CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESPONSE TO WRITTEN COMMENTS

on Tentative Order and Amended Tentative Order
for Cleanup and Abatement
Mr. Reza Gholom Valiyee, 4500 Appian Way
El Sobrante, Contra Costa County

Summary:

All commenters support issuance of the cleanup and abatement order. Commenters described the harm caused by the unpermitted culvert and soil backfill, including increased chances of flooding, high likelihood of culvert failure, and decrease in wildlife habitat, and the Contra Costa County Public Works Department requested that we add county permitting requirements to the list of required permits in the "Completion of Applications for Permits" section.

Background:

Staff received written comments from five parties on the Tentative Cleanup and Abatement Order Order (Tentative Order) and Amended Tentative Cleanup and Abatement Order (Amended Order) for Mr. Reza Gholom Valiyee's unpermitted fill and culvert at 4500 Appian Way, El Sobrante. The Tentative Order was distributed on August 12, 2016, for 30-day comment period, and the Amended Order was distributed on November 7, 2016, for a 10-day public comment period. The Amended Order includes several minor changes to the wording of the Tentative Order, but no substantial changes to the content.

Commenters:

1. SPAWNERS (San Pablo Watershed Neighbors Education and Restoration Society), email on August 23, 2016.
2. Dorcas Moulton, email on September 8, 2016.
3. Ginger Beringer and Ray Keifetz, email on September 9, 2016.
4. Dr. Daniel J. Rixen of Rixen Chiropractic, email on September 9, 2016.
5. Mario Consolacion, Contra Costa County Public Works Department, Contra Costa County Flood Control and Water Conservation District, email on November 14, 2016.

Comment Letter Excerpts and Responses:

The selected quotes below highlight the basic points contained in the first four comment letters. For the full content, please refer to the letters.

- SPAWNERS "strongly urges the Water Board to proceed with this Cleanup and Abatement Order as written…. The potential for flooding due to the culvert is a high concern. The inspection by [Regional] Water Board staff indicate[s] that the culvert decreased the available area for flow by 64%, making it likely that water could back up and flood upstream…. The culvert could also contribute to flooding downstream. The improper

installation, with water already flowing under the culvert, indicates a high likelihood of failure of the culvert."

- Dorcas Moulton "strongly urg[es] the [Regional] Water Board to proceed with this Cleanup and Abatement Order as written." She says, "I remember seeing the creek clogged with mud when this destruction [the fill and culvert] took place, but did not know the source at that time. There used to be crawfish and minnows in the creek, but lately I am seeing only waterskaters and dragonflies. This creek contributes so much to wildlife habitat, not only aquatic…. It is essential that Mr. Reza Valiyee… be compelled to restore the creek and habitat and pay the fines…. It is dishearten[ing] that one individual can cause so much destruction to a publicly owned waterway. His gain is a loss to everyone along the creek. Please don't let him get away with it."
- Ginger Beringer and Ray Keifetz said that, "As homeowners on Foster Lane in El Sobrante whose property abuts Appian Creek, we are very concerned about the impact that Mr. Reza Valiyee's illegal culvert is having on the health of Appian Creek. We strongly agree with the Regional Water Board and the California Dep[artment] of Fish and Wildlife's assessment of the impact of the culvert placed by Mr. Reza Valiyee and are strongly urging the Water Board to proceed with this [Cleanup and] Abatement [O]rder as written.
- Dr. Daniel J. Rixen said that, "Rixen Chiropractic, [my] business upstream from the illegal culvert, strongly urges the Water Board to proceed with this Cleanup and Abatement Order as written." He further elaborated that, "My business… has had the creek rise up into the building and flood my office space in the past. This was due to blockages downstream from me and I am very concerned that this… not happen again."

In response to comments from the Contra Costa County Public Works Department, we added a requirement to task B.2 to obtain a drainage permit from the Public Works Department. The Contra Costa County Public Works Department described the permitting process for projects that alter stream flow, stating that, "The property of Mr. Valiyee is located in the unincorporated area of Contra Costa County (County). The County's Title 10 Ordinance (Public Works and Flood Control) requires that a written permit (drainage permit) should be obtained from the County for any acts that affect the natural flow of storm waters and any alteration to natural or man-made channels located in the unincorporated County areas. The property owner should be required to obtain a drainage permit from the Contra Costa County Public Works Department prior to performing any work to restore Appian Creek. Please include the drainage permit from the Contra Costa County Public Works Department in the list of permits in Item Number 2 (Completion of Applications for Permits) on page 6 of 9 of the Amended Tentative Cleanup and Abatement Order."