

ITEM: 8

Enforcement Actions and Priorities for Fiscal Year 2020/21 – Summary Report

DISCUSSION:

This item summarizes penalty enforcement actions for fiscal year (FY) 2019/20, including the issuance and/or settlement of administrative civil liability (ACL) complaints. Portions of ACLs fund environmental projects and support disadvantaged communities. For FY 2020/21, our enforcement priorities will be similar to those for FY 2019/20.

Penalties Imposed

During FY 2019/20, we resolved 24 ACL enforcement cases with the Board adopting penalties totaling \$2,104,300 (see Tables A1 through A3). These cases addressed various problems, such as discharges from treatment plants above effluent limits, an unauthorized discharge of polluted stormwater, inadequate stormwater best management practices, and failure to submit technical reports. The cases imposed mandatory penalties for effluent limit violations pursuant to Water Code section 13385 and for operating without stormwater permit coverage and failing to report stormwater discharges pursuant to Water Code section 13399. 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 2019/20**

We settled 3 cases through stipulated orders imposing total penalties of \$1,889,000. The settlements provided that \$918,164 of the penalties would be spent on SEPs and Enhanced Compliance Actions (ECAs). Of the \$704,364 set aside for SEPs, \$264,000 funded San Francisco Bay Regional Monitoring Program (RMP) projects.

• **Table A2 – FY 2019/20 Mandatory Minimum Penalties of Individual NPDES Permits**

We settled 17 cases involving effluent limit violations subject to mandatory minimum penalties of \$3,000 each. The stipulated orders imposed total penalties of \$201,000. The settlements provided that \$69,000 of the penalties would be spent on SEPs funding RMP projects.

• **Table A3 – FY 2019/20 Mandatory Penalties of Stormwater General NPDES Permits**

We settled 4 cases involving annual reporting requirements of State Water Board general permits for construction and industrial stormwater, subject to mandatory minimum penalties of \$1,000 plus staff costs, and requirements for coverage under these permits, subject to mandatory minimum penalties of \$5,000 plus staff costs. The stipulated orders imposed total penalties of \$14,300. One settlement provided that \$3,100 of the penalty would be spent on a SEP funding RMP projects.

SEPs and Support for Disadvantaged Communities

A discharger may choose to suspend a portion of its liability to fund a SEP or ECA in accordance with the SEP Policy. With the assistance of the San Francisco Estuary Partnership, we maintain a list of potential SEPs and parties interested in implementing SEPs. The list provides dischargers with options and ideas to consider if they wish to propose a SEP. The SEP Policy provides incentives to encourage dischargers to fund SEPs that address environmental justice or benefit disadvantaged communities, and the list includes such projects.

A discharger may choose not to propose a SEP or ECA as part of settlement. ACL monies that do not fund SEPs or ECAs are deposited into State funds as designated by statute. Much of the money goes into the State Water Board Pollution Cleanup and Abatement Account, which provides public agencies with grants to cleanup and abate pollution when there are no viable responsible parties to do so. The Division of Financial Assistance manages this account and determines which projects receive funding. Emergencies receive priority funding. In recognition of the human right to water, from 2009 through 2019, the fund provided over \$32 million to deliver safe drinking water to disadvantaged communities throughout the State. The fund also supported emergency repairs at municipal treatment plants following wildfires. Together, these types of projects account for roughly half of the fund's spending.

Stormwater Compliance Assistance

Through referrals from municipalities (as required by the municipal regional stormwater permit), complaints, or Water Board investigations, the stormwater program identified over 600 industrial facilities that potentially required coverage under the statewide industrial stormwater permit. Program staff prioritized facilities based on threat to water quality and need for permit coverage (e.g., some facilities require coverage because of their Standard Industrial Code classification while other facilities may be eligible for reduced coverage because of no exposure to rain). Enforcement staff assisted the stormwater program staff with investigations and notifications when permit coverage was required. We will continue to collaborate on this compliance campaign in FY 2020/21 and evaluate the effectiveness of Senate Bill 205, which requires parties that apply for a business license to verify enrollment, when required, under the industrial stormwater general permit.

COVID-19 Pandemic

FY 2019/20 brought the COVID-19 pandemic, which created many challenges for the regulated community. We responded by providing notice that public health and environmental protection, including compliance with Water Board requirements, are essential functions; however, we also recognize the need to judiciously exercise our enforcement discretion during this crisis.

Public Outreach

Notifying the regulated community and the public about pending enforcement actions is an integral part of our enforcement program. Anyone 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/or following [press releases](#) issued for significant enforcement actions through the State Water Board's [Office of Public Affairs](#).

Additional enforcement-related information is also available on the [State Water Board](#) and San Francisco Estuary Partnership websites. The [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

Our enforcement priorities for FY 2020/21 will generally be focused 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.

In FY 2020/21, enforcement priorities may also include assisting with fire response and recovery. Enforcement program staff are trained on spill response and the incident command system.

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

APPENDIX:

A. Tables of FY 2019/20 Penalty Enforcement Actions

Appendix A

Tables of FY 2019/20 Penalty Enforcement Actions

Table A1 – ACL Cases Initiated and Settled in FY 2019/20

Discharger	Location	Violation	Penalty
Sonoma Valley County Sanitation District	Sonoma	Discharge of Partially Treated NPDES Wastewater Permit	\$427,600 ¹
Monterey Mushrooms, Inc.	Morgan Hill	Unauthorized Discharges of Polluted Stormwater	\$911,800 ²
CalAtlantic Group, Inc.	San Ramon	Inadequate Best Management Practices, Construction Stormwater	\$549,600 ³

Total Penalties Imposed: \$1,889,000

¹ \$213,800 of the penalty will go toward an ECA to reduce wet weather sanitary sewer overflows at Sonoma Valley County Sanitation District's collection system by removing unauthorized stormwater connections and replacing or repairing defective laterals

² \$440,364 of the penalty will go toward a SEP to restore 3,100 feet and 3.5 acres of riparian habitat along Fisher Creek, providing enhanced wildlife corridor connectivity through Coyote Valley and opportunities for environmental education and interpretation.

³ \$264,000 of the penalty will go toward a SF Bay Regional Monitoring Program SEP to assess changes in suspended sediment in South San Francisco Bay and to reanalyze sediment flux estimates in Suisun Bay.

**Table A2 – FY 2019/20 Mandatory Minimum Penalties
for Wastewater NPDES Permit Violations**

Discharger	Location	Violation	Penalty
Valero Refining Company	Benicia	Effluent Limit Violations	\$6,000 ¹
City of Calistoga	Calistoga	Effluent Limit Violations	\$6,000 ¹
Hanson Aggregates	San Francisco	Effluent Limit Violations	\$9,000
City of Burlingame	Burlingame	Effluent Limit Violations	\$3,000 ¹
C&H Sugar Company, Inc. and Crockett Community Services District	Crockett	Effluent Limit Violations	\$12,000 ¹
Crockett Community Services District	Port Costa	Effluent Limit Violations	\$15,000 ¹
Sewerage Agency of Southern Marin	Mill Valley	Effluent Limit Violations	\$24,000
Sausalito-Marín City Sanitary District	Sausalito	Effluent Limit Violations	\$6,000 ¹
Sonoma Valley County Sanitation District	Sonoma	Effluent Limit Violations	\$9,000
Vulcan Materials Company	Half Moon Bay	Effluent Limit Violations	\$3,000
Vishay Intertechnology, Gould Electronics, Inc., Monsanto Company, and GlaxoSmithKline PLC	Palo Alto	Effluent Limit Violations	\$9,000
Las Gallinas Valley Sanitary District	San Rafael	Effluent Limit Violations	\$9,000 ¹
Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc.	Cupertino	Effluent Limit Violations	\$6,000
Burlingame Point, LLC	Burlingame	Effluent Limit Violations	\$3,000
Alameda Housing Associates, LP	San Leandro	Effluent Limit Violations	\$12,000 ¹
Lennar Homes of California, Inc.	Newark	Effluent Limit Violations	\$12,000
City of St. Helena	St. Helena	Effluent Limit Violations	\$57,000

Total Penalties Imposed: \$201,000

¹ A portion of the combined penalties was paid to the SF Bay Regional Monitoring Program SEP fund. Individual contributions ranged from \$3,000 to \$15,000 and totaled \$69,000.

**Table A3 – FY 2019/20 Mandatory Penalties
for Stormwater General NPDES Permit Violations**

Discharger	Location	Violation	Penalty
1500 Mission Housing LP	San Francisco	Late Annual Report FY 2017/18 Industrial Stormwater	\$1,000
D Ambrosio 8 Acres	Napa	Late Annual Report FY2017/18 Construction Stormwater	\$1,000
Spring Hill Jersey Cheese, Inc.	Petaluma	Failure to obtain Permit coverage, Industrial Stormwater	\$6,200 ¹
Stay Cal HMB, LLC	Half Moon Bay	Late Annual Report FY2017/18 Construction Stormwater	\$6,100

Total Penalties Imposed: \$14,300

¹ \$3,100 of the penalty was paid to the SF Bay Regional Monitoring Program SEP fund.