

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: October 9, 2013

ITEM: **5E**

SUBJECT: **Penalty Enforcement Actions and Priorities for This Year - Fiscal Year 2012/2013 Summary Report**

DISCUSSION: This item provides a summary of penalty enforcement actions for fiscal year (FY) 2012/2013, including the issuance and/or settlement of administrative civil liability (ACL) complaints. We also describe our focused compliance campaigns, public outreach efforts for enforcement cases, and enforcement program priorities for the current fiscal year.

Penalties Imposed

The Executive Officer approved penalties totaling \$2,788,776 in 53 enforcement cases involving penalty assessments during FY 2012/2013. These actions addressed a variety of violations including sanitary sewer overflows, discharge limit violations, inadequate stormwater pollution prevention measures, late reports, construction without permit coverage, unauthorized discharges of leachate and potable water (resulting in a documented fish kill), and an illegal fill of a creek. The penalties imposed were consistent with the State Water Board's Enforcement Policy. They are shown in Tables A1 through A4 (Appendix A) and summarized below:

▪ **Table A1 – Prior FY ACL Cases Settled in FY 2012/2013**

At the start of FY 2012/2013, there were seven unresolved ACL cases with proposed penalties totaling \$343,877. All seven cases were settled with ACL orders issued that imposed total penalties of \$340,235.

▪ **Table A2 – ACL Cases Initiated and Settled in FY 2012/2013**

We issued six ACL complaints for a total of \$2,072,041 in proposed penalties. The cases were settled with ACL orders issued that imposed total penalties of \$2,051,041.

▪ **Table A3 – FY 2012/2013 Penalties Imposed for Late Industrial Stormwater Annual Reports**

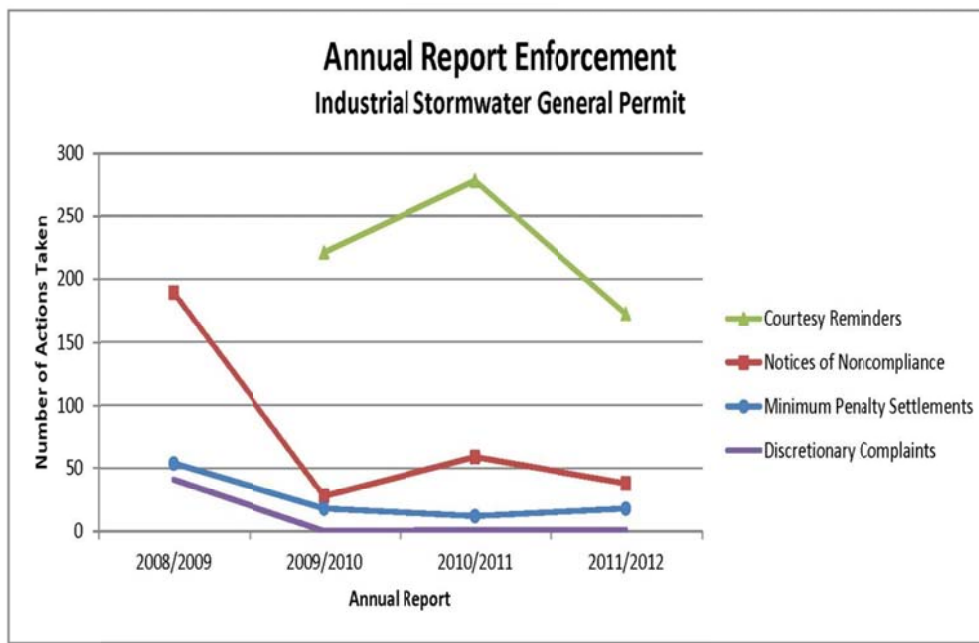
We issued 18 conditional offers to settle with dischargers that did not submit industrial stormwater annual reports on time. All but one discharger accepted the offers, which totaled \$25,500, and the Board took action at its July hearing on the discharger that did not accept.

▪ **Table A4 – FY 2012/2013 Mandatory Minimum Penalties Imposed**

We issued 23 conditional offers to settle violations of NPDES permit effluent limits and one for late reporting at the mandatory minimum level of \$3,000 per violation. All dischargers accepted the offers, which totaled \$372,000.

Focused Industrial Stormwater Compliance Campaigns

We continued to pursue enforcement against permittees covered under the statewide industrial stormwater general permit who failed to submit their required industrial stormwater annual reports. Out of about 1,300 permittees, we sent 172 courtesy reminders and 38 notices of noncompliance to those who had not submitted their annual report for FY 2011/2012. As indicated above and in Table A3, only 18 did not respond to these notices in a timely manner, which warranted the imposition of penalties. The following plot shows the reduction in our effort necessary to follow up on late reports, which both directly correlates to improved compliance since we started using this phased approach. Using this approach, we have also been able to free up some of our staff time to better track the permittees' actual implementation of stormwater runoff control measures.



We also pursued enforcement against industrial facilities identified as possibly discharging without industrial stormwater general permit coverage. We reviewed a list of over 300 facilities that were referred to us by local municipalities and the San Francisco Baykeeper and ultimately determined that 50 of them were facilities associated with industrial activity that required permit coverage. All of them obtained coverage under the industrial stormwater general permit in response to our notice that we would pursue a penalty enforcement action if they continued to discharge without a permit. The other referred facilities were no longer in operation, had moved, or otherwise did not meet the regulatory definition of a facility associated with industrial activity required to have a permit to discharge stormwater.

Finally, we also initiated a strategy to focus attention on multiple dischargers within a specific industrial sector to ensure they are managing stormwater discharges and implementing practices and controls consistent with best available technology economically achievable for that sector. We started by simultaneously inspecting multiple concrete and cement-mixing facilities last spring during a storm event and

continue to pursue improvements at some of these sites. If necessary, we will consider penalty enforcement actions on dischargers do not implement adequate and timely improvements. With this type of effort, we are able to assess the general state of compliance of a specific industrial sector and to send similar and consistent compliance messages to multiple facilities within the same industry.

Public Outreach

Our notification of pending enforcement actions to the regulated community and the public is an integral part of our enforcement program. In addition to providing documents to interested parties and stakeholders 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](#), 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 its [Enforcement Policy](#). Supplemental environmental projects (SEPs) are occasionally approved as part of the settlement of penalty actions. 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.

Enforcement Priorities

Our enforcement priorities for FY 2013/2014 will continue to focus first on the most egregious violations with the highest water quality impacts, followed by 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; illegal fill of streams and wetlands and violations of permitted stream and wetland fill requirements; violations of site cleanup requirements; and violations of construction, industrial, and municipal stormwater permits. Another enforcement priority that is ever present is the imposition of Water Code-mandated minimum penalties for NPDES permit violations. The State Water Board has established a performance target that all regions impose mandatory minimum penalties on all such violations within 18 months of the violation. We are confident that efficiencies we have put in place over the years both to address mandatory minimum penalties and other enforcement initiatives as described above will continue to help us achieve our performance target and annual enforcement priorities.

RECOMMEN- DATION:

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

Appendix A: Tables of FY 2012/2013 Penalty-Related Enforcement Cases

APPENDIX A

FY 2012/2013 Penalty Enforcement Actions
Appendix A

Table A1 - Prior FY ACL Cases Settled in FY 2012/2013

Discharger	Location	Violation	Proposed Penalty	Final Penalty
Friendly Cab Co.	Oakland	Failure to Report, Industrial Stormwater	\$100,400	\$100,400 ¹
City of Napa	Napa	No Permit, Construction Stormwater	\$20,000	\$20,000
Guadalupe Rubbish Disposal Co.	San Jose	Leachate Discharge	\$167,285	\$167,285
Blommer Chocolate	Union City	Late Report, Industrial Stormwater	\$4,000	\$4,000
Mayhew Center	Pleasant Hill	Failure to Report	\$16,942	\$14,300
Uni Tile & Marble	Hayward	Late Report, Industrial Stormwater	\$4,000	\$3,000
California Department of Transportation	Route 84, Bear Gulch Creek, Woodside	Chlorinated Water Discharge	\$31,250 ²	\$31,250
Total			\$343,877	\$340,235

¹ The final penalty includes a \$20,000 Enhanced Compliance Action.

² A penalty of \$13,200 was initially proposed and then increased to \$31,250 based on additional information.

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Table A2 - ACL Cases Initiated and Settled in FY 2012/2013

Discharger	Location	Violation	Proposed Penalty	Final Penalty
Ross Valley Sanitary District No. 1 ¹	San Rafael	Untreated Sewage Discharge	\$1,539,100	\$1,539,100 ²
Novato Sanitary District	Novato	Untreated Sewage Discharge	\$354,241	\$354,241 ³
Lunny Grading & Paving (Lafranchi)	Sonoma	Late Annual Report, Industrial Stormwater	\$11,000	\$11,000
Durham School Services	Campbell, Concord, Hayward, Oakland	Late Annual Report & BMP/SWPPP Violations, Industrial Stormwater	\$131,000	\$110,000
California Department of Transportation	Isabel Ave, Interstate 580, Livermore	Creek Fill	\$31,500	\$31,500
Napa Valley Cast Stone	American Canyon	Late Annual Report, Industrial Stormwater	\$5,200	\$5,200
Total			\$2,072,041	\$2,051,041

¹ Included in this fiscal summary because, while signed by the Executive Officer in June 2012, it was issued on July 12, 2012, and was not included in the report for last year.

² The final penalty includes a \$731,750 Supplemental Environmental Project.

³ The final penalty includes a \$140,138 Supplemental Environmental Project and a \$10,241 reimbursement for Department of Fish & Wildlife staff costs.

FY 2012/2013 Penalty Enforcement Actions
Appendix A

Table A3 - FY 2012/2013 Penalties Imposed for Late Industrial Stormwater Annual Reports

Discharger	Location	Violation	Penalty
Berkeley Farms	Hayward	Late Annual Report, Industrial Stormwater	\$2,000
Perry Tool & Research Co.	Hayward	Late Annual Report, Industrial Stormwater	\$1,000
MBJ Enterprises Inc.	Pleasanton	Late Annual Report, Industrial Stormwater	\$1,000
DH Title Co.	Fremont	Late Annual Report, Industrial Stormwater	\$1,000
East Bay Truck & Auto Repair	Oakland	Late Annual Report, Industrial Stormwater	\$1,000
Topcon Positioning Systems Inc.	Livermore	Late Annual Report, Industrial Stormwater	\$1,000
General Chemical Bay Point	Bay Point	Late Annual Report, Industrial Stormwater	\$1,000
Carone & Co., Inc.	Concord	Late Annual Report, Industrial Stormwater	\$1,000
Hall Wines	Rutherford	Late Annual Report, Industrial Stormwater	\$1,000
ABS Seafood Inc.	San Francisco	Late Annual Report, Industrial Stormwater	\$1,000
Westak	Sunnyvale	Late Annual Report, Industrial Stormwater	\$1,000
Nelsons Marine Inc.	Alameda	Late Annual Report, Industrial Stormwater	\$2,000
Discovery Foods	Hayward	Late Annual Report, Industrial Stormwater	\$2,100
Urban Recycling Solutions	Oakland	Late Annual Report, Industrial Stormwater	\$2,000
Cordova Printed Circuits	Milpitas	Late Annual Report, Industrial Stormwater	\$2,100
Golden Gate Petroleum	San Jose	Late Annual Report, Industrial Stormwater	\$3,200
Travis Unified School District	Fairfield	Late Annual Report, Industrial Stormwater	\$2,100
Total			\$25,500

FY 2012/2013 Penalty Enforcement Actions
Appendix A

Table A4 - FY 2012/2013 Mandatory Minimum Penalties Imposed

Discharger	Location	Violation	Penalty
City of Pinole	Pinole	Effluent Limit Violations, NPDES Permit	\$3,000
City of American Canyon	American Canyon	Effluent Limit Violations, NPDES Permit	\$6,000
Browning-Ferris Industries	Half Moon Bay	Effluent Limit Violations, NPDES Permit	\$3,000
Conoco Phillips Refinery	Rodeo	Effluent Limit Violations, NPDES Permit	\$3,000
Morton International	Newark	Effluent Limit Violations, NPDES Permit	\$3,000
Tesoro Refinery	Martinez	Effluent Limit Violations, NPDES Permit	\$9,000
Atlantic Richfield Company (Arco)	San Jose	Effluent Limit Violations, NPDES Permit	\$3,000
San Jose Water Company	Saratoga	Effluent Limit Violations, NPDES Permit	\$9,000
East Bay Municipal Utility District	Walnut Creek	Effluent Limit Violations, NPDES Permit	\$9,000
Valero Benicia Refinery	Benicia	Effluent Limit Violations, NPDES Permit	\$27,000
GWF Power Systems	Bay Point	Effluent Limit Violations, NPDES Permit	\$3,000
Mt. View Sanitary District	Martinez	Effluent Limit Violations, NPDES Permit	\$3,000
Santa Clara Valley Water District	San Jose	Effluent Limit Violations, NPDES Permit	\$12,000
City of San Jose, Successor of the Redevelopment Agency	San Jose	Effluent Limit Violations, NPDES Permit	\$9,000
North San Mateo County Sanitation District	Daly City	Effluent Limit Violations, NPDES Permit	\$21,000
Santa Clara Valley Water District	San Jose	Effluent Limit Violations, NPDES Permit	\$3,000
GenOn Energy	Pittsburg	Effluent Limit Violations, NPDES Permit	\$144,000
City of Millbrae	Millbrae	Effluent Limit Violations, NPDES Permit	\$51,000
City of Calistoga	Calistoga	Effluent Limit Violations, NPDES Permit	\$6,000
Shell Martinez Refinery	Martinez	Effluent Limit Violations, NPDES Permit	\$15,000
Cedar Fair Entertainment Company	Santa Clara	Effluent Limit Violations, NPDES Permit	\$3,000
McKeeson Corporation	Union City	Effluent Limit Violations, NPDES Permit	\$15,000
San Francisco Public Utilities District	Sunol	Late Report, NPDES Permit	\$12,000
Total			\$372,000