

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: October 12, 2016

ITEM: 7

SUBJECT: **Enforcement Actions and Priorities for Fiscal Year 2016/2017 –**
Summary Report

DISCUSSION: This item provides a summary of penalty enforcement actions for fiscal year (FY) 2015/2016, including the issuance and/or settlement of administrative civil liability (ACL) complaints. It also summarizes efforts by the Board's enforcement section to pursue focused compliance campaigns, public outreach for enforcement, and enforcement priorities for the 2016/2017 fiscal year.

Penalties Imposed

There were 28 finalized enforcement cases during FY 2015/2016 involving a monetary penalty totaling \$1,165,177 (Tables A1 through A3). Collectively, these actions addressed unauthorized discharges of fill, chlorinated water, sediment, and wastewater; unpermitted work; and violations of discharge limits, stormwater best management practices, reporting requirements, and site cleanup requirements. The penalty assessments, which are summarized below, were consistent with the State Board's Enforcement Policy and, as applicable, the State Board's Supplemental Environmental Project (SEP) Policy.

Table A1 – Prior FY ACL Cases Settled in FY 2015/2016

This one case was initiated in the prior fiscal year and settled with an ACL order in the amount of \$449,000, reduced from a proposed penalty of \$753,000. We received new information about the effectiveness of best management practices installed at the site and on the volume of discharge that justified a reduced penalty.

Table A2 – ACL Cases Initiated and Settled in FY 2015/2016

We pursued seven ACL complaints with proposed penalties totaling \$744,465. Five cases were settled with an ACL order for the amount of the proposed penalties. One case was settled with an ACL order in the amount of \$290,177, reduced from a proposed penalty of \$498,465 based on consideration of harm and other factors. In another case, based on failure to comply with a site cleanup order, the Board imposed the proposed penalty of \$65,600 via an order adopted at its January 13, 2016, hearing. Final penalties for the seven cases totaled \$536,177, of which \$82,600 funded a Supplemental Environmental Project for the San Francisco Bay Regional Monitoring Program.

▪ **Table A3 – FY 2015/2016 Mandatory Minimum Penalties**

We issued eighteen conditional offers to settle NPDES permit violations at the mandatory minimum level of \$3,000 per violation. All dischargers accepted the offers, which totaled \$180,000, of which \$45,000 funded a Supplemental Environmental Project Fund for the San Francisco Bay Regional Monitoring Program.

Compliance Assistance

Our Enforcement Section assisted several of the Board’s regulatory programs with compliance inspections. These included grazing, industrial stormwater, construction stormwater, and cleanup site inspections. The section also oversaw cleanup activities to address illegal fill and coordinated a focused compliance campaign that targeted 34 construction sites covered by the statewide construction stormwater general permit. Overall, compliance was very good at approximately half of the targeted construction sites. A total of 18 sites warranted a notice of violation, and these permittees implemented corrective measures and returned to compliance. All inspections for the compliance campaign occurred during a single storm and were conducted by teams of enforcement staff from the NPDES and Enforcement Division and stormwater program staff from the Watershed Management Division. This coordinated approach allowed for a snap-shot of the general state of compliance in the construction industry region-wide, particularly with respect to the adequacy of best management practices. It also allowed Board staff to send timely and consistent messages about compliance to multiple permittees.

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 Board’s Office of Public Affairs.

Additional enforcement-related information is also available via the State Board’s and San Francisco Estuary Partnership’s websites. The State Board’s [enforcement page](#) provides enforcement reports and the Enforcement Policy and SEP Policy. The San Francisco Estuary Partnership website [lists](#) current and completed SEPs (approved as part of penalty settlements) with the status of pending projects and links to associated documents.

Enforcement Priorities

Our enforcement priorities for FY 2016/2017 will generally be focused on egregious violations with the highest adverse 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 at permitted stream and wetland projects;

violations of site cleanup requirements; and violations of construction, industrial, and municipal stormwater permits. We will also continue to prioritize enforcement of sanitary sewer overflows, particularly from agencies with inadequate infrastructure rehabilitation programs. Finally, we will continue to maintain a near-zero backlog of mandatory minimum penalty assessments.

More specifically, we prioritize enforcement efforts at monthly meetings with enforcement staff, assistant executive officers, division chiefs, and State Board Office of Enforcement counsel, consistent with the State Board's Enforcement Policy. We discuss potential cases for an enforcement referral that are being developed internally by regulatory programs through a progressive enforcement process and that are identified through coordination with other local, State, and federal inspectors, such as local industrial waste inspectors, California Department of Fish and Wildlife wardens, the Department's Office of Spill Prevention and Response, U.S. Coast Guard inspectors, and U.S. EPA's Enforcement Division staff. This coordination also includes our participation at county enforcement task force meetings. We also identify potential cases through monitoring of our complaint hotline, the Cal EPA Complaint System, and State Office of Emergency Services spill reports. Decisions about enforcement workload consider enforcement priorities, resource availability, and case-specific factors that include compliance history, strength of evidence, impact magnitude, threats to high-priority watersheds, discharger culpability, and mitigating circumstances.

RECOMMEN-
DATION: No action is necessary; this is an information item.

Appendix A: Tables of FY 2015/2016 Penalty Enforcement Actions

APPENDIX A

Item 7 - FY 2015/2016 Penalty Enforcement Actions
Appendix A

Table A1 – Prior FY ACL Cases Settled in FY 2015/2016

| Discharger | Location | Violation | Proposed Penalty | Final Penalty |
|-------------------------|----------|---|------------------|---------------|
| OG Property Owners, LLC | Orinda | Sediment Discharges, Construction Stormwater | \$753,000 | \$449,000 |
| Total | | | \$753,000 | \$449,000 |

Table A2 – ACL Cases Initiated and Settled in FY 2015/2016

| Discharger | Location | Violation | Proposed Penalty | Final Penalty |
|---|------------|--|------------------|------------------------|
| Auto Wreckers | Rodeo | Late Annual Report, Industrial Stormwater | \$1,100 | \$1,100 |
| Sal J Acosta Sheet Metal Mfg., Inc. | San Jose | Late Annual Report, Industrial Stormwater | \$1,100 | \$1,100 |
| Ro Sal Auto Wreckers & Tow | Concord | Late Annual Report, Industrial Stormwater | \$1,100 | \$1,100 |
| Continental Auto Recyclers & Tow | Concord | Late Annual Report, Industrial Stormwater | \$1,100 | \$1,100 |
| Frank Hamedi (Velcon II Property) | San Jose | Failure to Comply, Site Cleanup Order | \$65,600 | \$65,600 |
| St. Helena Wastewater Treatment and Reclamation Plant | St. Helena | Partially-Treated Wastewater Discharge to Groundwater | \$498,465 | \$290,177 |
| MDI Forest Products, LLC | Oakland | Inadequate Best Management Practices, Industrial Stormwater | \$176,000 | \$176,000 ¹ |
| Total | | | \$744,465 | \$536,177 |

¹ The penalty includes \$82,600 paid to a Supplemental Environmental Project Fund for the San Francisco Bay Regional Monitoring Program for a study of San Leandro Bay.

Item 7 - FY 2015/2016 Penalty Enforcement Actions
Appendix A

Table A3 – FY 2015/2016 Mandatory Minimum Penalties

| Discharger | Location | Violation | Penalty |
|---|---------------|--|-----------------------|
| City & Co. of San Francisco, North Bayside and Mel Leong Treatment Plants | San Francisco | Effluent Limit Violations NPDES Permit | \$12,000 |
| Las Gallinas Valley Sanitary District Treatment Plant | San Rafael | Effluent Limit Violations NPDES Permit | \$6,000 |
| Harry Tracy Water Treatment Plant | San Bruno | Effluent Limit Violations NPDES Permit | \$6,000 |
| City of Vallejo Fleming Hill Water Treatment Plant | Vallejo | Effluent Limit Violation NPDES Permit | \$3,000 |
| Dunaweal Wastewater Treatment Plant | Calistoga | Effluent Limit Violations NPDES Permit | \$12,000 |
| Intuit Groundwater Treatment System 2600 Marine Way | Mountain View | Late Discharge Monitoring Report NPDES Permit | \$3,000 |
| City of Napa Hennessey Water Treatment Plant | St. Helena | Effluent Limit Violations NPDES Permit | \$6,000 |
| Crockett Cogeneration Plant | Crockett | Effluent Limit Violations NPDES Permit | \$6,000 |
| Browning-Ferris Industries Corinda Los Trancos Landfill | Half Moon Bay | Effluent Limit Violations NPDES Permit | \$27,000 ² |
| Phillips 66 Company San Francisco Refinery | Rodeo | Effluent Limit Violations NPDES Permit | \$9,000 ² |
| Texas Instruments Groundwater Treatment System | Santa Clara | Effluent Limit Violations NPDES Permit | \$39,000 |
| Pinole-Hercules Water Pollution Control Plant | Pinole | Effluent Limit Violation NPDES Permit | \$3,000 ² |
| SMI Holding LLC (SMI) Groundwater Treatment Facility | Mountain View | Effluent Limit Violation NPDES Permit | \$15,000 ² |
| Lehigh Hanson West Region Facility | Oakland | Effluent Limit Violations NPDES Permit | \$3,000 |
| Palo Alto Regional Water Quality Control Plant | Palo Alto | Effluent Limit Violations NPDES Permit | \$3,000 ² |
| Vallejo Sanitation & Flood Control District Wastewater Treatment Plant | Vallejo | Effluent Limit Violation NPDES Permit | \$3,000 ² |
| City of Richmond Groundwater System at former Naval Fuel Depot | Richmond | Effluent Limit Violations NPDES Permit | \$15,000 ² |
| East Bay Municipal Utility District San Pablo Water Treatment Plant | Kensington | Effluent Limit Violations NPDES Permit | \$9,000 |
| Total | | | \$180,000 |

² A portion of the penalty was paid to a Supplemental Environmental Project Fund for the San Francisco Bay Regional Monitoring Program (individual contributions ranged from \$1,500 to \$21,000 and totaled \$45,000).