and the enforcement program housed in the NPDES Permit Division that has led to the success of our enforcement approach. We plan to continue collaboration and expand how we use this approach to other aspects of stormwater general permit compliance, such as pursuing industrial “non-filer” cases (dischargers who may be required to file for industrial stormwater permit coverage but have not) and the annual report requirement of the construction stormwater general permit. Having these “net fishing” systems that achieve higher compliance in one area frees our hands to engage in strategic efforts to improve compliance in other areas, such as focusing on best management practice implementation by a particular industry sector. We look forward to reporting to the Board on those other aspects of our stormwater general permit programs.

**RECOMMEN-
DATION:**

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

APPENDIX A: Enforcement Process – Annual Stormwater Discharge Reports Not Submitted

Item 5C – Watershed and Enforcement Coordination
Appendix A

