

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: September 13, 2017

ITEM: 7A

SUBJECT: **Enforcement Actions and Priorities for Fiscal Year 2017/2018 –**
Summary Report

DISCUSSION: This item summarizes penalty enforcement actions for fiscal year (FY) 2016/17, including the issuance and/or settlement of administrative civil liability (ACL) complaints. It also summarizes compliance assistance the Board's enforcement section provided to regulatory programs, public outreach for enforcement, and enforcement priorities for FY 2017/18.

Penalties Imposed

We finalized 45 enforcement actions during FY 2016/17. Together, these actions involved monetary penalties totaling \$6,496,783 (Tables A1 through A4). These actions addressed unauthorized discharges of fill, chlorinated water, concrete, and wastewater; unpermitted work; and violations of discharge limits and reporting requirements. The penalty assessments, summarized below, were consistent with the State Water Board's Enforcement Policy and, as applicable, the State Water Board's Supplemental Environmental Project (SEP) Policy.

▪ Table A1 – Prior FY ACL Cases Settled in FY 2016/17

In two cases, we settled ACL complaints issued in prior fiscal years. One case settled with an ACL order for \$1,020,000, reduced from a proposed penalty of \$3,062,900 based on new information about the volume discharged and other factors. For the other, the Board imposed a penalty for \$2,828,000 at its December 2016 meeting. This penalty was reduced from a proposed penalty of \$4,600,000 based on uncertain costs associated with implementing a companion cleanup and abatement order adopted at the same meeting and the imposition of a monetary penalty by another agency for the same discharge.

▪ Table A2 – ACL Cases Initiated and Settled in FY 2016/17

We issued five ACL complaints with proposed penalties totaling \$2,335,283. Four cases were settled with ACL orders for the amounts of the proposed penalties. One case was settled with an ACL order for \$179,000, reduced from a proposed penalty of \$197,500, based on new information about the volume discharged and other factors. Final penalties for the five cases totaled \$2,316,783, of which \$1,045,850 was directed to SEPs in the region and \$218,653 was paid, through joint settlements with the Department of Fish and Wildlife, to the National Fish and Wildlife Foundation Environmental Fund and the Fish and Wildlife Pollution Account.

▪ **Table A3 – FY 2016/17 Mandatory Minimum Penalties (NPDES)**

We issued 24 conditional offers to settle NPDES permit violations at the mandatory minimum level of \$3,000 per violation. All dischargers accepted the offers, which totaled \$270,000, of which \$166,500 went to a SEP fund for the San Francisco Bay Regional Monitoring Program.

▪ **Table A4 – FY 2016/17 Mandatory Penalties (Stormwater)**

We issued 14 conditional offers to settle with dischargers that did not recertify for coverage under the State Water Board's industrial stormwater general permit, pursuing mandatory penalties of \$1,000 or \$5,000, depending on the type of permit coverage. All dischargers ultimately reenrolled and accepted the offers, which totaled \$62,000, of which \$8,500 went to a SEP fund for the San Francisco Bay Regional Monitoring Program.

Compliance Assistance

Our enforcement section assisted several of the Board's regulatory programs during FY 2016/17 with actions that included inspecting confined animal feeding operations for compliance with the Board's general waste discharge requirements, preparing waste discharge requirements to protect groundwater impacted by nitrate from discharges of winery waste, and issuing cleanup and abatement orders to remove unauthorized fill from creeks and wetlands. Assistance to the stormwater program included a focused compliance campaign to recertify industrial facilities under the State Water Board's new (2015) industrial stormwater general permit. Overall compliance was very good with almost 1700 industrial facilities obtaining coverage under the new permit to date. There were 45 dischargers that failed to comply with a July 1, 2015, recertification deadline and did not respond to two notices of noncompliance that the State Water Board Office of Enforcement issued. By the end of FY 2016/17, seven cases were still under investigation. All other dischargers had obtained permit coverage or had otherwise moved or ceased operations. As noted above, 14 dischargers paid monetary penalties (Table A4).

The enforcement section also collaborated with other agencies on a number of enforcement cases. We conducted inspections with task forces coordinated by Alameda County, the City of Richmond, and Contra Costa County that targeted specific facilities. We joined two enforcement investigations led by district attorneys. We also conducted targeted inspections within disadvantaged communities as part of CalEPA's environmental justice task force in Oakland.

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's and San Francisco Estuary Partnership's websites. The State Water 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, including the status of pending projects and links to associated documents.

Enforcement Priorities

Our enforcement priorities for FY 2017/18 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, including 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 sewer infrastructure rehabilitation programs. Finally, we will continue to maintain a near-zero backlog of mandatory minimum penalty assessments.

We prioritize enforcement efforts at internal monthly meetings with enforcement staff, the assistant executive officers, division chiefs, program staff, and State Water Board Office of Enforcement counsel, consistent with the State Water Board's Enforcement Policy. We prioritize potential enforcement cases that our regulatory programs develop. We also discuss potential cases identified by monitoring our complaint hotline, the CalEPA Complaint System, and State Office of Emergency Services spill reports; and cases identified through coordination with other local, State, and federal inspectors, such as local industrial waste inspectors, California Department of Fish and Wildlife and Office of Spill Prevention and Response wardens, and U.S. Coast Guard and U.S. EPA enforcement staff. Our interagency coordination includes participation at enforcement task force meetings hosted by county agencies. Factors we weigh in consideration of cases that would result in monetary penalties include our staff workload and resource availability and case-specific factors that include discharger compliance history, strength of evidence, magnitude of water quality impact, 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 2016/17 Penalty Enforcement Actions

APPENDIX A

Item 7A - FY 2016/17 Penalty Enforcement Actions
Appendix A

Table A1 – Prior FY ACL Cases Settled in FY 2016/17

Discharger	Location	Violation	Proposed Penalty	Final Penalty
CA Water Service Company	San Mateo	Chlorinated Water Discharge	\$3,062,900	\$1,020,000 ¹
John Sweeney and Point Buckler Club, LLC	Suisun Marsh	Wetland Fill and Failure to Obtain Permit	\$4,600,000	\$2,828,000
Total			\$7,662,900	\$3,848,000

¹ The penalty includes \$495,481 paid to an enhanced compliance action to replace infrastructure in an environmentally sensitive area and protect Polhemus Creek and San Mateo Creek and \$20,000 paid to the Department of Fish and Wildlife (Fish and Wildlife Pollution Account).

Table A2 – ACL Cases Initiated and Settled in FY 2016/17

Discharger	Location	Violation	Proposed Penalty	Final Penalty
East Bay Municipal Utility District	Oakland	Concrete Discharge Glen Echo Creek	\$426,183	\$426,183 ¹
San Francisco Public Utilities Commission	San Francisco	Partially Treated and Chlorinated Wastewater Discharges	\$611,100	\$611,100 ²
Lehigh Southwest Cement Company	Cupertino	Effluent Limit Violations Cease and Desist Order	\$465,500	\$465,500 ³
The Wine Group	Livermore	Effluent Limit Violations Waste Discharge Requirements	\$635,000	\$635,000
Valero Refining Company	Benicia	Effluent Limit Violations NPDES Permit	\$197,500	179,000 ⁴
Total			\$2,335,283	\$2,316,783

¹ The penalty includes \$105,000 for a San Francisco Bay Regional Monitoring Program SEP to develop a conceptual model of PCBs and water quality monitoring in San Leandro Bay and \$218,653 paid to the Department of Fish and Wildlife (\$161,568 to the National Fish and Wildlife Foundation Environmental Fund for Habitat and Incident-Specific Restoration in Alameda County and \$57,085 to the Fish and Wildlife Pollution Account).

² All of this penalty (\$611,100) was paid to a SEP to fund an interpretive center at the State Parks Foundation Yosemite Slough Restoration Project in Hunters Point.

³ The penalty includes \$240,250 for a San Francisco Bay Regional Monitoring Program SEP for hydrodynamic and water quality model calibration and application in San Francisco Bay and Lower South Bay.

⁴ The penalty includes \$89,500 for a San Francisco Bay Regional Monitoring Program SEP for a Suisun Bay selenium monitoring study.

Table A3 – FY 2016/17 Mandatory Minimum Penalties (NPDES)

Discharger	Location	Violation	Penalty
City of Pacifica Calera Creek Water Recycling Plant	Pacifica	Effluent Limit Violations	\$12,000 ¹
Univar USA Groundwater Treatment System	San Jose	Effluent Limit Violations	\$3,000 ¹
City of Redwood City Groundwater Treatment System	Redwood City	Effluent Limit Violations and Late Discharger Report	\$6,000
C&H Sugar	Crockett	Effluent Limit Violation	\$3,000 ¹
Crockett Community Services District	Port Costa	Effluent Limit Violations	\$21,000 ¹
San Francisco Public Utilities District Pulgas Dechloramination Facility	Redwood City	Effluent Limit Violations	\$21,000 ¹
Browning-Ferris Industries Cornida Los Trancos Landfill	Half Moon Bay	Effluent Limit Violations	\$36,000 ¹
San Francisco Public Utilities District Harry Tracy Water Treatment Plant	San Bruno	Effluent Limit Violations	\$6,000 ¹
Sonoma Valley County Sanitation District Wastewater Treatment Plant	Sonoma	Effluent Limit Violations	\$9,000 ¹
Santa Clara Valley Transit Authority Mission Blvd Underdrain	Fremont	Effluent Limit Violations	\$6,000
Cedar Fair Entertainment Company Great America	Santa Clara	Effluent Limit Violations	\$3,000
City of San Mateo Wastewater Treatment Plant	San Mateo	Effluent Limit Violations	\$12,000 ¹
Las Gallinas Valley Sanitary District	San Rafael	Effluent Limit Violations	\$9,000 ¹
City of St. Helena Wastewater Treatment Plant	Saint Helena	Effluent Limit Violations	\$15,000 ¹
Eco Services Martinez Plant	Martinez	Effluent Limit Violations	\$3,000 ¹
Premia 550 Owner, LLC	Redwood City	Effluent Limit Violations	\$6,000 ¹
Sewerage Agency of Southern Marin Wastewater Treatment Plant	Mill Valley	Effluent Limit Violations	\$3,000
East Bay Municipal Utility District Orinda Water Treatment Plant	Orinda	Effluent Limit Violations	\$6,000 ¹
Schlumberger Technology	Mountain View	Effluent Limit Violations	\$6,000 ¹
1000 Channel Street Owner, LLC	San Francisco	Effluent Limit Violations	\$3,000 ¹

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Table A3 – FY 2016/17 Mandatory Minimum Penalties (NPDES)

Discharger	Location	Violation	Penalty
West County Agency West County Agency Outfall	Richmond	Effluent Limit Violations	\$66,000
MGP IX SAC II Properties, LLC The Village at San Antonio	Mountain View	Late Discharger Report	\$3,000
City of Calistoga Dunaweal Wastewater Treatment Plant	Calistoga	Effluent Limit Violations	\$6,000 ¹
Browning-Ferris Industries Cornida Los Trancos Landfill	Half Moon Bay	Effluent Limit Violations	\$6,000
Total			\$270,000

¹ A portion of the penalty was paid to a SEP fund for the San Francisco Bay Regional Monitoring Program. Individual contributions ranged from \$3,000 to \$25,500 and totaled \$166,500.

Table A4 – FY 2016/17 Mandatory Penalties (Stormwater)

Discharger	Location	Violation	Penalty
Madison Vineyard Holdings DBA Jamieson Ranch Vineyards	American Canyon	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
Pentair Thermal Management	Redwood City	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
Discovery Foods	Hayward	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
PWP Manufacturing LLC	Santa Clara	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000 ¹
CA Waste Solutions (1820 10th Street)	Oakland	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
CA Waste Solutions (3300 Wood Street)	Oakland	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
CA Waste Solutions (1005 Timothy Dr.)	San Jose	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
CA Waste Solutions (1120 Berryessa Rd.)	San Jose	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
CA Waste Solutions (1819 10th Street)	Alameda	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000
Advanced Surface Finishing	San Jose	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000 ¹
Rutherford Grove Winery	Saint Helena	Failure to Recertify Permit Coverage (Notice of Non-Applicability)	\$1,000
Santay Granite	San Jose	Failure to Recertify Permit Coverage (Notice of Non-Applicability)	\$1,000
Precision Technical Coatings	Berkeley	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000 ¹
GE Supply	Hayward	Failure to Recertify Permit Coverage (Notice of Intent)	\$5,000 ¹
Total			\$62,000

¹ A portion of the penalty was paid to a SEP fund for the San Francisco Bay Regional Monitoring Program. Individual contributions ranged from \$1,000 to \$2,500 and totaled \$8,500.