

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

STAFF SUMMARY REPORT: Brian Thompson
MEETING DATE: December 15, 2021

ITEM: 11

Enforcement Actions and Priorities for Fiscal Year 2021/22 – Summary Report

DISCUSSION:

This item summarizes penalty enforcement actions for fiscal year (FY) 2020/21, including the issuance or settlement of administrative civil liability (ACL) complaints. For FY 2021/22, our enforcement priorities will be similar to those for FY 2020/21.

Penalties Imposed

During FY 2020/21, we resolved 31 ACL enforcement cases with penalties totaling \$1,428,974. The Board imposed a \$61,374 liability against Param and Amandeep Dhillon at its November 2020 Board meeting, and 30 cases settled (see Tables A1 and A2). The enforcement cases addressed various problems, such as wastewater treatment plant discharges above effluent limits, industrial stormwater general permit violations associated with compost management, violations of waste discharge requirements for not reporting operational changes, slope failure, and seepage at a landfill, an unauthorized discharge of chlorinated (potable) water, and filled wetlands. The penalty assessments were consistent with the State Water Board's Enforcement Policy and, as applicable, its Supplemental Environmental Project (SEP) Policy.

• **Table A1 – ACL Cases Initiated and Settled in FY 2020/21**

We settled 5 cases through stipulated orders imposing total penalties of \$1,112,600. The settlements provided that \$577,300 of the penalties would be spent on SEPs, of which \$375,800 would fund San Francisco Bay Regional Monitoring Program (RMP) projects.

• **Table A2 – FY 2020/21 Mandatory Minimum Penalties**

We settled 25 cases involving effluent limit violations subject to mandatory minimum penalties of \$3,000 each. The stipulated orders imposed total penalties of \$255,000. The settlements provided that \$118,500 of the penalties would be spent on SEPs, of which \$70,500 would fund RMP projects.

Enforcement and Compliance Assistance during COVID-19 Pandemic

The regulated community continued to face challenges with the COVID-19 pandemic during FY 2020/21. Board staff maintained that public health and environmental protection, including compliance with Water Board requirements, are essential; however, we also recognized the need to judiciously exercise our enforcement discretion during this crisis. We put on hold the types of compliance campaigns we often coordinate with regulatory programs to target a region or industry due to difficulties communicating with businesses during the pandemic and caution regarding COVID-19 exposure. We continued to conduct compliance inspections as needed and evaluate facilities remotely (e.g., through Google Earth, phone interviews, and report reviews).

Public Outreach

We continue to publicize our enforcement efforts. Notifying the regulated community and the public about pending and completed enforcement is an integral part of our enforcement program. Everyone can obtain information about our enforcement cases by [subscribing](#) to an email list, checking the current status of [enforcement cases](#) and accessing documents on our website, and following [press releases](#) and social media posts ([Twitter](#), [Instagram](#), [LinkedIn](#)). Additional enforcement-related information is also available on the [State Water Board](#) and [San Francisco Estuary Partnership](#) websites. The San Francisco Estuary Partnership website lists current and completed SEPs, including the status of pending projects and links to associated documents.

Enforcement Priorities

Like previous years, our enforcement priorities for FY 2021/22 will focus on egregious violations with the highest adverse water quality impacts, followed by violations that threaten the integrity of the Board's requirements. These cases may include, for example, the following:

- 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 also continue to maintain a near-zero backlog of mandatory minimum penalty assessments and will assist emergency response and recovery efforts associated with spills, wildfires, and vessels.

Consistent with the State Water Board's Enforcement Policy, we will prioritize enforcement efforts at internal enforcement staff meetings with the assistant executive officers, division chiefs, program staff, and Office of Enforcement liaisons, where we will 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 will weigh in prioritizing cases include our current workload and case-specific factors, such as magnitude of water quality impact, threat to high-priority watersheds, discharger culpability, discharger compliance history, strength of evidence, and possible mitigating circumstances.

SEPs and Support for Disadvantaged Communities

A discharger may choose to suspend a portion of its liability to fund a SEP in accordance with the SEP Policy, which provides incentives to encourage dischargers to fund SEPs that address environmental justice or benefit disadvantaged communities. A discharger may propose its own SEP, choose an SEP off a list maintained with San Francisco Estuary Partnership assistance, or decide to fund projects through an established program, such as the Regional Monitoring Program that studies water quality in the Bay and the Kids for the Bay Watershed Rangers Program that serves disadvantaged communities.

A discharger may also choose not to propose a SEP as part of settlement. In this case, all the ACL monies are deposited into State funds designated by statute. For example, the State Water Board Pollution Cleanup and Abatement Account provides public agencies with grants to cleanup and abate

pollution when there are no viable responsible parties to do so and may contribute to cleanup in underserved communities. In recognition of the human right to water, the account has helped fund the delivery of safe drinking water to disadvantaged communities throughout the State.

APPENDICES:

A. Tables of FY 2020/21 Penalty Enforcement Action

Appendix A
Tables of FY 2020/21 Penalty Enforcement Actions

Table A1 – ACL Cases Initiated and Settled in FY 2020/21

Discharger	Location	Violation	Penalty
Phillips 66 Company	Rodeo	Unauthorized Discharge of Partially Treated Wastewater	\$285,000 ¹
City of Sunnyvale	Sunnyvale	Unauthorized Discharge of Partially Treated Wastewater	\$187,000 ²
Martinez Refining Company LLC	Martinez	Unauthorized Discharges of Partially Treated Wastewater	\$120,000 ³
Republic Services Inc and West Contra Costa Sanitary Landfill Inc	Richmond	Waste Discharge Requirements and Industrial Stormwater Permit Violations	\$460,600 ⁴
Lehigh Southwest Cement Company	Cupertino	Unauthorized Discharge of Potable Water	\$60,000 ⁵

Total Penalties Imposed: \$1,112,600

- ¹ \$142,500 of the penalty will go toward a an RMP SEP to produce a detailed conceptual model of sediment dynamics for San Francisco Bay.
- ² \$93,500 of the penalty will go toward a SEP for green stormwater infrastructure that will add landscaping to a traffic improvement project for stormwater treatment.
- ³ \$60,000 of the penalty will go toward an RMP SEP to study the influence of tides, waves, and water levels on sediment delivery and deposition on tidal marshes in San Francisco Bay.
- ⁴ \$233,300 of the penalty will go toward an RMP SEP to integrate watershed and bay modeling and conduct a pilot implementation project that will evaluate pollutant and sediment transport from tributary watersheds to San Francisco Bay and the fate, transport, and loading of pollutants and sediment in the Bay.
- ⁵ The settlement included an agreement that Lehigh Southwest Cement Company will implement a monitoring study on selenium in fish tissue.

**Table A2 – FY 2020/21 Mandatory Minimum Penalties
for Wastewater NPDES Permit Violations**

Discharger	Location	Violation	Penalty
West County Agency	Richmond	Effluent Limit Violations	\$84,000 ¹
Cities of South San Francisco and San Bruno and the North Bayside System Unit	South San Francisco	Effluent Limit Violations	\$3,000 ²
C&H Sugar Company Inc. and Crockett Community Services District	Crockett	Effluent Limit Violations	\$6,000 ²
Rodeo Sanitary District	Rodeo	Effluent Limit Violations	\$12,000 ²
Hanson Aggregates Mid-Pacific Inc.	Oakland	Effluent Limit Violations	\$3,000 ²
Hanson Aggregates Mid-Pacific Inc.	San Francisco	Effluent Limit Violations	\$3,000 ²
Sewerage Agency of Southern Marin	Mill Valley	Effluent Limit Violations	\$3,000 ²
City of Petaluma	Petaluma	Effluent Limit Violations	\$3,000 ²
City of Pinole	Pinole	Effluent Limit Violations	\$3,000 ¹
Equilon Enterprises LLC d/b/a Shell Oil Products US	Martinez	Effluent Limit Violations	\$9,000
SJ Park Almaden LLC	San Jose	Effluent Limit Violations	\$3,000
Treasure Island Development Group	Treasure Island	Effluent Limit Violations	\$3,000
Univar USA Inc.	San Jose	Effluent Limit Violations	\$3,000
Windy Hill PV Five CM LLC	Redwood City	Effluent Limit Violations	\$3,000
Daly City Serramonte Center LLC	Daily City	Effluent Limit Violations	\$9,000 ²
S&B Milpitas LLC	Milpitas	Effluent Limit Violations	\$6,000
477 Market LLC	San Jose	Effluent Limit Violations	\$33,000 ²
FMC Corporation	San Jose	Effluent Limit Violations	\$6,000
Intuit Inc	Mountain View	Effluent Limit Violations	\$3,000
City of East Palo Alto	East Palo Alto	Effluent Limit Violations	\$3,000
Hibiscus Properties LLC	Menlo Park	Effluent Limit Violations	\$24,000

Discharger	Location	Violation	Penalty
SUMCO Phoenix Corporation	Mountain View	Effluent Limit Violations	\$12,000
CA Department of Transportation	Fremont	Effluent Limit Violations	\$9,000
Lennar Homes of California Inc.	Newark	Effluent Limit Violations	\$6,000 ¹
Raytheon Company	Mountain View	Effluent Limit Violations	\$3,000

Total Penalties Imposed: \$255,000

- ¹ \$48,000 of the penalty will go toward a SEP for Kids for the Bay to work with disadvantaged schools in Richmond. Its Watershed Rangers Program will cleanup trash and raise social awareness of watershed health and non-point source pollution.
- ² A portion of these penalties was paid to the SEP Fund for the San Francisco Bay RMP. Individual contributions ranged from \$3,000 to \$24,000 and totaled \$70,500.