

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: November 13, 2019

ITEM: 5B

SUBJECT: Enforcement Actions and Priorities for Fiscal Year 2019/20 –
Summary Report

DISCUSSION: This item summarizes penalty enforcement actions for fiscal year (FY) 2018/19, 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 2019/20.

Penalties Imposed

During FY 2018/19, we resolved 57 penalty assessment cases. The Board adopted penalties totaling \$1,511,500 (see Tables A1 through A4). Another complaint, involving \$88,000 in proposed penalties, remains unresolved (see Table A5). These cases addressed various problems, such as unauthorized discharges of chlorinated water, sanitary sewer overflows, violations of discharge limits and other permit requirements, and failure to submit annual reports of stormwater discharge. The penalty assessments were consistent with the State Water Board's Enforcement Policy and, as applicable, its Supplemental Environmental Project (SEP) Policy.

▪ **Table A1 – Prior FY ACL Cases Settled in FY 2018/19**

We settled one complaint issued in the prior fiscal year through a stipulated order imposing a \$600,000 penalty. The settlement provided that \$300,000 of the penalty would be spent on an Enhanced Compliance Action (ECA) to increase wet weather storage at the facility.

▪ **Table A2 – ACL Cases Initiated and Settled in FY 2018/19**

We settled 8 cases through stipulated orders imposing total penalties of \$737,500. The settlements provided that \$376,250 of the penalties would be spent on SEPs and Enhanced Compliance Actions (ECAs). Of the \$300,150 set aside for SEPs, \$213,000 funded San Francisco Bay Regional Monitoring Program (RMP) projects and \$87,150 funded other SEPs. The remaining \$76,100 funded ECAs.

▪ **Table A3 – FY 2018/19 Mandatory Minimum Penalties (NPDES)**

We settled 21 cases involving NPDES permit effluent limit violations subject to mandatory minimum penalties of \$3,000 each. The stipulated orders imposed total penalties of \$147,000. The settlements provided that \$72,000 of the penalties would be spent on SEPs funding RMP projects.

- **Table A4 – FY 2018/19 Industrial Stormwater Permit Coverage**

We settled 27 cases involving dischargers not submitting annual reports required by the State Water Board’s industrial and construction stormwater general permits. Such violations are subject to mandatory minimum penalties of \$1,000 each. The stipulated orders imposed total penalties of \$27,000. The settlements provided that \$2,000 of the penalties would be spent on SEPs funding RMP projects.

- **Table A5 – ACL Complaints in Settlement Discussions**

As of the end of FY 2018/2019 (June 30, 2019), enforcement staff continued to pursue settlement of one complaint issued for a proposed penalty of \$88,000.

Staff continue working on some enforcement cases after the Board imposes a penalty or refers a case to the Office of Attorney General. We oversee implementation of projects on penalty settlements that include an SEP or ECA, and we assist the Office of Attorney General in court litigation and mediation.

Compliance Assistance

Enforcement and stormwater program staff collaborated during FY 2018/19 to enforce the annual reporting requirements of the State Water Board’s industrial and construction stormwater general permits. We targeted 143 industrial facilities and 309 construction sites that did not submit annual reports by deadlines for the FY 2016/17 reporting year, and 107 industrial facilities and 192 construction sites that did not meet the deadline for the FY 2017/18 reporting year. Permit enrollees received notices of noncompliance in accordance with Stormwater Enforcement Act procedures (California Water Code sections 13399.31 and 33), and staff worked with enrollees to encourage report submittal and avoid mandatory penalties for noncompliance. As of the end of the fiscal year, fewer than 10 percent of the targeted enrollees had to pay a mandatory penalty (the penalties paid are listed in Table A4).

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/or 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 on the websites of the [State Water Board](#) and San Francisco Estuary Partnership. The [San Francisco Estuary Partnership](#) website lists current and completed SEPs, including the status of pending projects and links to associated documents.

Enforcement Priorities

Our enforcement priorities for FY 2019/20 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 or wetlands, including violations at permitted stream or wetland projects; violations of site cleanup requirements; and violations of construction, industrial, and municipal stormwater permits. We will continue to prioritize enforcement of sanitary sewer overflows, particularly from agencies with inadequate sewer infrastructure rehabilitation programs. We will also continue to maintain a near-zero backlog of mandatory minimum penalty assessments.

Consistent with the State Water Board's Enforcement Policy, we prioritize enforcement efforts at internal enforcement staff meetings held monthly with the assistant executive officers, division chiefs, and program staff, where we discuss potential enforcement cases that our regulatory programs suggest and potential cases that come from our complaint hotline, the CalEPA Complaint System, State Office of Emergency Services spill reports, and enforcement task force meetings. Factors we weigh in prioritizing cases include our current workload and case-specific factors, such as discharger compliance history, strength of evidence, magnitude of water quality impact, threat to high-priority watersheds, discharger culpability, and possible mitigating circumstances.

**RECOMMEN
DATION:**

No action necessary; this is an information item.

APPENDIX A: Tables of FY 2018/2019 Penalty Enforcement Actions

APPENDIX A
Tables of FY 2018/2019 Penalty Enforcement Actions

Table A1 – Prior FY ACL Case Settled in FY 2018/19

Discharger	Location	Violation	Penalty
Sewer Authority Mid-Coastside	Half Moon Bay	Sanitary Sewer Overflows	\$600,000 ¹

Total Penalty Imposed: \$600,000

¹ \$300,000 of the penalty will go toward expansion of an underground wastewater storage tank system to enhance storage capacity for wet weather flows.

Table A2 – ACL Cases Initiated and Settled in FY 2018/19

Discharger	Location	Violation	Penalty
Dublin-San Ramon Services District	Alamo Creek	Chlorinated Water Discharge	\$72,500 ¹
Lehigh Southwest Cement Co.	Cupertino	Effluent Limit Violations Cease and Desist Order	\$301,000 ²
San Jose Water Co.	San Jose	Sanitary Sewer Overflows	\$75,000 ³
City of Half Moon Bay	San Mateo County	Sanitary Sewer Overflows	\$26,800 ⁴
Livermore-Amador Valley Water Management Dist.	San Lorenzo Creek	Unauthorized Wastewater Discharge, NPDES Permit	\$30,000 ⁵
Montara Water and Sanitary District	Pacific Ocean	Sanitary Sewer Overflows	\$32,100 ⁶
East Bay Municipal Utility District	San Pablo Creek	Permit and Effluent Limit Violations, NPDES Permit	\$120,100 ⁷
Phillips 66 Refinery	Rodeo	Effluent Limit Violations NPDES Permit	\$80,000 ⁸

Total Penalties Imposed: \$737,500

¹ \$36,250 of the penalty will go toward an Alamo Creek Watershed Action Program implemented by Kids for the Bay and elementary school students and teachers at Amador Elementary School, Diablo Unified School District.

² \$158,000 of the penalty will go toward an RMP SEP for a suspended sediment flux study in the Lower South Bay to support the South Bay Salt Ponds Restoration Project and improve understanding of the transport of sediment-associated contaminants.

³ \$37,500 of the penalty will go to the California-Nevada Section of the American Water Works Association to update, publicize, and provide training workshops on the *Best Management Practices Manual for Drinking Water System Releases*.

⁴ \$13,400 of the penalty will go toward enhancing monitoring of sewage levels and flows within the City of Half Moon Bay's collection system to evaluate inflow and infiltration and alerting personnel before sanitary sewer overflows occur.

⁵ \$15,000 of the penalty will go toward an RMP SEP for a study of polychlorinated biphenyls (PCBs) loads in stormwater in the San Leandro Bay Watershed.

⁶ \$16,050 of the penalty will go toward enhancing monitoring of sewage levels within the Montara Water and Sanitary District's collection system and alerting personnel before sanitary sewer overflows occur.

⁷ \$60,050 of the penalty will go toward enhancing chlorine monitoring of water in the East Bay Municipal Utility District's distribution system and reservoirs.

⁸ \$40,000 of the penalty will go toward an RMP SEP for a clam and water selenium monitoring study in support of the Total Maximum Daily Load for Selenium in the North Bay.

Table A3 – FY 2018/19 Mandatory Minimum Penalties (NPDES)

Discharger	Location	Violation	Penalty
Schnitzer Steel Industries	Oakland	Effluent Limit Violations NPDES Permit	\$12,000 ¹
Google, LLC	Mountain View	Effluent Limit Violations NPDES Permit	\$18,000
Ford Motor Co.	Palo Alto	Effluent Limit Violations NPDES Permit	\$3,000 ¹
Lennar Homes of California	Fremont	Effluent Limit Violations NPDES Permit	\$3,000 ¹
Burlingame Point, LLC	Burlingame	Effluent Limit Violations NPDES Permit	\$3,000
Browning Ferris Industries	Half Moon Bay	Effluent Limit Violations NPDES Permit	\$9,000 ¹
Chevron Environmental Management Co.	Port Costa	Effluent Limit Violations NPDES Permit	\$3,000
Golden State Warriors	San Francisco	Effluent Limit Violations NPDES Permit	\$3,000
Sausalito-Marín City Sanitary District	Sausalito	Effluent Limit Violations NPDES Permit	\$3,000 ¹
City of St. Helena	St. Helena	Effluent Limit Violations NPDES Permit	\$21,000
3000 Boardway SPE, LLC	Oakland	Effluent Limit Violations NPDES Permit	\$3,000
Mt. View Sanitary District	Martinez	Effluent Limit Violations NPDES Permit	\$3,000 ¹
Stanford University	Redwood City	Effluent Limit Violations NPDES Permit	\$6,000
Hanson Aggregates Mission Valley Rock Facility	Sunol	Effluent Limit Violations NPDES Permit	\$3,000 ¹
Hanson Aggregates Pier 92	San Francisco	Effluent Limit Violations NPDES Permit	\$12,000 ¹
Hanson Aggregates Pier 94	San Francisco	Effluent Limit Violations NPDES Permit	\$21,000 ¹
Hanson Aggregates Oakland Tidewater	Oakland	Effluent Limit Violations NPDES Permit	\$3,000 ¹
M10 Development, LLC	Palo Alto	Effluent Limit Violations NPDES Permit	\$3,000
Lehigh Southwest Cement Co. - Hanson Permanente Cement Co.	Cupertino	Effluent Limit Violations NPDES Permit	\$6,000 ¹
City of Pacifica	Pacifica	Effluent Limit Violations NPDES Permit	\$3,000
Planetary Ventures	Mountain View	Effluent Limit Violations NPDES Permit	\$6,000 ¹

Total Penalties Imposed: \$147,000

¹ A portion of the combined penalties was paid to the SEP Fund for the RMP. Individual contributions ranged from \$3,000 to \$18,000 and totaled \$72,000.

Table A4 – FY 2018/19 Mandatory Penalties (Stormwater)

Discharger	Location	Violation	Penalty
Chrisp Co	Fremont	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Tournesol Siteworks LLC	Union City	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Henkel Corp Aerospace Group	Bay Point	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
North Bay Steel Mill Supply Recycling Inc	American Canyon	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Safety Kleen Systems, Inc.	Richmond	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
JL Precision	San Jose	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Brian Salvage Junk	Vallejo	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Core Mark International, Inc	Hayward	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Raging Waters	San Jose	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Shaw Industries Inc	Union City	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
Uni Tile Marble	Hayward	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000 ¹
Vineburg Wine Company Inc	Sonoma	Late Annual Report FY 2016/17 Industrial Stormwater	\$1,000
City of Oakland- Lake Chabot Golf Course Driving Range	Oakland	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
Los Gatos Saratoga Joint Union High School District	Los Gatos	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
Peninsula West LLC- Summerwind	San Jose	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
Golden Shiloh LLC- Golden Shiloh	San Jose	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
Fremont State St Center LLC – State Street Center	Fremont	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000 ¹
Giant Properties LLC	Menlo Park	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
Shops at Mayacamas LLC	Napa	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
Stay Cal HMB LLC	Half Moon Bay	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
Braddock & Logan Services Inc	Vallejo	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
South Bay Islamic Association	San Jose	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
GR Block C LLC	San Jose	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
SunPower Corporation	San Jose	Late Annual Report FY 2016/17 Construction Stormwater	\$1,000
MedPlast Fremont	Fremont	Late Annual Report FY 2017/18 Industrial Stormwater	\$1,000

FY 2018/19 Penalty Enforcement Actions
Appendix A

Discharger	Location	Violation	Penalty
Refund Recycle	Livermore	Late Annual Report FY 2017/18 Industrial Stormwater	\$1,000 ¹
Kerry Inc	Union City	Late Annual Report FY 2017/18 Industrial Stormwater	\$1,000 ¹

Total Penalties Imposed: \$27,000

¹ A portion of the combined penalties was paid to the SEP Fund for the RMP. Individual contributions were \$500 and totaled \$2,000.

Table A5 – ACL Complaints in Settlement Discussion

Discharger	Location	Violation	Proposed Penalty
Stuart and Eric Depper (Glovatorium)	Oakland	Failure to Submit Technical Report	\$88,000

Total Proposed: \$88,000