

Fw: Settlement

Watkins, Jessica@Waterboards

Wed 6/10/2020 1:43 PM

To: Phan, Debbie@Waterboards

FYI, here's a copy of Rick's response to my email, and my response.
-Jessica

From: Watkins, Jessica@Waterboards

Sent: Monday, June 8, 2020 6:29 PM

To: Rick Coates

Subject: Re: Settlement

If it makes you feel better, every single time we issue an MMP, we do a pretty thorough analysis of whether we think it's worth our enforcement resources to go beyond the minimum. We consider culpability, harm to water quality, history of violations, among other things. We have an Enforcement Policy that guides our approach if you ever want to dig into the weeds. The great thing about the NPDES program is that we have pretty solid enforcement authorities we can use to address negligent or repeat violations. Sometimes we even refer cases to the Attorney General's office for support.

Thanks again for your input. I think it's great you're monitoring the Lyris notifications.
-Jessica

From: Rick Coates

Sent: Monday, June 8, 2020 6:19 PM

To: Watkins, Jessica@Waterboards

Subject: Re: Settlement

EXTERNAL:

Thank you for your full explanation. Month after month I see minimum penalties assessed and yet violations seem to recur. The minimum penalties do not seem to have a deterrent effect. Water agencies and treatment facilities seem to treat fines simply as a cost of doing business.

Rick Coates

On Jun 8, 2020, at 5:32 PM, Watkins, Jessica@Waterboards wrote:

Hi Rick,

Thank you for your email. I agree that it is critical to address the root cause of an issue. You'll be happy to know that we are doing just that. We are requiring West County Agency to continue to make improvements to the Richmond wastewater treatment plant through its NPDES permit. Take a look pages 13-15 of the attached permit (Order No. R2-2019-0003). We expect the upgraded facility to be completed by December 31, 2022. This is in addition to upgrades performed from April to October 2018 to the plant's primary and secondary clarifiers. It was after these upgrades were put in place that the facility struggled to meet its BOD and TSS effluent limits due to issues with the biological treatment. As you may know, it can be very difficult for wastewater treatment plants to bring biological treatment systems online. Since then, there have been no issues, and we expect there to continue to be no issues due to continued improvements.

As far as the proposed \$84,000 penalty is concerned, it is the mandatory minimum penalty that we are required to impose according to State law for these violations. Issuance of MMPs is fairly routine; however, in this case, when we issued the penalty for public comment at the beginning of 2020 (without a supplemental environmental project), we received public comment requesting that a portion of the penalty go towards a supplemental environmental project. While this is a way to direct funds to local projects, West County Agency was in no way obligated to agree to this. Supplemental environmental projects are voluntary. West County Agency agreed to allow a portion of the penalty to go towards the Kids for the Bay project, so we repackaged the penalty with the project and now it's out for public comment again. While I agree with your sentiment that it may help the agency to use the penalty towards coming into compliance, we are not allowed to direct penalty money to help the agency come into compliance with rules and regulations that they are otherwise required to comply with; a portion of the penalty is only allowed to go to something "extra." This is actually similar to what would happen if the agency just paid the entire penalty to the Cleanup and Abatement Account - that penalty money also funds different project in the State, but typically not in our Region.

When we issue mandatory minimum penalties, we always consider whether we should pursue a higher penalty. In this case, we argue that's unnecessary because the plant has already come into compliance through upgrades and is continuing to make improvements. If the plant continues to have issues in the future, we will consider additional enforcement options.

I hope this information is helpful. When the public comment period ends, our team will present our recommendation to the Executive Officer, Michael Montgomery, in addition to any public comments received, and our responses to those comments. Ultimately, it will be up to the Executive Officer, on behalf of our Board, to either approve the proposed settlement or pursue a different action. Debbie will be in touch with you at that time to keep you in the loop.

If you'd like to discuss any of this, please contact me by email with any questions or to set up a call.

Sincerely,
Jessica Watkins

From: Rick Coates
Sent: Friday, June 5, 2020 1:16 PM
To: Phan, Debbie@Waterboards
Subject: Settlement

EXTERNAL:

RE: proposed settlement between the San Francisco Bay Regional Water Board and West County Agency to pay a statutory mandated minimum penalty of \$84,000 for NPDES Permit effluent limit violations. The violations occurred at the Richmond Municipal Sewer District Water Pollution Control Plant located at 601 Canal Boulevard, Richmond, in Contra Costa County. This proposed settlement includes \$48,000 for the Watershed Rangers Program, a supplemental environmental project that coordinates and supervises watershed stewardship and trash cleanup projects with local schools. The public comment period is open until 5:00 p.m. on July 6, 2020.

The kinds of settlements do not deter bad behavior by water districts. Yes, they fund cleanup projects but do nothing to stop continued spills. Why don't you get a restraining order for further development until the problems with the systems are corrected. Why not require the agency to spend the fine on upgrading capacity, fixing problems with their system or on maintenance and monitoring?

Rick Coates

<R2-2019-0003.pdf>