

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: September 8, 2010

ITEM: **7B**

SUBJECT: **Highlights of the Enforcement Program - Fiscal Year 2009-2010 Accomplishments**

DISCUSSION: This item provides a summary of our fiscal year (FY) 2009/10 penalty-related enforcement actions, including issuance and/or settlement of administrative civil liability (ACL) complaints. We also call attention to our public outreach efforts and our enforcement program priorities for the current year.

Appendix A contains tables that list FY 2009/10 penalty-related enforcement cases. A total of 136 cases with proposed penalties totaling \$3,701,046 resulted in final penalties totaling \$2,589,090. In addition, we are engaged in settlement discussions on six cases with proposed penalties totaling \$3,871,529.

- Table A1 contains ACL complaints issued in FY 2008/09 that were resolved in FY 2009/10 via orders based on settlement agreements negotiated by the Board's prosecution team. Seven ACL complaints with proposed penalties totaling \$2,994,800 were settled resulting in final penalties totaling \$1,905,250. Three of the settlement agreements included Supplemental Environmental Projects (SEPs) totaling \$475,500. Eligibility and suitability of SEPs is determined in accordance with the State Water Board's Policy on Supplemental Environmental Projects. Reductions in penalties are based on reconsideration of the factors used to determine penalty amounts called out in the California Water Code and the State Water Board's Enforcement Policy. These factors include but are not limited to the nature and circumstances of violations, the environmental harm of the violations, and dischargers' culpability.
- Table A2 contains the 46 ACL complaints issued and resolved in FY 2009/10. Proposed penalties totaling \$435,246 resulted in final penalties totaling \$409,846. 44 of the cases were resolved via orders based on settlement agreements and two were resolved via Board-issued orders after a public hearing. 40 of the cases involved late submittal of annual reports required by the Statewide Industrial Stormwater General Permit. In addition to these cases, there were 61 late annual report cases resolved at \$1000 each via an expedited settlement procedure our Region pioneered.
- Table A3 contains the Mandatory Minimum Penalty cases resolved in FY 2009/10. The Water Code mandates a minimum penalty of \$3000 for certain types of NPDES permit violations, primarily numeric effluent limitations. We issued expedited payment letters with offers to resolve mandatory minimum penalty violations in lieu of ACL complaints. 23 dischargers accepted the offers and paid a total of \$213,000 in penalties.

- Table A4 contains additional ACL complaints issued in FY 2009/10 that have yet to be resolved. The proposed penalties in the six complaints total \$3,871,529, with \$2.3 million proposed in one complaint. The Board's prosecution team is engaged in on-going settlement discussions with the dischargers including consideration of SEPs and enhanced compliance projects.

Notifying the regulated community and the public about pending enforcement actions is an integral part of our enforcement program. We publicize proposed penalty-related enforcement actions through various means. We mail hardcopies of documents to a limited extent, but we continue to make progress in the use of electronic alternatives. Interested parties can subscribe to our email list for enforcement items at www.waterboards.ca.gov/resources/email_subscriptions/reg2_subscribe.shtml and receive notifications of pending enforcement actions. These parties and others can access and download enforcement case documents from our web site. We maintain a web page that lists the status of current cases and a web page with enforcement case documents: www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml and www.waterboards.ca.gov/sanfranciscobay/public_notices/enforcement_db.shtml. We also post public notices of pending enforcement actions in newspapers and issue press releases. During the past year we made improvements to these pages and our internal procedures for enforcement notifications resulting in time-saving efficiencies and improved quality and consistency of postings.

Additional enforcement-related information is also available via the State Water Board and San Francisco Estuary Partnership web sites. The State Water Board enforcement page (www.waterboards.ca.gov/water_issues/programs/enforcement/#reports) provides access to enforcement reports and the revised Enforcement Policy adopted last fiscal year (www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf). The revised policy includes new procedures, which we are now using, for calculating ACL penalty amounts. Our Region's SEPs are tracked by the San Francisco Estuary Partnership, and information about active and completed SEPs can be found at www.sfestuary.org/projects/detail.php?projectID=38.

Our enforcement priorities for this fiscal year, similar to last year, include addressing large or frequent sanitary sewer overflows; spills of highly chlorinated water; NPDES permit violations subject to mandatory minimum penalties; violations of acute toxicity limits and recurring violations of other effluent limits in NPDES permits; violations of construction, industrial, and municipal stormwater permits; illegal fill of wetlands and violations of permitted wetland fill requirements; and violations of site cleanup requirements.

**RECOMMEN-
DATION:**

No action is necessary, as this is an information item.

Appendix A:

Tables of FY 2009/10 Penalty-Related Enforcement Cases

APPENDIX A

Table A1 - FY 2008/09 ACL Complaints Resolved in FY 2009/10

Discharger	Location	Violation	Proposed Penalty	Final Penalty
ConGlobal Industries	Alameda	Late Submittal of Annual Report	\$8,900	\$7,250
C&H Sugar	Crockett	Effluent Limits	\$490,000	\$490,000 ¹
Mt. View Sanitary District	Martinez	Effluent Limits Sanitary Sewer Overflow	\$734,000	\$270,000 ²
Sausalito-Marín Sanitation District	Sausalito	Sanitary Sewer Overflows	\$332,200	\$258,000 ³
California Department of Transportation	Fremont	Sewage and Sediment Discharges	\$248,000	\$150,000
Wilder-OG Property Owner LLC	Orinda	Sediment Discharges	\$982,350	\$530,000
California Water Service Co.	San Mateo County	Chlorinated Water Spill	\$199,350	\$200,000
Total			\$2,994,800	\$1,905,250

¹ Includes \$231,500 SEP to preserve open space for habitat and watershed environmental quality protection in the Franklin Canyon area.

² Includes \$125,000 SEP for levee improvements and restoration of Peyton Slough and McNabney Marsh.

³ Includes \$119,000 SEP for Marine Mammal Center seal rehabilitation project.

Table A2 - FY 2009/10 ACL Complaints Resolved in FY 2009/10 ¹

Discharger	Location	Violation	Proposed Penalty	Final Penalty
Art Cleaners/Suns' property	San Jose	Required Report Not Submitted	\$25,646	\$25,646 ²
Coast Crane	San Leandro	No Stormwater Permit	\$88,700	\$88,700
Garda	Oakland	No Stormwater Permit	\$37,300	\$37,300
Uni-Tile	Hayward	No Stormwater Permit	\$26,250	\$26,250
City of Sausalito	Sausalito	Sanitary Sewer Overflows	\$75,300	\$75,300
Alzeta Corporation	Santa Clara	Late Submittal of Annual Report	\$3,500	\$3,500
American Auto Dismantler	Hayward	Late Submittal of Annual Report	\$2,825	\$2,825
Atlanta Auto Dismantling	Hayward	Late Submittal of Annual Report	\$3,300	\$3,300
B&D Auto Parts	Concord	Late Submittal of Annual Report	\$2,850	\$2,825
Pacific Wine Partners (Blackstone)	Sonoma County	Late Submittal of Annual Report	\$2,950	\$2,950
C&W Auto Wreckers	Petaluma	Late Submittal of Annual Report	\$3,325	\$3,325
CA Auto Dismantling	American Canyon	Late Submittal of Annual Report	\$2,950	\$2,950
Columbia Cosmetics Manufacturing	San Leandro	Late Submittal of Annual Report	\$3,225	\$3,225
Depot Auto Wreckers	Hayward	Late Submittal of Annual Report	\$3,175	\$3,175
DS Waters of America	Milpitas	Late Submittal of Annual Report	\$4,075	\$4,075
Durham Trans Inc.	Campbell	Late Submittal of Annual Report	\$3,500	\$3,500
Durham Trans Inc.	Concord	Late Submittal of Annual Report	\$3,500	\$3,500
Durham Trans Inc.	Hayward	Late Submittal of Annual Report	\$3,500	\$3,500
Durham Trans Inc.	Oakland	Late Submittal of Annual Report	\$3,500	\$3,500
E D Coat	Oakland	Late Submittal of Annual Report	\$13,300	\$1,750
Eng Bros Wood Products	American Canyon	Late Submittal of Annual Report	\$2,950	\$2,950
Eureka Chemical Company	So San Francisco	Late Submittal of Annual Report	\$3,850	\$3,850
European Auto Wrecking	Newark	Late Submittal of Annual Report	\$2,850	\$300 ²

¹ An additional 61 cases were resolved at \$1000 each via an expedited settlement procedure.

² Based on a Board-issued order.

Table A2 - FY 2009/10 ACL Complaints Resolved in FY 2009/10 ¹

Discharger	Location	Violation	Proposed Penalty	Final Penalty
Fairvac A T Wrecking	Fairfield	Late Submittal of Annual Report	\$4,725	\$4,725
Fireclay Tile	San Jose	Late Submittal of Annual Report	\$3,125	\$3,125
Five Star Lumber	Newark	Late Submittal of Annual Report	\$2,850	\$2,850
Garda	Oakland	Late Submittal of Annual Report	\$13,300	\$13,300
Greg S Trucking	San Mateo	Late Submittal of Annual Report	\$2,850	\$1,425
Gruma Corp (Mission Foods Hayward)	Hayward	Late Submittal of Annual Report	\$5,800	\$5,800
Hornblower Yachts	San Francisco	Late Submittal of Annual Report	\$3,925	\$3,925
JT Truck Center	San Jose	Late Submittal of Annual Report	\$2,950	\$2,950
Kendyl Coast Corporation	Half Moon Bay	Late Submittal of Annual Report	\$4,025	\$1,475 ²
Marinemax	Oakland	Late Submittal of Annual Report	\$13,300	\$13,300
Lunny Paving and Grading Nicasio Rock Quarry	Marin County	Late Submittal of Annual Report	\$4,250	\$4,250
Norcal Metal Fabricators	Oakland	Late Submittal of Annual Report	\$13,300	\$7,550
Oak Harbor Freight	Newark	Late Submittal of Annual Report	\$3,150	\$3,150
Parking Co. of America Airports	Oakland	Late Submittal of Annual Report	\$4,725	\$4,725
Quality Carriers	Richmond	Late Submittal of Annual Report	\$5,400	\$5,400
RMC Cemex	Fairfield	Late Submittal of Annual Report	\$5,075	\$5,075
Royal Trucking	Concord	Late Submittal of Annual Report	\$3,500	\$3,500
Rutherford Hill Winery	Napa County	Late Submittal of Annual Report	\$2,950	\$2,950
San Jose Unified School District	San Jose	Late Submittal of Annual Report	\$3,025	\$3,025
Sebring Transportation	San Leandro	Late Submittal of Annual Report	\$3,125	\$3,125
Solectron Corp.	Milpitas	Late Submittal of Annual Report	\$2,950	\$2,950
Stellar Ideas	Sonoma County	Late Submittal of Annual Report	\$3,550	\$3,550
West Valley Charter Line	Campbell	Late Submittal of Annual Report	\$4,025	\$2,475
Total			\$435,246	\$409,846

Table A3 - Mandatory Minimum Penalties Resolved in FY 2009/10

Discharger	Location	Violation	Penalty
3D Investments – Laurel St. Groundwater Treatment Facility	Napa	Effluent Limit	\$3,000
Benicia Wastewater Treatment Plant	Benicia	Effluent Limits	\$3,000
Benicia Water Treatment Plant	Benicia	Effluent Limits	\$39,000
California Water Service Co. Bear Gulch District	Atherton	Effluent Limits	\$9,000
Coastside County Water District - Denniston Water Treatment Plant	Half Moon Bay	Effluent Limits	\$24,000
Contra Costa Water District Bollman Water Treatment Plant	Concord	Effluent Limits	\$15,000
EBMUD Water Pollution Control Plant	Oakland	Effluent Limits	\$6,000
EBMUD Lafayette Water Treatment Plant	Lafayette	Effluent Limit	\$3,000
EBMUD Orinda Water Treatment Plant	Orinda	Effluent Limits	\$9,000
EBMUD Sobrante Water Treatment Plant	El Sobrante	Effluent Limit	\$3,000
EBMUD Upper San Leandro Water Treatment Plant	San Leandro	Effluent Limit	\$3,000
Fairfield – North Bay Regional Water Treatment Plant	Fairfield	Effluent Limits	\$9,000
Lorentz Barrel & Drum Site/DuPont Corp	San Jose	Effluent Limit	\$3,000
Millbrae Water Pollution Control Plant	Millbrae	Effluent Limits	\$9,000
North Marin Water District Stafford Lake Plant	Novato	Effluent Limit	\$3,000
San Jose Redevelopment Agency– Adobe Tower	San Jose	Effluent Limit	\$3,000
San Francisco PUC - Lake Merced Pump Station	San Francisco	Effluent Limit	\$24,000
Sunnyvale Water Pollution Control Plant	Sunnyvale	Effluent Limit	\$3,000
Univar USA Inc.	San Jose	Effluent Limits	\$15,000
Valero Refining Co.	Benicia	Effluent Limit	\$3,000
Vallejo - Fleming Hill Water Treatment Plant	Vallejo	Effluent Limit	\$3,000
Vulcan Materials Company	Pleasanton	Effluent Limits	\$15,000
Zone 7 Water Agency - Del Valle Water Treatment Plant	Livermore	Effluent Limits	\$6,000
Total			\$213,000

Table A4 - FY 2009/10 ACL Complaints in Settlement Discussions

Discharger	Location	Violation	Proposed Penalty
City of Pacifica	Pacifica	Effluent Limits Sanitary Sewer Overflows	\$2,300,000
City of Oakland	Oakland	Sanitary Sewer Overflows	\$299,600
City of San Bruno	San Bruno	Sanitary Sewer Overflows	\$633,600
Alameda County	Alameda County	Municipal Stormwater Permit New Development Requirements	\$522,429
Alameda County - Fairview & CV Library Projects	Alameda County	Sediment Discharges	\$102,600
Transbay Container Terminal	Oakland	Late Submittal of Annual Report	\$13,300
Total			\$3,871,529