

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: November 12, 2014

ITEM: **6B**

SUBJECT: **Enforcement Actions and Priorities for Fiscal Year 2014/2015**
- Summary Report

DISCUSSION: This item provides a summary of penalty enforcement actions for fiscal year (FY) 2013/2014, including the issuance and/or settlement of administrative civil liability (ACL) complaints. It also summarizes other efforts by the Board's enforcement section to pursue focused compliance campaigns and corrective actions to restore streams, public outreach for enforcement, and enforcement section priorities for this fiscal year.

Penalties Imposed

The Executive Officer approved penalties totaling \$1,003,824 in 32 enforcement cases involving penalty assessments during FY 2013/2014. These actions addressed a variety of violations including discharge limit violations, stormwater permit prohibitions, late reports, and unauthorized discharges of chlorinated water and gasoline. The imposed penalties, which were consistent with the State Water Board's Enforcement Policy, are listed in Tables A1 through A3 (Appendix A) and summarized below:

- **Table A1 – FY 2013/2014 ACL Case Penalties**

We issued four ACL complaints with proposed penalties totaling \$680,101. Three of the cases were settled with ACL orders with penalties equal to the proposed penalties. The Board imposed a higher penalty in the other case at its hearing on August 14, 2013, which raised the total imposed penalties to \$681,904.

- **Table A2 – FY 2013/2014 Mandatory Minimum Penalties**

We issued 24 conditional offers to settle violations of NPDES permit effluent limits at the mandatory minimum level of \$3,000 per violation. All dischargers accepted the offers, which totaled \$306,000.

- **Table A3 – ACL Complaints in Settlement Discussion**

We also issued four ACL complaints totaling \$15,920 that were still in settlement discussions as of June 30, 2014.

Focused Compliance Campaigns

We carried out two focused compliance campaigns during FY 2013/2014. In one, we targeted facilities that were potentially operating without coverage under the statewide Industrial Stormwater General Permit. We compiled a list of 130 potential "unpermitted" facilities based on local municipality referrals,

external complaints, and internal investigations and sent each a notice of the requirement to obtain general permit coverage and the consequences of operating without permit coverage. Consequently, all of the facilities either obtained permit coverage or otherwise demonstrated they had ceased operation, moved, or did not meet the regulatory definition of a facility associated with industrial activity required to have a permit to discharge stormwater.

The other campaign targeted construction sites to evaluate compliance with the statewide Construction Stormwater General Permit, particularly with respect to the adequacy of best management practices for controlling stormwater discharges. A team of staff simultaneously inspected 35 construction sites across the region over a three-day period during a storm event. This effort allowed us to assess the general state of compliance in the construction industry and to send similar and consistent messages about compliance to multiple enrollees under the permit. Dischargers were responsive to notices of violation and implemented corrective measures when needed. This effort resulted in two penalty enforcement cases, listed in Table A3, for discharges prohibited by the General Permit.

Stream Restoration Efforts

We responded to three complaints about streams that were illegally filled during earthmoving activities. Two of the complaints involved residential property owners using heavy equipment to illegally grade and fill a portion of their property, and the third complaint included allegations that a developer illegally filled two drainages.

1. A property owner excavated a new channel approximately 10-foot-square and 120 feet in length to remove a meander in a stream and filled an adjacent tributary stream with a culvert and soil. The Executive Officer issued a Cleanup and Abatement Order requiring the property owner to restore native conditions on these streams.
2. A property owner moved approximately 3,500 cubic yards of rock and soil from a stream bed and surrounding hillsides to construct a dam. The partially-completed dam was approximately 80 feet in width (across the channel), 10 feet high, and 120 feet in length (along the channel) and not permitted by regulatory agencies. The Executive Officer issued a Cleanup and Abatement Order requiring the property owner to restore the natural flow of the stream in the channel.
3. A developer allegedly filled two drainages and was responsible for sediment discharges at a construction site. The California Department of Fish and Wildlife investigated the incident and filed criminal charges. We investigated the incident and recommended referring the case to the Office of the Attorney General to coordinate civil enforcement. The Board adopted a referral Resolution in July.

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 2014/2015 will continue to focus first on 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; 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.

RECOMMEN- DATION:

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

Appendix A:

Tables of FY 2013/2014 Penalty-Related Enforcement Cases

APPENDIX A

Item 6B - FY 2013/2014 Penalty Enforcement Actions
Appendix A

Table A1 - FY 2013/2014 ACL Case Penalties

Discharger	Location	Violation	Proposed Penalty	Final Penalty
E-D Coat Inc.	Oakland	Failure to Report, Industrial Stormwater	\$7,460	\$9,263
Allied Defense Recycling	Vallejo	Monitoring Fees, RMP ¹	\$45,531	\$45,531
San Francisco Public Utility Commission	San Mateo and Sunol	Chlorinated Water and Effluent Discharges, NPDES Permit	\$608,310	\$608,310 ²
Hertz Corporation	Oakland	Gasoline Discharge	\$18,800	\$18,800
Total			\$680,101	\$681,904

¹ Settlement to pay \$45,531.20 in fees owed to the Regional Monitoring Program.

² The final penalty includes a \$227,982 SEP to restore 2.5 acres of habitat within the Eden Landing Ecological Reserve.

Item 6B - FY 2013/2014 Penalty Enforcement Actions
Appendix A

Table A2 - FY 2013/2014 Mandatory Minimum Penalties

Discharger	Location	Violation	Penalty
Zone 7 Water Agency	Livermore	Effluent Limit Violations, NPDES Permit	\$18,000
City of Petaluma	Petaluma	Effluent Limit Violations, NPDES Permit	\$9,000
San Francisco Public Utilities Commission	San Francisco	Effluent Limit Violations, NPDES Permit	\$6,000
City of Benicia	Benicia	Effluent Limit Violations, NPDES Permit	\$3,000
Texas Instruments	Santa Clara	Effluent Limit Violations, NPDES Permit	\$24,000
Lehigh Hanson, West Region Facility	Oakland	Effluent Limit Violations, NPDES Permit	\$9,000
City of Sunnyvale	Sunnyvale	Effluent Limit Violations, NPDES Permit	\$3,000
West County Agency	Richmond	Effluent Limit Violations, NPDES Permit	\$3,000
Archstone Emeryville Residential	Emeryville	Effluent Limit Violations, NPDES Permit	\$6,000
South Bay System Authority	Redwood City	Effluent Limit Violations, NPDES Permit	\$18,000
IBM	San Jose	Effluent Limit Violations, NPDES Permit	\$6,000
USS Posco Industries	Pittsburg	Effluent Limit Violations, NPDES Permit	\$24,000
TRC Companies Inc.	San Jose	Effluent Limit Violations, NPDES Permit	\$6,000
San Francisco Public Utilities Commission	San Francisco	Effluent Limit Violations, NPDES Permit	\$69,000
Chevron Richmond Refinery	Richmond	Effluent Limit Violations, NPDES Permit	\$3,000
Phillips 66 Refinery,	Rodeo	Effluent Limit Violations, NPDES Permit	\$6,000
Advanced Micro Devices	Sunnyvale	Effluent Limit Violations, NPDES Permit	\$6,000
City of St. Helena	St. Helena	Effluent Limit Violations, NPDES Permit	\$6,000
City of Benicia	Benicia	Effluent Limit Violations, NPDES Permit	\$3,000
San Jose Pacific Associates	San Jose	Effluent Limit Violations, NPDES Permit	\$3,000
LBA-RIV Company XII	Berkeley	Effluent Limit Violations, NPDES Permit	\$3,000
Lehigh Hanson, Pier 92	San Francisco	Effluent Limit Violations, NPDES Permit	\$3,000
City of San Jose, Successor Redevelopment Agency	San Jose	Late Discharge Report, NPDES Permit	\$33,000
City of San Jose , Successor Redevelopment Agency	San Jose	Late Discharge Report, NPDES Permit	\$36,000
Total			\$306,000

Item 6B - FY 2013/2014 Penalty Enforcement Actions
 Appendix A

Table A3 – ACL Complaints in Settlement Discussion

Discharger	Location	Violation	Proposed Penalty
Redwood City Partners, LLC	Redwood City	Concrete Washwater Discharge, Construction Stormwater	\$3,460
SMI Holding, LLC	Cupertino	Effluent Limit Violations, NPDES Permit	\$3,000
Taylor Morrison CA, LLC	Dublin	Stucco-Laden Stormwater Discharge, Construction Stormwater	\$3,460
Santa Clara Valley Water District	San Jose	Effluent Limit Violations, NPDES Permit	\$6,000
Total			\$15,920