

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

STAFF SUMMARY REPORT (Brian Thompson)
MEETING DATE: September 9, 2009

ITEM: **6B**

SUBJECT: **Highlights of the Enforcement Program - Fiscal Year 2008 - 2009 Accomplishments**

DISCUSSION: During fiscal year 2008-2009 (FY 08-09), we increased our enforcement presence in the San Francisco Bay Region by identifying water quality problems and program areas in need of increased attention, dedicating additional staff resources to their enforcement and streamlining the enforcement process. This item provides an overview of our enforcement efforts, which focused on dischargers warranting Administrative Civil Liability (ACL) penalties, addressing a backlog of mandatory minimum penalty (MMP) cases for National Pollutant Discharge Elimination System (NPDES) permit violations, and increasing both public and media awareness of our enforcement actions.

With the backbone of our regulatory programs being enforcement, our increased enforcement presence clearly captured the attention of many dischargers and the media. There was a notable year-over-year increase in the number and dollar amount of penalties assessed during FY 2008/09 relative to FY 2007/08.

Fiscal Year 2007/08 Summary

Total MMP and ACL cases = 19

Total penalty assessments = \$940,500

Penalty allocations for Supplemental Environmental Projects (SEPs) = \$650,075

Fiscal Year 2008/09 Summary

Total MMP and ACL cases = 68 (39 MMP cases and 29 ACL cases)

Total penalty assessments = \$7,004,900

- MMP assessments = \$609,000
- ACL assessments resolved by orders = \$4,457,300
- ACL complaints still pending = \$1,938,600

Penalty allocations for SEPs (resolved cases only) = \$2,167,825

The ACL complaints issued in FY 08-09 generally addressed the following types of violations: reporting violations (11), sanitary sewer overflows (7), NPDES effluent limit violations (4), stormwater (permit/discharge) violations (4), potable water discharges (3), and Cleanup and Abatement Order violations (1). While a few ACL cases are still being resolved (settlement negotiations are underway), of those that have been settled, the highest penalties were imposed as follows:

- \$1.6 million penalty to the Sewerage Agency of Southern Marin for sanitary sewer overflows

- \$950,000 penalty to the City of San Mateo for sanitary sewer overflows
- \$490,000 penalty to C&H Sugar for violations of NPDES permit effluent limits
- \$405,000 penalty to the Town of Hillsborough for sanitary sewer overflows
- \$190,000 penalty to Vulcan Materials for a discharge of sediment-laden water

In addition to these direct actions, we, through the Attorney General's office, formally filed suit against the U.S. Maritime Administration for the ongoing discharge of pollutants associated with the weathering/deterioration of the National Defense Reserve Fleet (i.e., the Mothball Fleet) located in Suisun Bay.

Improved communication, procedures and protocols

A good enforcement presence within the Region comes not only from enforcement actions taken, but also from public recognition of these efforts and the consistency of these efforts with other statewide efforts. To improve public recognition of our enforcement efforts, we issued press releases for all notable enforcement actions last fiscal year and publically noticed all complaints associated with NPDES permit violations in local newspapers. We also kept the public informed by including summaries in the monthly Executive Officer's Report, notifying all interested parties when complaints were issued, and regularly posting information on our website:

www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml

In addition to dedicating additional staff resources to enforcement, we better defined our enforcement process by developing enforcement procedures and model templates. A notable outcome of this is the Standard Hearing Procedures we presented to the Board at its June 2009 meeting. We also worked closely with the State Water Board's Office of Enforcement to implement an "expedited approach" to settling MMPs and eliminate our MMP backlog.

Looking Forward

Some improvements and changes that are coming to our enforcement program during the current fiscal year include:

- Further collaboration with the State Water Board's Office of Enforcement, whose attorneys will be taking the default role as lead counsel on all of our (and other Regions) enforcement cases;
- Implementing a new enforcement policy (State Water Board plans to adopt a new enforcement policy in October 2009); and
- Continuing with the "expedited approach" to MMPs through early settlement offers and expanding this approach to address other types of recurring violations. We are currently implementing this approach to address late annual reports required by the General NPDES Permit for industrial stormwater discharges, as discussed in this month's Executive Officer's Report.

RECOMMEN-
DATION:

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