

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

STAFF SUMMARY REPORT: Brian Thompson
MEETING DATE: September 14, 2022

ITEM: 9

Enforcement Actions and Priorities for Fiscal Year 2022/23 – Summary Report

DISCUSSION:

This item summarizes enforcement actions for fiscal year (FY) 2021/22, including the issuance or settlement of administrative civil liability (ACL) complaints. For FY 2022/23, our enforcement priorities will be similar to those for FY 2021/22.

Penalties Imposed

During FY 2021/22, we resolved three ACL enforcement cases with penalties totaling \$304,000 (see Tables A1 and A2). These enforcement cases addressed wastewater treatment plant discharges above effluent limits and unauthorized discharges of potable water and domestic sewage. 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 2021/22**

We settled two cases through stipulated orders imposing total penalties of \$286,000. The settlements included spending \$106,150 of the penalties on a SEP to assess per- and polyfluoroalkyl substances (PFAS) concentrations in San Francisco Bay sediment samples.

• **Table A2 – FY 2021/22 Mandatory Minimum Penalties**

We settled one case involving effluent limit violations subject to mandatory minimum penalties of \$3,000 per violation. The stipulated order imposed a total penalty of \$18,000.

In addition to resolving these ACL cases, we made significant progress toward a number of additional ACL cases that have been, or will be, resolved in FY 2022/23.

Administrative Enforcement and Compliance Assistance

During FY 2021/22, we completed some important administrative enforcement actions. The Board adopted a cleanup and abatement order requiring San Francisco to implement three major projects to reduce sewer overflows from its combined sewer system, at an estimated cost of well over \$600 million. The Board also amended a cleanup and abatement order to establish a schedule for removing residual tetrachloroethylene at the former Prosperity Cleaners (Marinwood) site. We also continued to work with the Department of Justice to enforce a cleanup and abatement order related to wetlands fill at the Dhillons property in Vallejo.

Throughout much of FY 2021/22, our enforcement staffing was down roughly 50 percent due to vacancies and a leave of absence. Nevertheless, we optimized the effectiveness of our lean staffing by working closely with program staff on compliance evaluations, and enforcement staff joined program staff at several meetings with out-of-compliance dischargers. The threat of

enforcement implied by the presence of enforcement staff at some meetings was sufficient to motivate the dischargers to move toward compliance. We are closely monitoring some other cases that may warrant formal enforcement during this current FY.

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 our email list, checking the current status of [enforcement cases](#) and accessing documents on our website, and following [press releases](#) and social media posts ([Twitter](#)). 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.

Fiscal Year 2022/23 Enforcement Priorities

Like previous years, our enforcement priorities for FY 2022/23 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 in coordination with the assistant executive officers, division chiefs, program staff, and Office of Enforcement liaisons. Potential enforcement cases are typically suggested by regulatory program staff or come from notifications we receive through our complaint hotline, the CalEPA Complaint System, State Office of Emergency Services spill reports, or enforcement task force meetings. Factors we will weigh in prioritizing cases include case-specific factors, such as the magnitude of water quality impact, threat to high-priority watersheds, discharger culpability, discharger compliance history, strength of evidence, and possible mitigating circumstances.

APPENDIX:

A. Tables of FY 2021/22 Penalty Enforcement Action

Appendix A

Tables of FY 2021/22 Penalty Enforcement Actions

Table A1 – ACL Cases Initiated and Settled in FY 2021/22

Discharger	Location	Violation	Penalty
City of San Mateo	San Mateo	Unauthorized Discharge of Potable Water	\$73,700
Lennar	Dublin	Unauthorized Discharge of Domestic Sewage	\$212,300 ¹

Total Penalties Imposed: \$286,000

¹ \$106,150 of the penalty will go toward a SEP to assess PFAS concentrations in San Francisco Bay sediment samples to improve our understanding of the occurrence and risks associated with PFAS and inform a management strategy.

**Table A2 – FY 2021/22 Mandatory Minimum Penalties
for Wastewater NPDES Permit Violations**

Discharger	Location	Violation	Penalty
Castro Valley Marketplace LLC	Castro Valley	Effluent Limit Violations	\$18,000

Total Penalties Imposed: \$18,000